CODE OF ORDINANCES
CITY OF
TECUMSEH, MICHIGAN

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Tonya A. Miller

City Clerk

OFFICIALS

of the

CITY OF

TECUMSEH, MIGHIGAN

AT THE TIME OF THIS CODIFICATION

_____

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_____

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Connie Towey

Harvey Schmidt

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City Council

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Frank L. Crosby

City Manager

_____

Laura Schaedler

City Attorney

_____

Laura Caterina

City Clerk

PREFACE

This Code constitutes a codification of the general and permanent ordinances of the City of Tecumseh, Michigan.

Source materials used in the preparation of the Code were the 1982 Compilation of Ordinances, as supplemented through August 8, 1998, 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 1982 Compilation of Ordinances, as supplemented, and any subsequent ordinance included herein.

The Code has been republished in 2010 with the inclusion of ordinances received for codification subsequent to the publication of Supplement No. 15 to the 2000 publication, and this republication constitutes a replacement volume to the prior Code.

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

Chapter and Section Numbering System

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

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CHARTER	CHT:1
CHARTER COMPARATIVE TABLE	CHTCT:1

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

Indexes

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

Looseleaf Supplements

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

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

Acknowledgments

This publication was under the direct supervision of James W. Earl, Code Attorney, and John Welch, 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 Frank Crosby, City Manager, Laura Schaedler, City Attorney, and Laura Caterina, City Clerk for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

The republication of the Code was under the direct supervision of Robert S. Hornyak, Editor, and credit is gratefully given to other members of the publisher's staff for their able assistance throughout the project.

Copyright

ADOPTING ORDINANCE

ORDINANCE NO. 3-01

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

THE CITY OF TECUMSEH HEREBY ORDAINS;

Section 1. The Code entitled "Code of Ordinances, City of Tecumseh, Michigan," published by Municipal Code Corporation, consisting of Chapters 1 through 98, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before April 3, 2000, and not included in the Code or recognized and continued in force by reference therein, are repealed.

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

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not to exceed five hundred dollars ($500.00) or a term of imprisonment not to exceed ninety (90) days or both a fine and imprisonment. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the city council 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 city 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 April 3, 2000, 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 on the 23rd day of March, 2001, thirty (30) days following publication in accordance with the law.

The foregoing Ordinance was offered by Councilmember Coughlin and supported by Councilmember Gorton.

YES: Gorton, Malmquist, Schmidt, Yagiela, Coughlin, and Deming

NO: None

ORDINANCE DECLARED ADOPTED

DATED: February 19, 2001

Harvey E. Schmidt, Mayor

Laura Caterina, City Clerk

SUPPLEMENT HISTORY TABLE

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

Ord. No.	Date Adopted	Include/ Omit	Supp. No.
1-11	3- 7-2011	Include	2
2-11	3- 7-2011	Include	2
3-11	3- 7-2011	Include	2
4-11	6- 6-2011	Include	3
5-11	6- 6-2011	Omit	3
6-11	6-20-2011	Include	3
1-12	3-19-2012	Include	4
2-12	5-21-2012	Include	5
4-12	6- 4-2012	Include	5
5-12	8-20-2012	Omit	6
6-12	11-19-2012	Include	6
7-12	11-19-2012	Include	6
1-13	1-21-2013	Include	7
2-13	2-18-2013	Include	7
3-13	3-18-2013	Omit	8
4-13	8- 5-2013	Include	8
5-13	10- 7-2013	Omit	9
6-13	12- 2-2013	Include	9
7-13	12- 2-2013	Omit	9
1-14	7-21-2014	Include	10
2-14	9- 2-2014	Include	11
3-14	12-15-2014	Include	12
1-15	1- 5-2015	Include	12
01-16	10- 3-2016	Inlcude	13
01-17	7- 3-2017	Inlcude	13
02-17	9- 5-2017	Inlcude	13
03-17	9- 5-2017	Inlcude	13
04-17	9- 5-2017	Inlcude	13
Res. of	3- 5-2018	Inlcude	13
17-97	12-22-1997	Include	14

01-18	5- 7-2018	Include	14
02-18	7- 2-2018	Include	14
03-18	8-20-2018	Include	14
05-18 (Res.)	4-16-2018	Include	14
04-18	12- 3-2018	Include	15
01-19	2- 4-2019	Include	15
02-19	3-18-2019	Include	15
Charter memo	2-28-2019	Include	15
03-19	5- 6-2019	Include	16
04-19	6- 3-2019	Include	16
05-19	6- 3-2019	Include	16
06-19	8-19-2019	Omit	16
07-19	9-16-2019	Include	16
08-19	9-16-2019	Include	16
01-20	2- 3-2020	Include	17
02-20	9- 8-2020	Include	18
01-21	2- 1-2021	Include	19
02-21	3-15-2021	Omit	19
03-21	4- 5-2021	Include	19
04-21	5- 3-2021	Include	19
05-21	5- 3-2021	Include	19
06-21	5-17-2021	Include	19
07-21	5-17-2021	Include	19
08-21	8- 2-2021	Include	20
09-21	9- 7-2021	Include	20
10-21	9- 7-2021	Include	20
11-21	10-18-2021	Include	20
13-21	11- 1-2021	Include	20
14-21	12- 6-2021	Include	20

PART I
CHARTER[1]

[1]Editor's note(s)—Printed herein is the Charter of the City of Tecumseh, Michigan, as adopted by the electors on December 14, 1953. Original section number designations have been retained. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

State constitution reference(s)—Power to adopt and amend Charter, Mich. Const. 1963, art. VII, § 22.

State law reference(s)—Home rule cities generally, MCL 117.1 et seq.

PREAMBLE

We, the people of the City of Tecumseh, Lenawee County, Michigan, by virtue of authority of the Constitution and of Public Act 279 of 1909 of the State of Michigan, and mindful of the ideals and labors of our fathers in founding and developing this community, grateful to Almighty God for the blessings of freedom, peace, health, safety, and justice, and desirous of further securing these blessings to ourselves and our posterity, do hereby ordain and establish this home rule charter for the City of Tecumseh.

CHAPTER 1
NAME AND BOUNDARIES

Sec. 1.1. Name and boundaries.

The name of this organized city is "City of Tecumseh." It is a body corporate and embraces the following described territory in the County of Lenawee, including that territory constituting the former Village of Tecumseh, together with such territory as may from time to time be attached thereto, and less such territory as may from time to time be detached therefrom, in accordance with law:

Commencing at a point three hundred feet East and three hundred feet North of the Southwest corner of Section Twenty-three, Town Five South, Range Four East, Tecumseh Township, Lenawee County, Michigan; thence West parallel with the Section lines to a point Three Hundred feet North and Three Hundred feet West of the Southeast corner of Section Twenty, Town Five South, Range Four East, Tecumseh Township, Lenawee County; thence South parallel with the Section lines to a point Three Hundred feet West of the Southeast corner of Section Thirty-two Town Five South, Range Four East, Tecumseh Township, Lenawee County; thence East along the Section line dividing Tecumseh Township and Raisin Township to a point Three Hundred feet East of the Southwest corner of Section Thirty-Five, Town Five South, Range Four East, Tecumseh Township, Lenawee County, thence North parallel with the Section lines to the place of beginning.

CHAPTER 2
MUNICIPAL POWERS

Sec. 2.1. Continuation of powers of former charter.

All powers, privileges and immunities not inconsistent with the provisions of this charter possessed by the Village of Tecumseh by virtue of its incorporation as such and enumerated in Act 3 of the Public Acts of 1895, including all amendments thereto in effect on the day preceding the effective date of this charter, are hereby expressly retained by the city and shall constitute a part of the powers of the city even though not expressly enumerated herein.

Sec. 2.2. General powers.

Unless otherwise provided or limited in this charter, the city and its officers shall possess and be vested with any and all powers, privileges and immunities, expressed or implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their charters under the Constitution and statutes of

the State of Michigan, including all powers, privileges and immunities which cities are, or may be, permitted to provide in their charters by Act 279 of the Public Acts of 1909 of the State of Michigan, as amended, as fully and completely as though these powers, privileges and immunities were specifically enumerated in and provided for in this charter, and in no case shall any enumeration of particular powers, privileges or immunities herein be held to be exclusive.

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

Sec. 2.3. Further definition of powers.

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

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

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

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

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

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

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

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

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

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

(j) The securing by condemnation, by agreement or purchase, or by any other means, of an easement in property abutting or adjacent to any navigable body of water an elevated structure of one or more levels for use as a vehicular or pedestrian passageway, or for any other municipal purposes, including a tunnel;

(k) The acquiring, establishment, operation, extension and maintenance of facilities for the storage and parking of vehicles within its corporate limits, including the fixing and collection of charges for services

and use thereof on a public utility basis, and for such purpose to acquire by gift, purchase, condemnation or otherwise, the land necessary therefor;

(l) Regulating, restricting and limiting the number and location of oil, gasoline and bottled gas stations;

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

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

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

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

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

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

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

(t) The requiring of an owner of real property within the city to maintain sidewalks abutting upon such property, and if the owner fails to comply with such requirements or if the owner is unknown, to construct and maintain such sidewalks and assess the cost thereof against the abutting property in accordance with Section 11.9;

(u) The requiring of an owner of real property within the city to abate public hazards and nuisances which are dangerous to the health or safety of inhabitants of the city within a reasonable time after the Council notifies him that such hazard or nuisance exists, and if the owner fails to comply with such requirements, or if the owner is unknown, to abate such hazard or nuisance and assess the cost thereof against such property in accordance with Section 11.9.

(v) The compelling of owners of real property within the city to keep sidewalks abutting upon their property clear from snow, ice or other obstructions, and if the owner fails to comply with such requirements, to remove such snow, ice or other obstructions and assess the cost thereof against the abutting property in accordance with Section 11.9;

(w) The requiring, as a condition of approving plats of lands or premises hereafter laid out, divided, or platted into streets and alleys within the city, that all streets shown on said plat be graded and graveled or otherwise improved, that all ditches, drains and culverts necessary to make such streets usable be constructed, that cement sidewalks be constructed in the proper places, all in accordance with city specifications. The Council may accept a bond conditioned upon the installation of such of the foregoing improvements as it requires within such time as it determines.

CHAPTER 3
ELECTIONS

Sec. 3.1. Qualification of electors.

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

Sec. 3.2. Election procedure.

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

Sec. 3.3. Wards and precincts.

The City of Tecumseh shall consist of one ward and two voting precincts. The Council shall from time to time establish by ordinance convenient election precincts.

Sec. 3.4. Election date.

A regular city election shall be held on the first Tuesday after the first Monday of November, 1972, and of each year thereafter.

(Char. Amd. of 5-16-72)

Sec. 3.5. Elective officers and terms of office.

The elective officers of the city shall be a Mayor and six Councilmembers, all of whom shall be nominated and elected from the city at large. At each regular city election held in every even numbered year, there shall be elected a Mayor and three Councilmembers, for a term of office of two years and such additional number as may be required to fill vacancies pursuant to the provisions of Section 5.7, and at each regular city election held in every odd numbered year, there shall be elected three Councilmembers, for a term of office of two years and such additional number as may be required to fill vacancies pursuant to the provisions of Section 5.7. The three candidates receiving the highest number of votes shall each be elected to a regular two year term of office and a number of candidates equal to the number of vacancies being filled who shall receive the next highest number of votes in order shall each be elected for a term of office of one year.

The terms of office of Mayor and Councilmembers shall commence at 7:30 p.m. on the first Monday next following the regular city election at which they were elected.

(Char. Amd. of 11-3-92)

Sec. 3.6. Special elections.

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

Sec. 3.7. Notice of elections.

Notice of the time and place of holding any city election and of the officers to be nominated or elected and the questions to be voted upon shall, except as herein otherwise provided, be given by the Clerk in the same manner and at the same time as provided by statute for the giving of election notices by city clerks.

Sec. 3.8. Voting hours.

The polls of all elections shall be opened and closed at the time prescribed by statute for the opening and closing of polls at state elections.

Sec. 3.9. Nominations.

The method of nomination of all candidates for the city elections shall be by petition. Such petitions for each candidate shall be signed by not less than thirty-five nor more than sixty registered electors of the city. No person shall sign his name to a greater number of petitions for any one office than there are persons to be elected to said office at the following regular city election. Where the signature of any individual appears on more petitions than he is so permitted to sign, such signatures shall be counted only to the extent he is permitted to sign in the order of filing the petitions containing such signatures.

Petitions for candidates for Mayor shall be filed with the Clerk by 4:00 p.m. on the twelfth Tuesday prior to the date fixed for the primary election. Petitions for candidates for Council shall be filed with the Clerk no later than 5:00 p.m. by the then prevailing local time on the third Monday in August in odd numbered years and no later than the state primary election in even numbered years. Nomination petitions for special elections for the filing of vacancies held pursuant to Section 5.5 shall be filed with the Clerk between the 65th day preceding such election and 5:00 p.m. by the then prevailing local time on the 60th day preceding such election.

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

(Char. Amd. of 11-3-92)

As annotated on March 5, 2018:

Regarding Candidates for Mayor in Even Numbered Years: Petitions for candidates for Mayor shall be filed no later than 4:00 p.m. on the 15th Tuesday before the state primary election in even numbered years.

Regarding Candidates for Councilmember in Even Numbered Years: Petitions for candidates for Council shall be filed no later than 5:00 p.m. on the date of the state primary election in even numbered years.

Regarding Candidates for Councilmember in Odd Numbered Years: Petitions for candidates for Council shall be filed no later than 4:00 p.m. on the 15th Tuesday before the general election in odd numbered years.

Note: The State of Michigan Election Law was amended to establish uniform deadlines for the filing of nominating petitions for Regular City Elections of Mayor and Councilmembers (all local elected officials). As a

consequence, the provisions in Section 3.9 regarding the filing deadlines of nominating petitions are preempted by state statute Public Act 627 of 2018 and are null and void. Any provision of Section 3.9 not effected by the amendment of the Michigan Election Law remains in effect.

Pursuant to Michigan Election Law Public Act 627 of 2018, the filing deadlines for Mayor and Council members are as follows:

> Regarding Candidates for Mayor and Council regardless of even or odd numbered year: Petitions for candidates shall be filed no later than 4:00 p.m. on the 15th Tuesday before the election where the candidate's name first appears on the ballot. (If there is a primary runoff election, the filing deadline is 4:00 p.m. on the fifteenth Tuesday before that election. If there is no primary or runoff election, the filing deadline is 4:00 p.m. on the fifteenth Tuesday before the general election).

(Note Date: 3/2019)

Sec. 3.10. Form of petitions.

The form of petition shall be substantially as that designated by the Secretary of State for the nomination of non-partisan judicial officers. A supply of official petition forms shall be provided and maintained by the Clerk.

Sec. 3.11. Approval of petition.

The clerk shall accept only nomination petitions which conform with the forms provided and maintained by him, and which, considered together, contain the required number of valid signatures for candidates having those qualifications required for the respective elective city offices by this charter.

When a petition is filed by persons other than the person whose name appears thereon as a candidate, it may be accepted only when accompanied by the written consent of the candidate. The Clerk shall, forthwith after the filing of a petition, notify in writing any candidate whose petition is then known not to meet the requirements of this section, but the failure to so notify any candidate shall in no way prevent a final determination that the petition does not meet such requirements. Within three days after the last date for filing petitions, the Clerk shall make his final determinations as to the validity and sufficiency of each nomination petition and whether or not the candidate has the qualifications required for his respective elective city office by this charter and shall write his determinations thereof on the face of the petition. No petition shall be determined to be valid unless an affidavit of qualifications provided for in Section 5.1 shall be filed with such petition.

The Clerk shall immediately notify in writing the candidate whose name appears thereon of his determinations. Such notice to any candidate whose petition is found invalid or insufficient or who is found not to be qualified shall be delivered by personal messenger if possible. Any candidate whose petition is so found invalid or insufficient shall be allowed to file supplementary or replacement petitions before 5:00 p. m. at the then prevailing local time on the fifth day after the last date for filing original petitions, thereafter no further petitions may be filed.

(Res. No. 05-18, 4-16-18)

As annotated on April 16, 2018 by Res. No. 05-18:

Regarding Candidates for Mayor and Council: The nominating petition supplemental filing deadline shall be that of the original petition filing.

Sec. 3.12. Public inspection of petitions.

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

Sec. 3.12a. Primary election for mayor.

If more than two persons qualify as candidates for Mayor, the City Clerk shall conduct a primary election for the office of Mayor only in that year. The primary election shall be conducted at the same time as the state primary election. The two candidates for Mayor receiving the highest number of votes in the primary election shall have their names printed on the ballots in the following regular city election.

(Char. Amd. of 11-3-92)

Sec. 3.13. Election commission.

An Election Commission is hereby created, consisting of the Clerk and two qualified and registered electors of the city who during their term of office shall not be city officers or employees or candidates or nominees for elective city office. These two members shall be appointed by the City Council annually in January for a term of one year. The members shall serve without compensation. The Clerk shall be chairman. The Election Commission shall appoint the Board of Election Inspectors for each precinct and have charge of all activities and duties required of it by statute and this charter relating to the conduct of elections in the city. The compensation of election personnel shall be determined in advance by the City Council. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.

Sec. 3.14. Form of ballot.

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

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

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

Sec. 3.15. Canvass of votes.

The Clerk and the members of the Council shall be the Board of Canvassers to canvass the votes at all city elections, except that if any of such persons are candidates for office at the election to be canvassed such person shall not serve as a canvasser at such election. The Board of Canvassers shall convene on the day following each city election at the usual time and place of meeting of the Council and determine the results of the city election upon each question and proposition voted upon and what persons are duly elected to the several offices respectively at said election, and shall notify in writing the successful candidates of their election. The Clerk shall make under the corporate seal of the city duplicate certificates of the determinations of the board and shall file one certificate with the County Clerk and the other in his own office.

Note: The State of Michigan Election Law was amended to establish procedures for County Canvassing Boards and required a County Canvassing Board in every county in the State deeming it this Board's responsibility

to certify primaries and elections held in the county. As a consequence, Section 3.15 which establishes a local canvassing board and its duties and obligations is preempted by state statute and are null and void.

(Note Date: 2/2019)

Sec. 3.16. Tie vote.

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

Sec. 3.17. Recount.

A recount of the votes cast at any city election for any office or upon any proposition may be had in accordance with election statutes. Unless otherwise required by statute: (a) the petition for a recount of the votes cast at any city election shall be filed with the Clerk by 5:00 p. m. on the second full day on which the Clerk's office is open for business after the Board of Canvassers has made its official report of the result of the election at which such votes were cast; (b) any counter petition shall be filed by 5:00 p. m. of the next full day thereafter on which the Clerk's office is open for business; and (c) no officer shall be qualified to take office until final determination of any recount of the votes cast for such office.

Sec. 3.18. Recall.

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

CHAPTER 4
ORGANIZATION OF GOVERNMENT

Sec. 4.1. The city council.

The electors of the city shall elect a City Council of seven members, one of whom shall serve as Mayor, which Council shall constitute the legislative and governing body of the city and which shall have power and authority, except as in this charter or by statute otherwise provided, to exercise all powers conferred upon or possessed by the city, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof. In all cases where the word "Council" is used in this charter, the same shall be synonymous with the word "Commission" or any other term used in any state or federal law in referring to municipal legislative or governing bodies.

Sec. 4.2. Qualifications of councilmen.

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

Sec. 4.3. Compensation of Mayor and Councilpersons.

The Mayor and each Councilperson shall be entitled to receive as full compensation for their services an annual salary to be paid quarterly as established from time to time by the Elected Officers Compensation Commission.

Such salaries shall be paid quarterly and except as otherwise provided in this charter shall constitute the only compensation which may be paid the Mayor or Councilperson for the discharge of any official duty for or on behalf of the city during their term of office. However, the Mayor and Councilperson may, upon order of the Council, be paid such necessary bona fide expenses incurred in service on behalf of the city as are authorized and itemized.

(Char. Amd. of 11-7-00)

Sec. 4.4. Mayor Pro Tem.

The Council member who receives the highest number of votes cast at the last regular city election shall be the Mayor Pro Tem. In case that person declines to serve, the Council at its first meeting after the duly elected members take office shall elect one of its members to serve as Mayor Pro Tem. Such election shall be by written ballot and by majority vote of the members of the council in office at that time.

In the event of absence or disability of both the Mayor and Mayor Pro Tem., the Council may designate another of its members to serve as Acting Mayor during such absence or disability.

(Char. Amd. of 11-3-92)

Sec. 4.5. Duties of Mayor.

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

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

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

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

(e) In the absence or disability of the Mayor, the Mayor Pro Tem shall perform the duties of Mayor. In the absence or disability of both, the designated Acting Mayor shall perform such duties.

Sec. 4.6. Administrative service.

The administrative officers of the city shall be the City Manager, Attorney, Clerk, Treasurer, Assessor, Police and Fire Chief. The Council may by resolution create additional administrative offices and may by resolution combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the city, but the Council may not diminish the duties or responsibilities of the office of the City Manager.

The City Manager and Attorney shall be appointed by the Council for an indefinite period, shall be responsible to and serve at the pleasure of the Council and shall have their compensation fixed by the Council. All administrative officers of the city except the City Manager and Attorney shall be appointed by the City Manager for an indefinite period, subject to confirmation by the Council. All officers appointed by the City Manager shall be responsible to the City Manager, shall have their compensation fixed by the City Manager in accordance with budget appropriations and any pay plan adopted by the Council, and may be discharged by the City Manager with confirmation by the Council.

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

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

All personnel employed by the city who are not elected officers of the city or declared to be administrative officers, assistant administrative officers or deputies by, or under the authority of, this charter shall be deemed to be employees of the city. The head of each department shall have the power to hire, suspend, discharge or take other appropriate disciplinary action against the employees of his department with confirmation by the City Manager.

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

Sec. 4.7. City manager; appointment and qualifications.

The Council shall appoint a City Manager within ninety days after any vacancy exists in such position. The City Manager shall hold office at the pleasure of a majority of the Council. He shall be selected solely on the basis of his executive and administrative qualifications with special reference to his training and experience. If he is not a resident of the city at the time of his appointment, he shall become a resident thereof within ninety days after his appointment and shall so remain throughout his tenure of office.

Sec. 4.8. City Manager; functions and duties.

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

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

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

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

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

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

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

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

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

(i) To be responsible for the maintenance of a system of accounts of the city which shall conform to any uniform system required by law and by the Council and to generally accepted principles and procedure of governmental accounting. He shall make monthly financial statements to the Council.

(j) To perform such other duties as may be prescribed by this charter or as may be required of him by ordinance or by direction of the Council.

Sec. 4.9. Acting City Manager.

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

Sec. 4.10. Relationship of Council to administrative service.

Neither the Council nor any of its members or committees shall dictate the appointment of any person to office by the City Manager or in any way interfere with the City Manager or other city officer to prevent them from exercising their judgment in the appointment or employment of officers and employees in the administrative service. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any of the subordinates of the City Manager.

Sec. 4.11. Clerk; functions and duties.

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

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

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

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

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

(f) The Clerk shall perform such other duties as may be prescribed for him by this charter, by the Council or by the City Manager.

Sec. 4.12. Treasurer; functions and duties.

(a) The Treasurer shall have the custody of all moneys of the city, any bond pertaining solely to the Clerk and all evidences of indebtedness belonging to the city or held by the city.

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

(c) The Treasurer shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine and shall report the same in detail to the City Manager.

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

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

(f) The Treasurer shall perform such other duties as may be prescribed for him by this charter, by the Council or by the City Manager.

Sec. 4.13. Assessor; functions and duties.

The Assessor shall possess all the powers vested in, and shall be charged with all the duties imposed upon, assessing officers by statute. He shall prepare all regular and special assessment rolls in the manner prescribed by this charter, by ordinance and by statute. He shall perform such other duties as may be prescribed for him in this charter, by the Council or by the City Manager.

Sec. 4.14. Attorney; functions and duties.

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

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

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

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

(e) The Attorney shall perform such other duties as may be prescribed for him by this charter or by the Council.

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

Sec. 4.15. Compensation of attorney.

The compensation of the Attorney shall be set by the Council.

Sec. 4.16. Deputy administrative officers.

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

Sec. 4.17. Planning and zoning.

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

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

Sec. 4.18. Independent boards and commissions.

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

Sec. 4.19. Elected officers compensation commission.

The Council shall establish by ordinance a Commission to be designated the Elected Officers Compensation Commission which shall consist of five citizens of the city who shall hold no office of the city or be employed by the city. The Elected Officers Compensation Commission shall determine the compensation to be paid to the Mayor and Councilpersons. The ordinance shall set forth the manner of appointment, terms and duties of the members of the Commission.

(Char. Amd. 11-7-00)

CHAPTER 5
GENERAL PROVISIONS REGARDING OFFICERS AND PERSONNEL OF THE CITY

Sec. 5.1. Eligibility for office in city.

No person shall hold any elective office of the city unless he or she has maintained his or her residence within the recently established boundaries of the city for at least one year immediately prior to the last day for filing original petitions for such office, or prior to the time of his appointment to fill a vacancy.

No person shall hold any elective office unless he or she is a qualified and registered elector of the city on such last day for filing, or at such time of appointment. Failure to remain a qualified and registered elector of the city shall forfeit the right to continue in such office.

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

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

Each member of a city board or commission shall have been a resident of the city for at least one year prior to the day of his appointment and shall be a qualified and registered elector of the city on such day and throughout his tenure of office.

All officers of the city shall be United States citizens.

No elective officer may be appointed to any city office or be employed by the city during the term of office for which he was elected.

Any person who shall be elected to city office who is an elective officer whose term of office does not expire at 7:30 o'clock p.m. on the first Monday next following the election at which they are elected to city office shall be deemed to vacate their current office no later than 7:30 p.m. on the first Monday next following the election to which they are elected to their new city office.

(Char. Amd. of 11-3-92; Char. Amd. of 11-6-01)

Sec. 5.2. Vacancies in elective office.

Any elective city office shall be declared vacant by the Council upon the occurrence of any of the following events before the expiration of the term of such office:

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

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

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

(d) If the officer shall absent himself continuously from the city for more than thirty consecutive days in any one year without the permission of the Council;

(e) In the case of any members of the Council, if such officer shall miss four consecutive regular meetings of the Council or twenty-five per cent of such meetings in any fiscal year of the city, unless such absences shall be excused by the Council and the reason therefor entered in the proceedings of the Council at the time of each absence;

(f) If the officer is removed from office by the Council in accordance with the provisions of Section 5.4.

Sec. 5.3 Vacancies in boards and commissions.

The office of any member of any board or commission created by, or pursuant to, this charter shall be declared vacant by the Council:

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

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

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

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

Sec. 5.4. Removals from office.

Removals by the Council of elective officers or of members of boards or commissions shall be made for either of the following reasons: (a) for any reason specified by statute for removal of city officers by the Governor; (b) for any act declared by this charter to constitute misconduct in office. Such removals by the Council shall be made only after hearing of which such officer has been given notice by the Clerk at least ten days in advance, either personally or by delivering the same at his last known place of residence. Such notice shall include a copy of the charges against such officer. The hearing shall afford an opportunity to the officer, in person or by attorney, to be heard in his defense, to cross-examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges, his failure to do so may be deemed cause for his removal. A majority vote of the members of the Council in office at the time, exclusive of any member whose removal may be being considered, shall be required for any such removal.

Sec. 5.5. Resignations.

Resignations of elective officers and of members of boards and commissions shall be made in writing and filed with the Clerk and shall be acted upon by the Council at its next regular meeting following receipt thereof by the Clerk. Resignations of appointive officers shall be made in writing to the appointing officer or body and shall be acted upon immediately.

Sec. 5.6. Filling vacancies in appointive offices.

Vacancies in appointive offices shall be filled in the manner provided for making the original appointment. In the case of members of boards and commissions appointed for a definite term, such appointments shall be for the unexpired term.

Sec. 5.7. Filling vacancies in elective offices.

(a) Any vacancy which occurs in the Council before the next regular city election may be filled by a majority vote of the remaining members of the Council, said appointee to hold office for the balance of the unexpired original term.

(b) If any vacancy in the office of Councilman which the Council is authorized to fill is not so filled within sixty days after such vacancy occurs, or if four or more vacancies exist simultaneously in the office of Councilman such vacancies shall be filled for the respective unexpired terms at a special election. In connection with any special election to fill a vacancy or vacancies in any elective office no primary election shall be held; candidates shall be nominated by petitions in a manner identical to that provided in Sections 3.10 to 3.13 inclusive; the names of all qualified candidates who file sufficient valid nomination petitions thirty days before such special election shall be certified to the Election Commission and placed on the ballot; and all other provisions of this charter, not inconsistent with this Section 5.7 shall govern.

(c) The provisions of this Section 5.7 shall not apply to the filling of vacancies resulting from recall.

(Char. Amd. of 11-6-01)

Note: The State of Michigan Election Law was amended (MCL 168.321 and 168.322 under PA 302 of 2005 and PA 103 of 2015) limiting special elections to regular election dates of May, August and November. As a consequence, the provisions in Section 5.7(b) regarding the dates for special elections are preempted by state statute and are null and void. Any provision of Section 5.7(b) not effected by the amendment of the Michigan Election Law remains in effect.

Pursuant to Michigan Election Law, the filing deadlines for Mayor and Councilmembers for special elections are as follows:

May special elections: Petitions for candidates for Mayor and/or Councilmember shall be filed no later than 4:00 p.m. on the 15th Tuesday before the May special election.

August and November special elections: Petitions for candidates in special elections held in shall be filed as required by State Statue, as described in the note to Section 3.9. Nominations, of Chapter 3, Elections.

(Note Date: 2/2019)

Sec. 5.8. Reserved.

Editor's note(s)—Charter amd. of 11-7-00 repealed section 5.8, filling vacancies in the office of justice of the peace, in its entirety. The former provisions derived from the city charter, adopted December 14, 1953.

Sec. 5.9. Change in term of office or compensation.

Except by procedures provided in this charter, the terms of office of the elective officers and of members of boards and commissions appointed for definite terms shall not be shortened. The terms of elective officers of the city shall not be extended beyond the period for which any such officer was elected except that an elective officer shall, after his term has expired, continue to hold office until his successor is elected and has qualified. The Council shall not grant or authorize extra compensation to any officer or employee after the service has been rendered. The salary of any elective officer shall not be increased or decreased from the time of his election until the end of the term of office for which he was elected.

Sec. 5.10. Oath of office and bond.

Every officer, elected or appointed, before entering upon the duties of his office, shall take the oath of office prescribed by Section 2 of Article XVI of the Constitution of the State and shall file the same with the Clerk, together with any bond required by statute, this charter, or by the Council. In case of failure to comply with the provisions of this section within ten days from the date of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the Council shall, by resolution, extend the time in which such officer may qualify as above set forth.

Sec. 5.11. Surety bonds.

Except as otherwise provided in this charter, all officers of the city whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement or both, and all other officers and employees so required by the Council shall, before they enter upon the duties of their respective offices, file with the city an official bond, in such form and amount as the Council shall direct and approve. Such official bond of every officer and employee shall be conditioned that he will faithfully perform the duties of his office, and will on demand deliver over to his successor in office, or other proper officer or an agent of the city, all books, papers, moneys, effects and property belonging thereto, or appertaining to his office, which may be in his custody as an officer or employee; and such bonds may be further conditioned as the Council shall prescribe. The official bond of every officer whose duty it may be to receive or pay out money, besides being conditioned as above required, shall be further conditioned that he will, on demand, pay over or account for to the city, or any proper officer or agent thereof, all moneys received by him as such officer or employee. The requirements of this paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all, or a group of, city employees and officers.

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

Sec. 5.12. Delivery of office.

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

Sec. 5.13. Pecuniary interest prohibited.

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

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

(c) A contract in which an officer or member of his family has a pecuniary interest may be made by the city if one more than a majority of the members of the Council in office at the time having no such interest shall determine that the best interests of the city will be served by the making of such contract and if either such contract is made after comparative prices are obtained or if one more than a majority of the members of the Council having no such interest shall determine that the obtaining of comparative prices is not feasible in such particular case. Any Council member may evidence his participation in either determination required by this paragraph by vote at a Council meeting or by written instrument filed with the Clerk.

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

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

Sec. 5.14. Compensation of employees and officers.

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

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

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

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

Sec. 5.15. Employee welfare benefits.

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

Sec. 5.16. Anti-nepotism.

The following relatives and their spouses: (a) of any elective official or of his or her spouse; or (b) of the City Manager or his or her spouse, are disqualified from holding any appointive office or employment during the term for which said elective official was elected, or during the employment of such City Manager: namely, child, grandchild, parent, grandparent, brother, sister, half-brother and half-sister. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouse who are bonafide appointive officers or employees of the city at the time of the election of said elective official, or at the time of the hiring of said City Manager.

Sec. 5.17. Merit system.

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

CHAPTER 6
THE COUNCIL: PROCEDURE AND MISCELLANEOUS POWERS AND DUTIES

Sec. 6.1. Regular meetings.

The Council shall provide by resolution for the time and place of its regular meeting and shall hold at least one regular meeting each month. An organizational meeting shall be held on the Monday following each regular city election.

Sec. 6.2. Special meetings.

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

Sec. 6.3. Business at special meetings.

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

Sec. 6.4. Meetings to be public.

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

Sec. 6.5. Quorum; adjournment of meeting.

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

Sec. 6.6. Compulsory attendance and conduct at meetings.

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

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

Sec. 6.7. Organization and rules of the council.

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

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

(b) A vote upon all ordinances and resolutions shall be taken by "Yes" and "No" vote and entered upon the records, except that where the vote is unanimous it shall only be necessary to so state.

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

(d) In all roll call votes the names of the members of the Council shall be called in alphabetical order and the name to be called first shall be advanced one position alphabetically in each successive roll call vote.

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

(f) There shall be no standing committees of the Council.

Sec. 6.8. Investigations.

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

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

It is provided further that, in case of failure on the part of any person to obey such summons or to produce such books, papers and other evidence as so ordered, the Council may invoke the aid of the Circuit Court of Lenawee County in requiring obeyance of such summons or production of such books, papers and other evidence. The Circuit Court of Lenawee County, in case of contumacy or refusal to obey such summons or to produce such books, papers and other evidence, may issue an order requiring such person to obey such summons or to produce such books, papers and other evidence and to give evidence touching the matter in question, and any failure to obey such order of the Court may be punished by such Court as contempt thereof.

Sec. 6.9. Providing for public health and safety.

The Council shall see that provision is made for the public peace and health, and for the safety of persons and property. The Council shall constitute the Board of Health of the city, and it and its officers shall possess all powers, privileges and immunities granted to boards of health by statute.

CHAPTER 7
LEGISLATION

Sec. 7.1. Prior legislation.

All valid bylaws, ordinances, resolutions, rules and regulations of the Village of Tecumseh which are in force and effect at the time of the effective date of this charter shall continue in full force and effect until repealed or

amended; provided, however, that if any such bylaw, ordinance, resolution, rule or regulation provides for the appointment by the Village President of any officer or member of a board or commission future appointments of such persons shall be made by the Council.

Any reference in any such bylaw, ordinance, resolution, rule or regulation to a board or commission shall be construed to refer instead to the Council.

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

Sec. 7.2. Ordinances and resolutions.

All official action of the Council shall be by ordinance, resolution, motion or order. Action by resolution, motion or order shall be limited to matters required or permitted to be so done by this charter or by state or federal law or pertaining to the internal affairs or concerns of the city government. All other acts of the Council and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a short title and by a number and by a code section number if and when the codification of ordinances is completed.

Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances shall be: "The City of Tecumseh ordains:".

Sec. 7.3. Enactment, amendment, repeal and effective date of ordinances.

Subject to the statutes and to the exceptions which follow hereafter: (a) ordinances may be enacted by the affirmative vote of not less than a majority of the members elect of the Council; (b) no ordinance shall be amended or repealed except by an ordinance adopted as aforesaid; (c) no ordinance shall be enacted at the meeting at which it is introduced nor until after publication of the proceedings or summary thereof of such meeting (which proceedings or summary shall include a statement of its title and purpose); and (d) the effective date of all ordinances shall be prescribed therein but the effective date shall not be earlier than ten days after enactment nor before publication thereof.

It is provided, however, that an ordinance which is declared therein to be an emergency ordinance which is immediately necessary for the preservation of the public peace, health or safety may be enacted at the meeting at which it is introduced or before publication of the proceedings of the meeting at which it is introduced, or may be given earlier effect than ten days after its enactment, or all three, by four affirmative votes if four or five members of the Council are present at the meeting at which it is enacted or by three affirmative votes if three members of the Council are present at the meeting at which it is enacted.

In case an ordinance is given effect earlier than ten days after its enactment, the requirements for publication before such ordinance becomes operative may be met by posting copies thereof in conspicuous locations in three public places in the city, other provisions of this charter notwithstanding; and the Clerk shall, immediately after such posting, enter in the Ordinance Book under the record of the ordinance a certificate under his hand stating the time and place of such publication by posting of the ordinance, but the failure to so record and authenticate such ordinance shall not invalidate it or suspend its operation. Such ordinance shall also be published in accordance with Section 7.4 but not as a requirement for the effectiveness thereof.

No ordinance granting any public utility franchise shall be enacted except in accordance with the provisions of Section 14.2.

No ordinance shall be amended by reference to its title only, but the revised sections of the ordinance, as amended, shall be re-enacted and published in full. However, an ordinance or section thereof may be repealed by reference to its title and ordinance or code number only.

Sec. 7.4. Publication and recording of ordinances.

Each ordinance shall be published within twenty days after its enactment in one of the following two methods: (a) The full text thereof may be published in a newspaper as defined in Section 17.4, or (b) in cases of ordinances over five hundred words in length a digest, summary or statement of purpose of the ordinance, approved by the Council may be published in a newspaper as defined in Section 17.4, either separately or as part of the published Council proceedings or summary thereof, including with such newspaper publication a notice that printed copies of the full text of the ordinance are available for inspection by and distribution to the public at the office of the Clerk; if method (b) is used, then printed copies shall promptly be so made available as stated in such notice.

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

Sec. 7.5. Penalties for violations of ordinances.

Any ordinance may provide for the punishment of those who violate its provisions. The punishment for the violation of any ordinance shall not exceed a fine of five hundred dollars or imprisonment for ninety days or both in the direction of the Court. However, in the event the violation of any ordinance substantially corresponds to a violation of state law that is a misdemeanor, then the maximum amount of any monetary fine or maximum length of any imprisonment for the violation of any ordinance shall not exceed the limits set by state law for the violation of said state law.

(Char. Amd. of 11-7-00)

Sec. 7.6. Special requirements for certain Council actions.

(a) Action to vacate, discontinue or abolish any highway, street, lane, alley or other public place, or part thereof, shall be subject to the provisions of statute and shall be by resolution. After the introduction of such resolution and before its final adoption, the Council shall hold a public hearing thereon and shall post or publish notices of such hearing at least one week prior thereto.

(b) The following actions shall require the affirmative vote of five members of the Council for the effectiveness thereof:

(1) Vacating, discontinuing or abolishing any highway, street, lane, alley or other public place or part thereof;

(2) Purchasing, selling or leasing of any real estate or interest therein;

(3) Authorizing the condemning of private property for public use;

(4) Creating or abolishing any office;

(5) Appropriating any money;

(6) Imposing any tax or assessment;

(7) Reconsidering or rescinding any vote of the Council.

(c) The Council shall not have power to engage in any business enterprise requiring an investment of money in excess of the amount permitted to be so invested by statute unless approved by a three-fifths vote of the electors voting thereon at any general or special election.

Sec. 7.7. Enactment of codes by reference.

In accordance with statutes now or hereafter in effect, the Council may enact technical codes, any appropriate Michigan statute or any detailed technical regulations promulgated or enacted by any state or federal agency by reference thereto in an enacting ordinance and without publishing such codes in full.

Sec. 7.8 Severability of ordinances.

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

Sec. 7.9 Compilation and codification of ordinances.

Within two years after the effective date of this charter, and in the discretion of the Council thereafter, the Council shall direct the compilation or codification and printing in loose-leaf or pamphlet form of all ordinances of the city then in force. Such compilation or codification shall be completed within one year thereafter. Any such codification may include provisions not previously contained in ordinances of the city. All requirements for publication of such compilation or codification, and of the ordinances contained therein, other provisions of this charter notwithstanding, may be met by making copies thereof available for inspection by, and distribution to, the public at a reasonable charge and by publishing notice of the printing and availability thereof.

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

Sec. 7.10. Initiative and referendum.

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

Sec. 7.11. Initiatory and referendary petitions.

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

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

allowed for the filing of supplemental petition papers. When a petition with sufficient signatures is filed within the time allowed by this section, the Clerk shall present the petition to the Council at its next regular meeting.

Sec. 7.12. Council procedure on initiatory and referendary petitions.

Upon the presentation to the Council of an initiatory or referendary petition by the Clerk, the Council shall, within thirty days, unless otherwise provided by statute, either:

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

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

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

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

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

Note: The State of Michigan Election Law was amended (MCL 168.635 under PA 116 of 1954) requiring that a special election for the submission of a proposition be held on a regular election date. As a consequence, the provisions in Section 7.13 regarding the dates for holding special elections are preempted by state statute and are null and void. Any provision of Section 7.13 not effected by the amendment of the Michigan Election Law remains in effect.

Pursuant to Michigan Election Law, Council may only call a special election for initiatory and referendary ordinances on a date that corresponds with the regular election dates in May, August and November and initiatory and referendary ordinance proposals may only appear on a ballot where such time has been allowed to meet statutory filing deadlines.

Sec. 7.14. Ordinance suspended: miscellaneous provisions on initiatory and referendary petitions.

The presentation to the Council by the Clerk of a valid and sufficient referendary petition containing a number of signatures equal to twenty-five percent of the registered electors of the city as of the date of the last regular city election which signatures have been obtained within sixty days before the date of filing the petition with the Clerk, shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors.

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

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

CHAPTER 8
GENERAL FINANCE — BUDGET, AUDIT

Sec. 8.1. Fiscal year.

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

Sec. 8.2. Budget procedures.

The City Manager shall prepare and submit to the Council on the third Monday in April of each year a recommended budget covering the next fiscal year, and shall include therein at least the following information:

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

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

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

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

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

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

Sec. 8.3. Budget hearing.

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

Sec. 8.4. Adoption of budget.

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

Sec. 8.5. Budget control.

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

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

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

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

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

Sec. 8.6. Depository.

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

Sec. 8.7. Independent audit; annual report.

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

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

CHAPTER 9
TAXATION

Sec. 9.1. Power to tax; tax limit.

The city shall have the power to assess taxes and levy and collect rents, tools and excises. Exclusive of any levies authorized by statute to be made beyond charter tax rate limitations, the annual ad valorem tax levy shall not exceed one and one-half percent of the assessed value of all real and personal property subject to taxation in the city.

Sec. 9.2. Subjects of taxation.

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

Sec. 9.3. Exemptions.

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

Sec. 9.4. Tax day.

Subject to the exceptions provided or permitted by statute the taxable status of persons and property shall be determined as of December 31, which shall be deemed the tax day.

(Char. Amd. of 11-5-02)

Sec. 9.5. Preparation of the assessment roll.

Ten calendar days prior to the second Monday in March in each year the Assessor shall prepare and certify an assessment roll of all property in the city subject to taxation. Such roll shall be prepared in accordance with statute and this charter. Values shall be estimated according to recognized methods of systematic assessment. The records of the Assessor shall show separate figures for the value of the land, of the building improvements and of personal property; and the method of estimating all such values shall be as nearly uniform as possible.

Ten calendar days prior to the second Monday in March, the Assessor shall give by first class mail a notice of any increase over the previous year in the assessed value of any property or of the addition of any property to the roll to the owner as shown by such assessment roll. Such notice shall specify the parcel of property, the tentative taxable value for the current year, the taxable value for the immediately preceding year, and the difference between the two, the time and place of the meeting of the Board of Review, the state equalized valuation for the immediately preceding year, the tentative state equalized valuation for the current year, and the net change between the two, the classification of the property as defined by section 211.24c of the Michigan Complied Laws, the inflation rate for the immediately preceding year as defined in section 211.24d of the Michigan Compiled Laws, and a statement provided by the state tax commission explaining the relationship between state equalized valuation and taxable value, including, if the Assessor believes a transfer of ownership has occurred in the immediately preceding year, a statement that the ownership was transferred and that the taxable value of that property is the same as the state equalized valuation of that property. The failure to give any notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

(Char. Amd. of 11-5-02)

Sec. 9.6. Board of Review.

The Board of Review shall be composed of three freeholders of the city who shall meet the eligibility requirements for elective officers contained in Sec. 5.1 and who during their term of office shall not be city officers or employees or be nominees or candidates for elective city office. The filing by a member of the Board of Review of his nomination petition for an elective city office or the filing of a consent thereto shall constitute a resignation from the Board of Review. The appointment of members of such Board shall be based upon their knowledge and experience in property valuation. One member of the Board shall be appointed by the council in each January for a term of three years, to replace the member whose term expires that year. The council shall fix the compensation of the members of the Board. The Board of Review shall annually at their first meeting to be held the Tuesday following the first Monday in March, select its own chairman for the ensuing year, and the Assessor shall be Clerk of the Board and shall be entitled to be heard at its sessions, but shall have no vote.

(Char. Amd. of 11-5-02)

Sec. 9.7. Meetings of the Board of Review.

The Board of Review shall convene in its first session on the Tuesday following the first Monday in March of each year at such time of day and place as shall be designated by the Council and shall remain in session for a length of time as needed for the purpose of considering and correcting the roll. In each case in which the assessed value of any property is increased over the amount shown on the assessment roll as prepared by the Assessor or any property is added to such roll by the Board, or the Board has resolved to consider at its second session such increasing of an assessment or the adding of any property to such roll, the Assessor shall give notice thereof to the owners as shown by such roll by first class letter mailed not later than the second day following the end of the first session of the Board. Such notice shall state the date, time, place and purpose of the second session of the Board. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

The Board of Review shall convene in its second session on the second Monday in March of each year at 9 a.m. and at such place as shall be designated by the Council and shall continue in session until all interested persons have had an opportunity to be heard, but in no case for less than six hours. Subsequent meetings will be determined as necessary to hear protests, except that at least one meeting shall be for not less than six hours, beginning at 3:00 p.m. The Board of Review shall meet for a total of not less than twelve hours during the week beginning the second Monday in March to hear protests. If the Board increases assessments at subsequent meetings past the first meeting, the owner of such property shall have the opportunity to appeal to the Board. The owners of all properties may appeal by first class mail or by electronic facsimile. The first Monday in April is the last day to appeal, unless the Board of Review has concluded earlier. No later than the Wednesday following the first Monday in April, the Assessor shall deliver the assessment roll as certified by the Board of Review.

(Char. Amd. of 11-5-02)

Sec. 9.8. Notice of meetings.

Notice of the time and place of the sessions of the Board of Review shall be published by the clerk at least ten days prior to each session of the Board.

Sec. 9.9. 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,

except as otherwise provided in this charter. It shall hear the complaints of all persons considering themselves aggrieved by assessments, and if it shall appear that any person or property has been wrongfully assessed or omitted from the roll, the Board shall correct the roll in such manner as it deems just. In all cases the roll shall be reviewed according to the facts existing on the tax day and no change in the status of any property after said day shall be considered by the Board in making its decisions. Except as otherwise provided by statute, no person other than the Board of Review shall make or authorize any change upon, or additions or corrections to, the assessment roll. It shall be the duty of the Assessor to keep a permanent record of all proceedings and to enter therein all resolutions and decisions of the Board.

Sec. 9.10. Endorsement of roll.

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

Sec. 9.11. Clerk to certify tax levy.

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

Sec. 9.12. City tax roll.

After the March Board of Review has adjourned, the Assessor shall prepare the ad valorem and Industrial Facilities Tax rolls and warrants certifying taxable values. The Treasurer shall prepare a tax roll for the same showing the several amounts determined from the L-4029 (STC 614) from each of the taxing authorities to be charged, assessed or reassessed against property. The Treasurer is the collection agency for properties within the city limits for the City, Tecumseh Public Schools, Intermediate School District, and the County.

(Char. Amd. of 11-5-02)

Sec. 9.13. Tax roll certified for collection.

After the Treasurer spreads the taxes and the Assessor certifies the tax roll, the Treasurer will collect, prior to March first of the following year, except for personal property which continues to be collected by the Treasurer, from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment and is granted, for the purpose of collecting the taxes, assessments and charges on such roll, all the statutory powers and immunities possessed by City Treasurers for the collection of taxes. Beginning March first of the following year, delinquent real property is turned over to the County Treasurer for collection. The County will remit payment to the city for these delinquent properties during the month of June. The Treasurer will verify that the tax roll balances with the warrant before bills are issued.

(Char. Amd. of 11-5-02)

Sec. 9.14. Tax lien on property.

On July first the taxes thus assessed shall become a debt due to the city from the persons to whom they are assessed, and the amounts assessed on any interest in real property shall become a lien upon such real property,

for such amounts and for all interest and charges thereon, and all personal taxes shall become a first lien on all personal property of such persons so assessed. Such lien shall take precedence over all other claims, encumbrances and liens to the extent provided by statute and shall continue until such taxes, interest and charges are paid.

Sec. 9.15. Taxes due: notification thereof; deferment.

City taxes shall be due and payable on July first of each year. The Treasurer shall not be required to call upon the persons named in the city tax roll, nor to make personal demand for the payment of taxes, but he shall: (a) mail a bill to each person named in said roll, but in cases of multiple ownership of property only one bill need be mailed; and (b) publish, between July first and fifteenth, notice that taxes were mailed out and are now due and payable, and the penalties and fees for late payment of same.

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

The Treasurer shall defer the summer taxes in accordance with the conditions described in Public Act 97 of 1992. Form L-2358 will be filled out by the qualifying taxpayer and filed with the Treasurer by September 15. No interest will be charged during the deferment period. The Treasurer shall publish a separate notice in the newspaper at the same time of notice of taxes that deferment forms are available.

(Char. Amd. of 11-5-02)

Sec. 9.16. Interest on late payment of taxes.

The Treasurer without additional charge shall collect all taxes paid on or before the thirty-first day of August. Pursuant to Section 17.7, if August 31 is a Saturday, Sunday or legal holiday, the due date is extended to include the next day which is not a Saturday, Sunday or legal holiday. On September 1, the Treasurer shall add to all taxes paid thereafter three percent of the amount of said taxes before the administration fee and on the first day of October and of each succeeding month the Treasurer shall add an additional one percent of said taxes that remain unpaid but not in an amount greater than that permitted by state law. The three percent penalty shall belong to the city and constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectible in the same manner as the taxes to which they are added. The one percent per month interest charge will be disbursed proportionately among the taxing units. On taxes paid after February 14 and before March 1, the Treasurer shall add a three percent penalty to the winter taxes before the administration fee, which shall belong to the city. Interest from February 15 to the last day of February on a summer property tax that has been deferred or any late penalty charge shall be waived for the homestead property of a senior citizen 62 years of age or older, paraplegic, quadriplegic, eligible serviceperson, eligible veteran, eligible widow or widower, totally and permanently disabled person, or blind person, as those persons defined in MCL §§ 206.501 to 206.532, if the person makes a claim before February 15 for a credit for that property provided by Chapter 9 of Act No. 281 of the Public Acts of 1967, if the person presents a copy of the form filed for that credit to the local Treasurer, and if the person has not received the credit before February 15. It is provided, however, that if delivery of the assessment roll to the Treasurer, as provided in Section 9.13, is delayed for any reason by more than thirty days after June first, the application of the interest charge provided herein shall be postponed thirty days for the first thirty days of such delay and shall be postponed an additional thirty days for each additional thirty days, or major fraction thereof, of such delay.

(Char. Amd. of 11-5-02)

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

If any person, firm or corporation shall neglect or refuse to pay any personal property tax assessed to him or them by February 15, the Treasurer shall make demand for payment of the taxes either personally or by mail and shall collect the same by seizing the personal property of such person, firm or corporation to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the state, and from which seizure no property shall be exempt. The Treasurer may sell the property seized to an amount sufficient to pay the taxes and all charges in accordance with statutory provisions. The Treasurer may, if otherwise unable to collect a tax on personal property, sue, in accordance with statute, the person, firm or corporation to whom it is assessed.

(Char. Amd. of 11-5-02)

Sec. 9.18. Delinquent tax roll to county Treasurer.

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

Sec. 9.19. State, county and school taxes.

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

CHAPTER 10
BORROWING POWER

Sec. 10.1. Grant of authority to borrow.

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

(a) General obligation bonds which pledge the full faith, credit and resources of the city for the payment of such obligations; when authorized by a majority vote of those voting thereon at any general or special election.

(b) Notes issued in anticipation of the collection of taxes, but the proceeds of such notes may be spent only in accordance with appropriations as provided by Section 9.5;

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

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

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

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

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

(Char. Amd. of 11-6-02)

Sec. 10.2. Limits of borrowing powers.

The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten percent of the assessed value of all the real and personal property in the city, provided that in computing such net bonded indebtedness there shall be excluded money borrowed under the following Sections: 10.1(b) (tax anticipation notes), 10.1(d) (special assessment bonds even though they are also a general obligation of the city), 10.1(e) (mortgage bonds), 10.1(g) (revenue bonds), and any other obligations excluded by statute or Constitution from such limitation. The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the bonded indebtedness.

The amount of emergency loans which may be made under the provisions of Section 10.1(c) may not exceed the maximum amount permitted by statute, and such a loan may be made even if it causes the indebtedness of the city to exceed the limit of net bonded indebtedness fixed in this charter.

The total amount of such special assessment bonds issued under Section 10.1(d) which are a general obligation of the city shall at no time by reason of future issues other than issues of refunding bonds, exceed the maximum amount permitted by statute, nor shall such bonds be issued in any calendar year in excess of the maximum amount so permitted to be issued by statute unless authorized by a majority vote of the electors in the manner required by statute.

Sec. 10.3. Applicability of other statutory restrictions.

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

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

Sec. 10.4. Preparation and record of bonds.

Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued and it shall be unlawful for any officer of the city to use the proceeds thereof for any other purpose, and any officer who shall violate this provision shall be deemed guilty of misconduct in office, except that whenever the proceeds of any bond issue or part thereof shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the council may authorize the use of said funds for the retirement of bonds of such issue. All bonds and other evidences of indebtedness issued by the city shall be signed by the mayor and countersigned by the clerk, under the seal of the city. Interest coupons may be executed with the facsimile signature of the mayor and clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the city shall be kept by the city manager. Upon the payment of any bond or other evidence of indebtedness, the same shall be "Cancelled."

Sec. 10.5. Unissued bonds.

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

Sec. 10.6. Deferred payment contracts.

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

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

CHAPTER 11
SPECIAL ASSESSMENTS

Sec. 11.1. General power relative to special assessments.

The Council shall have the power to determine by resolution that the whole or any part of the expense of any public improvement be defrayed by special accessment upon the property especially benefited in proportion to the benefits derived or to be derived.

Sec. 11.2. Detailed procedure to be fixed by ordinance.

The Council shall prescribe by ordinance the complete special assessment procedure governing the initiation of projects, preparation of plans and cost estimates, creation of districts, making and confirming of assessment rolls, correction of errors in the rolls, collection of assessments and any other matters concerning the making of improvements by the special assessment method.

Such ordinance shall be subject to the following provisions:

(a) No resolution finally determining to proceed with establishing any special assessment district for the making of any public improvement shall be enacted until cost estimates have been prepared and a public hearing has been held on the advisability of so proceeding, which hearing shall be held not less than ten days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city.

(b) No special assessment roll shall be finally confirmed until after a meeting of the Council has been held for the purpose of reviewing such roll, which meeting shall be held not less than ten days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the city.

(c) No original special assessment roll shall be confirmed except by the affirmative vote of five members of the Council if prior to such confirmation written objections to the proposed improvement have been filed by the owners of property in the district which will be required to bear more than fifty percent of the amount of such special assessment.

(d) No public improvement to be financed in whole or part by special assessment shall be made before the confirmation of the special assessment roll for such improvement.

(e) No special assessment district or districts shall be created by the Council for any one public improvement which includes property having an area in excess of twenty-five percent of the total area of the city. No public improvement project shall be divided geographically for the purpose of circumventing this provision.

Sec. 11.3. Special assessment powers.

The Council shall, in the exercise of its powers of special assessment, have power to provide for the following, but this list shall not be exclusive:

(a) For the construction of public parking facilities as a public improvement financed in whole or part by the special assessment method.

(b) For installing a boulevard lighting system on any street as a public improvement to be financed in whole or part by special assessment upon the lands abutting thereupon, provided that the property owners of a majority of the frontage on such street or part thereof to be so improved shall petition therefor.

(c) For the payment of special assessments in annual installments not to exceed ten in number. The first such installment to be due upon confirmation of the special assessment roll, and subsequent installments to be due on July first of succeeding years and to be placed upon the annual city tax roll, if deliquent, and for an interest charge only until the due date of each such deferred installment not to exceed six percent per year, subject to the right of advance payment of any such installment with interest only to the date of payment.

Sec. 11.4. Disposition of excessive special assessments.

The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the general fund of the city if such excess is five percent or less of the assessment, but should the assessment prove larger than necessary by more than five percent the entire excess shall be refunded on a pro rata basis to the owners of the property assessed as shown by the current assessment roll of the city. Such refund shall be made by credit against future unpaid installments to the extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or part by such special assessment.

Sec. 11.5. Additional assessments; correction of invalid special assessments.

Whenever any special assessment shall, in the opinion of the Council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Council shall, whether the improvement has been made or not, or whether any part of the assessments have been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any sum or part thereof levied upon any property in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment or if the payments exceed the amount of the reassessment refunds shall be made.

No judgment or decree nor any act of the Council vacating a special assessment shall destroy or impair the lien of the city upon the premises assessed for such amount of the assessment as may be equitably charged against the same or as by regular mode of proceeding might have been lawfully assessed thereupon.

Sec. 11.6. Contested assessments.

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment: (a) unless within thirty days after the confirmation of the special assessment roll written notice is given to the Council of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal; and (b) unless such suit or action shall be commenced within sixty days after confirmation of the roll.

Sec. 11.7. Collection of special assessments.

Upon the confirmation of each special assessment roll the special assessments shall become a debt to the city from the persons to whom they are assessed and shall until paid be a lien upon the property assessed for the amount of such assessment and all interest and charges thereon. Such lien shall be of the same character and effect as created by this charter for city taxes.

Special assessments, or installments thereof, which become due on July first of any year shall be collected in all respects as are city taxes due on July 1 of the same year, and if uncollected on the following first day of March, shall be returned to the County Treasurer with unpaid taxes as provided in Section 9.18.

The initial special assessment installments which become due other than on July first shall, if unpaid for ninety days or more on May first of any year, be certified as delinquent to the Council by the Treasurer and the Council shall place such delinquent assessments on the tax roll for that year together with accrued interest to July first of such year. The total amount of such assessment and interest shall thereafter be collected in all respects as are city taxes due on July first of that year, shall be subject to the same fees and penalties as are city taxes due on that date and if uncollected on the following March first shall be returned to the County Treasurer with unpaid taxes as provided in Section 9.18.

Sec. 11.8. Special assessment accounts.

Except as otherwise provided in this charter, moneys raised by special assessment for any public improvement shall be credited to a special account and shall be used to pay for the costs of the improvement for which the assessment was levied and expenses incidental thereto or to repay any money borrowed therefor.

Sec. 11.9. Assessments for removal of hazards, etc.

The assessment for the cost of the construction of any sidewalk or the abatement of any hazard or nuisance to be made pursuant to Section 2.2 (t) or Section 2.2 (u), or for the cost of removing snow, ice or other obstructions from sidewalks to be made pursuant to Section 2.2 (v), shall be made by resolution of the Council. Notice of the time at which the Council will act thereon shall be given by first class mail to the owner of the property to be assessed as shown by the current tax roll of the city, except that no notice shall be required in the case of assessments for the removal of weeds, snow or ice. For the purposes of collection of such assessment, the adoption of such resolution shall be equivalent to the confirmation of a special assessment roll. The amount of any such assessment shall become a debt to the city upon adoption of such resolution, be due at such time as the Council shall prescribe, and shall be subject to the collection fees and become a lien as provided in Section 11.7. Every such assessment shall also be subject to Sections 11.4, 11.5 and 11.6.

Sec. 11.10. Failure to mail notice.

Failure to mail any notice required to be so sent by this chapter or by ordinance shall not invalidate any special assessment or special assessment roll.

CHAPTER 12
PURCHASES — CONTRACTS — LEASES

Sec. 12.1. Purchase and sale of property.

Subject to applicable state law, the Council shall establish by ordinance the procedures for the purchase and sale of property. The ordinance may provide for central purchasing and a monetary amount within which purchases may be made without Council approval. The ordinance shall provide for a monetary amount within which purchases of property may be made without comparative pricing or competitive bidding and the monetary amount above which comparative pricing or competitive bidding shall be required. No purchase of property shall be made unless a sufficient unencumbered appropriation is available to pay that part of the cost thereof which will be due for the payment during the fiscal year in which the purchase is made.

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

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

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

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

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

(Char. Amd. of 11-7-00)

Sec. 12.2. Contracts.

The authority to contract on behalf of the city is vested in the Council and shall be exercised in accordance with the provisions of statute and of this charter, provided that purchases and sales may be made by the City Manager subject to the provisions of Section 12.1.

Any contract or agreement in excess of the amounts set forth in the ordinance provided for in Section 12.1 shall before execution be submitted to the Attorney and his opinion obtained with respect to its form and legality. A copy of all contracts or agreements requiring such opinion shall be filed in the office of the Clerk together with a copy of the opinion.

Before any contract, agreement or purchase order obligating the city to pay an amount in excess of the amounts set forth in the ordinance provided for in Section 12.1 is executed the accounting officer of the city shall first have certified that an appropriation has been made for the payment thereof, or that sufficient funds will be available if it be for a purpose being financed by the issuance of bonds or by special assessments or for some other purpose not chargeable to a budget appropriation. In the case of a contract or agreement obligating the city for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification need not cover those payments which will be due in future fiscal years, but this exception shall not apply to a contract for the purchase or construction is being financed by an installment contract under authority of Section 10.6. Certification by the accounting officer of the city shall be endorsed on each contract, agreement or purchase order requiring same or shall be filed as an attachment thereto.

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

No contract shall be amended after the same has been made except upon the authority of the Council, provided that the City Manager may amend contracts for those purchases and sales made by him under the authority of Section 12.1.

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

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

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

(Char. Amd. of 11-7-00)

Sec. 12.3. Restriction on powers to lease property.

Any agreement or contract for the renting or leasing of public property to any person for a period longer than five years shall be subject to the same referendum procedure as is provided in the case of ordinances passed by the Council but any petition for such referendum must be filed within thirty days after publication of the proceedings of the meeting of the Council at which such agreement or contract is authorized.

The transfer or assignment of any agreement or contract for such renting or leasing of public property may be made only upon approval of the Council but approval of such transfer shall not be subject to referendum.

Rentals and leases and renewals thereof shall be for a fair consideration as determined by the Council.

CHAPTER 13
MUNICIPALLY OWNED UTILITIES

Sec. 13.1. General powers respecting utilities.

The city shall possess and hereby reserves to itself all the powers granted to cities by the Constitution and statute to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain, either within or without its corporate limits, including, but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment, and garbage disposal facilities, or any of them, to the municipality and the

inhabitants thereof; and also to sell and deliver water, light, heat, power, gas and other public utility services without its corporate limits to an amount not to exceed the limitations set by the Constitution and statute.

Sec. 13.2. Management of municipal utilities.

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

Sec. 13.3. Rates.

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

Sec. 13.4. Utility rates and charges —collection.

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

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

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

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

With respect to the collection of rates charged for water, the city shall have all the powers granted to cities by Act 178 of the Public Acts of 1939.

Sec. 13.5. Disposal of utility plants and property.

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

Sec. 13.6. Utility finances.

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

Transactions pertaining to the ownership and operation by the city of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance

with generally accepted utility accounting practice. Charges for all service furnished to, or rendered by, other city departments or agencies shall be recorded. An annual report shall be prepared to show fairly the financial position of each utility and the results of its operation, which report shall be available for inspection at the office of the Clerk.

CHAPTER 14
PUBLIC UTILITY FRANCHISES

Sec. 14.1. Franchises, contracts and leases remain in effect.

All franchises, contracts and leases to which the village or city is a party when this charter becomes effective shall remain in full force and effect in accordance with their respective terms and conditions.

Sec. 14.2. Granting of public utility franchises.

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

No franchise ordinance which is not subject to revocation at the will of the Council shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and received the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be approved by the Council for referral to the electorate before thirty days after application therefor has been filed with the Council nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the Clerk his unconditional acceptance of all terms of such franchise. No special election for such purpose shall be ordered unless the expense of holding such election, as determined by the Council, shall have first been paid to the Treasurer by the grantee.

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

Sec. 14.3. Conditions of public utility franchises.

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

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

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

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

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

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

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

Sec. 14.4. Regulation of rates.

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

Sec. 14.5. Use of public places by utilities.

Every public utility, whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and other public places as shall arise from its use thereof and shall protect and save the city harmless from all damages arising from said use. Every such public utility may be required by the city to permit joint use of its property and appurtenances located in the streets, alleys and other public places of the city by the city and by other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor. In the absence of agreement and upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, and the arbitration award shall be final.

CHAPTER 15
RESERVED

Editor's note(s)—Charter amd. of Nov. 6, 2001, repealed ch. 15, which pertained to supervisors and derived from the city charter adopted December 14, 1953.

CHAPTER 16
RESERVED

Editor's note(s)—Charter amd. of 11-7-00 repealed ch. 16, justice court, in its entirety, the former provisions of which derived from the city charter, adopted December 14, 1953.

CHAPTER 17
MISCELLANEOUS

Sec. 17.1. City liability.

The city shall not be liable for damages sustained by any person either to his person or property by reason of the negligence of the city, its officers or employees, nor by reason of any defective condition of or obstruction in any public place unless such person shall serve or cause to be served upon the Clerk within sixty days after the injury resulting in such damages shall have occurred a notice in writing, which notice shall set forth substantially the time and place of such injury, the manner in which it occurred, the extent of such damages as far as the same has become known, the names and addresses of the witnesses known at the time by the claimant and a statement

that the person sustaining such damages intends to hold the city liable for such damages as may have been sustained by him.

The city shall not be liable for any damage to person or property arising out of any such injury unless there shall have been first presented to the Clerk a claim in writing and under oath setting forth particularly the time, place, nature and extent of such injury and the amount of damage claimed by reason thereof. No person shall bring any action against the city for any such damages until such claim shall have been filed with the Clerk and until the Council shall have been given reasonable opportunity to act thereon either by allowing or refusing to allow the claim.

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

Sec. 17.2. Records to be public.

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

Sec. 17.3. Interpretations.

Except as otherwise specifically provided or indicated by the context:

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

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

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

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

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

(6) The word "officer" shall include the Mayor and other members of the Council, the administrative officers, members of city Boards and commissions created by or pursuant to this charter, and the Justice of the Peace.

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

(8) Except where used in Section 7.2 of this charter, the word "Ordinance" shall not be interpreted to prohibit the Council from undertaking any official action by Resolution, Motion or Order.

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

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

(11) All references to section numbers shall refer to section numbers of this charter.

Sec. 17.4. Definition of publication; mailing of notices.

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

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

Sec. 17.5. Trusts.

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

Sec. 17.6. Quorum.

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

Sec. 17.7. Saturdays, Sundays and holidays.

Except as otherwise provided within this section, whenever the date fixed by this charter or by ordinance for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day which is not a Sunday or legal holiday. Whenever the date fixed by this charter or by ordinance for payment or assessments due falls on a Saturday, Sunday or legal holiday, such payment or assessments shall be due on the next succeeding day which is not a Saturday, Sunday or legal holiday.

(Char. Amd. of 11-5-02)

Sec. 17.8. Penalties for misconduct in office.

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

Sec. 17.9. Chapter and section headings.

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

Sec. 17.10. Amendments.

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

Sec. 17.11. No estoppel.

No estoppel may be created against the city.

Sec. 17.12. Processes against city.

All process against the city shall run against the city in the corporate name thereof and may be served by leaving a true copy with the Mayor, Clerk or Attorney.

Sec. 17.13. Severability of charter provisions.

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

Sec. 17.14. Vested rights continued.

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

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

CHAPTER 18
SCHEDULE

Sec. 18.1. Election on adoption of charter.

(1) Date. This charter shall be submitted to a vote of the registered electors of the City of Tecumseh at a special election to be held on Monday, December 14, 1953. At the same special election the elective officers provided for in this charter shall also be elected as hereinafter provided. The charter shall be adopted if a majority of the ballots cast thereon are in favor of adoption.

(2) Form of Ballot. The question of the adoption of this charter shall appear on voting machines and shall be preceded by instructions for the use of said machines. Upon absent voters' ballots instructions shall be in the following form: A cross (X) in the square □ before the word "Yes" is in favor of the proposed charter, and a cross (X) in the square □ before the word "No" is against the proposed charter.

Shall the proposed charter for the City of Tecumseh drafted by the Charter Commission elected on June 29, 1953, be adopted?

□ Yes

□ No

(3) Election Commission. The Charter Commission of the City of Tecumseh shall be the Election Commission for this election. The Chairman of the Charter Commission shall be Chairman of the Election Commission, and the Village Clerk shall act as Secretary of the Commission and shall perform such duties in connection with the work of the Commission as are prescribed by the Commission and this charter.

(4) Inspectors of Election. The inspectors of election for this election shall be those persons designated by the Charter Commission in its meeting on October 27, 1953.

(5) Board of Canvassers. The Board of Canvassers for this election shall be those persons designated by the Charter Commission in its meeting on October 27, 1953.

(6) Registration. The persons designated to act as inspectors for the first election, and named in its meeting of October 27, 1953, shall constitute a Board of Registration for the purpose of making the first registration of qualified electors (voters) in the City. Said Board shall be authorized to procure the necessary books or files and forms to conduct such registration. The last day for registration shall be November 14, 1953, the thirtieth day preceding the election. The Board of Registration may on such last day for registration procure from the village and Township Clerks the records of the Clerk of the persons who are registered village electors and township electors residing in the City of Tecumseh and shall incorporate such records with their records, and shall cause all such persons to be registered as city electors in the same manner as though such persons had then and there applied for registration, and all such persons shall be deemed to be registered as city electors. Subsequent to the election, the registration records shall be delivered to the Clerk.

(7) Notice of Registration. The Secretary of the Election Commission shall give notice for the Board of Registration of the days, hours and place that the registration will be conducted by publishing the same in the Tecumseh Herald on October 29 and November 5, 1953, said first publication being not less than ten days prior to the last day for receiving registration.

(8) Notice of Election. The Secretary of the Election Commission shall cause to be published with the publication of this charter in the Tecumseh Herald on November 25, 1953, a notice of this election, the location of the polling places, that on the date fixed therefor the question of adopting such proposed charter will be voted on and that the elective officers provided for in the charter will be elected on the same date. He shall also post such notice in at least ten public places within the city boundaries not less than ten days prior to such election.

(9) Procedure Governing Election. In all respects not otherwise provided for in Chapter 18 of this charter, the election procedure shall be in accordance with the provisions of the other chapters of this charter.

Sec. 18.2. First election of city officers.

(1) Election. The first election of officers provided for in this charter shall be held on Monday, December 14, 1953, in conjunction with the election on the adoption of this charter. At this election the voters shall be entitled to vote for not more than seven candidates for Council and not more than one candidate for Justice of the Peace.

(2) Terms. The three candidates for Council who receive the three highest numbers of votes shall be declared elected for a term beginning on Tuesday, January 5, 1954, and ending on the Monday next following the date of the regular city election in 1956. The four candidates for Council who receive the fourth, fifth, sixth and seventh highest numbers of votes shall be declared elected for a term beginning on Tuesday, January 5,

1954, and ending on the Monday next following the date of the regular city election in 1955. The Justice of the Peace who receives the highest number of votes shall be declared elected for a term beginning on Tuesday, January 5, 1954, and ending on the fourth day of July, 1955. After this election the provisions contained in this charter relative to elections and terms of elective officers shall govern.

(3) Nomination. Candidates shall be nominated by petition in a manner identical to that provided for in Section 3.9 to 3.12, inclusive, except that (1) petitions shall be filed with the Secretary of the Election Commission who shall perform all the duties in connection with such nomination petitions as are required by this charter of the Clerk, and (2) nomination petitions shall be filed at least fourteen and not more than twenty-one days prior to December 14, 1953. The Secretary of the Election Commission shall on November 19, 1953, make available a supply of official petition forms as required by Section 3.10. Notice of the days permitted for filing nomination petitions and the number of persons to be elected to each office shall be published by the Secretary of the Election Commission in the Tecumseh Herald on November 12, 19 and 25, 1953, other provisions of this charter notwithstanding. The names of those candidates who file valid and sufficient nomination petitions and have the qualifications required for their respective office shall be certified to the Election Commission to be placed on the ballot.

(4) Other Election Procedure. In all respects not otherwise provided for in this section the procedure for the election of officers shall be in accordance with the provisions of Section 18.1.

Sec. 18.3. Effective date of charter.

For the purpose of initiating the procedure for the election on the adoption of this charter and for nominating and electing the first city officers this charter shall take effect on November 19, 1953. For all other purposes this charter shall take effect on Tuesday, January 5, 1954, at 7:30 p.m. Eastern Standard Time. At such time the officers first elected under this charter shall assemble in the municipal Council Chambers. The meeting shall be called to order by the Chairman of the Charter Commission. Each elective officer shall take and subscribe to his oath of office as administered by said Chairman, and shall thereupon be qualified for, and shall assume the duties of, his office.

At the time the elective officers of the city assume the duties of their respective offices, the Village Council shall cease to be and the office of each and every member thereof shall terminate, and all other elective Village offices shall thereupon cease to be and terminate. The control of such Village Council and Village officers and of the officers of the Township of Tecumseh over that territory which was formerly the Village and that portion of the township now included in the city shall cease and be superseded by that of the Council and officers of the City of Tecumseh.

Sec. 18.4. Continuation of appointed officers and employees.

After the effective date of this charter all appointive officers, all employees of the village and all elective officers of the village whose positions become appointive under provisions of this charter, shall continue in that city office or employment which corresponds to the village office or employment which they held prior to the effective date of the charter as though they had been appointed or employed in the manner provided in this charter, and they shall in all respects be subject to the provisions of this charter; except that the terms of office of all members of the Village Board of Review shall terminate on January 5, 1954, and except that any officer or employee who holds a position which this charter provides be held at the will or pleasure of the appointing officer or body shall hold such position only at such will or pleasure regardless of the term for which originally appointed.

No person who has held any elective office of the Village of Tecumseh, or the Township of Tecumseh within two years prior to the effective date of this charter shall be eligible to appointment as City Manager until the expiration of two years from the effective date of this charter.

Sec. 18.5. First Board of Review.

Before February 1, 1954, the Council shall appoint a Board of Review of three freeholders who meet the qualifications for such office as provided in this charter and shall fix their compensation. One such member shall be designated to serve for a term expiring in January 1955, one for a term expiring in January, 1956, and one for a term expiring in January, 1957. Thereafter the provisions of Section 9.6 shall govern.

Sec. 18.6. Interim financial provisions.

The Council shall, at its first meeting on January 5, 1954, by resolution continue as city appropriations the unencumbered balances of the appropriations made by the previous Village Council of Tecumseh until June 30, 1954, and these appropriations shall then be deemed to be city appropriations. At the close of business on June 30, 1954, the balances of all appropriations not then encumbered shall revert to the general fund of the city.

The period from January 5, 1954, to June 30, 1954, inclusive, shall constitute a special interim fiscal and budget period to accomplish the transition from the previously existing fiscal year.

There shall be an audit of this interim fiscal period in accordance with the provisions of Section 8.7.

Sec. 18.7. Township assets and liabilities.

As soon as practicable the Council shall take all necessary and proper action to obtain the division between the city and the Township of Tecumseh of the assets and liabilities of such township.

Sec. 18.8. Status of schedule chapter.

The purpose of this schedule chapter is to inaugurate the government of the city under this charter and to accomplish the transition from village to city government and it shall constitute a part of this charter only to the extent and for the time required to accomplish this end.

Resolution of Adoption

At a regular meeting of the Charter Commission of the City of Tecumseh held on the 9th day of November, 1953, the following resolution was offered by Commissioner Beardsley:

RESOLVED, that the Charter Commission of the City of Tecumseh does hereby adopt the foregoing proposed charter for the City of Tecumseh and the Secretary of this Commission is directed to transmit two copies of this charter to the Governor of the State of Michigan for his approval in accordance with statute and to cause this proposed charter to be published in the Tecumseh Herald on November 24, 1953.

The resolution was seconded by Commissioner Mensing, and adopted by the following vote:

YES: Commissioners Moore, Driscoll, Mensing, Smith, Campbell, Escolme, Hanna, Beardsley, Satterthwaite.

NO: None.

ABSENT: None.

The Chairman declared the foregoing resolution carried unanimously and requested the members of the Charter Commission to authenticate said resolution and also the two copies of the charter to be presented to the Governor. The members thereupon authenticated said resolution and the copy of the charter to be presented to the Governor by subscribing their names as follows:

	Robert H. Moore
	Glenn L. Driscoll

	Chas. H. Mensing
	Frank K. Smith
	E. M. Campbell
	Edward Escolme
	Hugh H. Hanna
	J. C. Beardsley
	P. C. Satterthwaite

All of the Commissioners having attested as to said resolution and also having attested the copy to be signed by the Governor, the meeting adjourned subject to the call of the Chairman.

STATE OF MICHIGAN	)	
	(	SS.
COUNTY OF LENAWEE	)	

Secretary of the Charter Commission of the City of Tecumseh being duly sworn says that at an election duly called and held in the city of Tecumseh on the twenty-ninth day of June, 1953, the following named persons were duly elected as the Charter Commission to frame a revised charter for the city, namely:

	Robert H. Moore
	Glenn L. Driscoll
	Chas. H. Mensing
	Frank K. Smith
	E. M. Campbell
	Edward Escolme
	Hugh H. Hanna
	J. C. Beardsley
	P. C. Satterthwaite

and that the annexed and foregoing charter was duly adopted by said Charter Commission by the foregoing resolution which is a true and correct copy thereof, and that the said Charter Commission directed that said charter be presented to the electors of the City of Tecumseh in accordance with the requirements of this charter and the laws of the State of Michigan.

Further deponent sayeth not.

Glenn L. Driscoll

Secretary of the Charter Commission of the City of Tecumseh

Dated November 9, 1953.

Subscribed and sworn to before me this 9th day of November, 1953.

B. Dwight Hodges

Notary Public, Lenawee County, Michigan

My commission expires Jan. 27, 1954.

I do hereby approve the above and foregoing charter of the City of Tecumseh.

Approved: G. Mennen Williams

Governor of the State of Michigan

Dated: November 17, 1953

CHARTER COMPARATIVE TABLE

This table shows the location of the sections of the basic Charter and any amendments thereto.

Date	Section	Section this Charter
12-14-53	chs. 1—18	chs. 1—18
5-16-72		3.4
11- 3-92		3.5
		3.9
		3.12a
		4.4
		5.1
11- 7-00	1 Rpld	5.8
	Rpld	ch. 16
	4	4.3
	Added	4.19
	7	7.5
	10	12.1
		12.2
11- 6-01	1	5.1
	4	5.7(a)
	7	10.1(a)
	10 Rpld	ch.15
11- 5-02	1	9.4
	4	9.5
	7	9.6
	10	9.7
	13	9.12
	19	9.15
	22	9.16
	25	9.17
	28	17.7
4-16-18 (Res. No. 05-18)		3.11
2-28-19 (Memo)		3.9
		3.15
		5.7
		7.13

Chapter 1 GENERAL PROVISIONS

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

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

Charter reference(s)—Compilation and codification of ordinances, § 7.9.

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

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

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

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

Alley. The term "alley" means any public way providing a secondary means of access from property.

Charter. The term "Charter" means the Charter of the City of Tecumseh, Michigan.

City. The term "city" means the City of Tecumseh, Michigan.

Council, city council. The terms "council" and "city council" mean the city council of the City of Tecumseh, Michigan.

Code. The term "Code" means the Tecumseh City Code, as designated in section 1-1.

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

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

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

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

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

County. The term "county" means Lenawee County, Michigan.

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

Gender. Words of one gender include the other genders.

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

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

Keeper and *proprietor.* The terms "keeper" and "proprietor" include persons acting through agents.

Manager. The term "manager" means the city manager of the city or his designee.

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

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

Month. The term "month" means a calendar month.

Municipality. The term "municipality" means the City of Tecumseh, Michigan.

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

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

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

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

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

Personal property. The term "personal property" means any property other than real property.

Preceding, following. The term "preceding" means next before and the term "following" means next after.

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

Property. The term "property" means real and personal property.

Public acts. References to public acts are references to the Public Acts of Michigan. (For example, a reference to Public Act No. 279 of 1909 is a reference to Act No. 279 of the Public Acts of Michigan of 1909.) Any reference to a public act, whether by act number or by short title, is a reference to the act as amended.

Public place. The term "public place" means 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 or is a place to or upon which the public resorts or travels by custom or by invitation, express or implied.

Publish. The term "publish" means to print in a newspaper of general circulation in the city the entire document or a brief summary of a document with a listing of places where copies have been filed and times when they are available for inspection.

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

Reasonable time. In all cases where provision is made for an act to be done or notice to be given within a reasonable time, such requirement means that such time only as may be necessary for the prompt performance of such act or the giving of such notice.

Residence. The term "residence" means an abode in which a person permanently resides.

Roadway. The term "roadway" means that portion of a street improved, designed or ordinarily used for vehicular traffic.

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

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

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

State. The term "state" means the State of Michigan.

Street or *highway.* The terms "street" and "highway" mean the entire width subject to an easement for a public right-of-way or owned in fee by the city, county or state, of every way or place, of whatever nature, whenever any part is open to the use of the public as a matter of right for purposes of public travel.

Swear. The term "swear" includes affirm.

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

Week. The term "week" means seven consecutive days.

Written. The term "written" includes any representation of words, letters, symbols or figures.

Year. The term "year" means a calendar year.

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

Sec. 1-3. Catchlines of sections; history notes references.

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

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

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

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

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

(a) Unless specifically provided otherwise, the repeal of a repealing ordinance does not revive the ordinance originally repealed nor impair the effect of any saving provision in it.

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

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

Sec. 1-5. Amendments to Code effect of new ordinances; amendatory language.

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from affected reprinted pages.

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

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

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

Sec. 1-6. Supplementation of Code.

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

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

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

(1) Arrange the material into appropriate organizational units.

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

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

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

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

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

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

(a) In this section, the words "violation of this Code" means any of the following:

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

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

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

(b) In this section, the words "violation of this Code" includes aiding or abetting a violation of this Code, causing another to violate this Code, and securing a violation of this Code by another person.

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

(d) Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be guilty of a misdemeanor punishable by a fine not to exceed $500.00 and costs of prosecution or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment. Unless otherwise provided by law, a person convicted of a violation of this Code which substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days shall be punished by a fine not to exceed $500.00, and costs of prosecution or by imprisonment for a period of not more than 93 days or by both such fine and imprisonment. Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense. As to other violations, each violation constitutes a separate offense.

(e) Unless specifically designated a misdemeanor by provisions other than subsection (d) of this section, violation of the following provisions of this Code are violations of this Code that are municipal civil infractions or, if indicated, trailway municipal civil infractions:

(1) Any ordinance for which a person is responsible for a municipal civil infraction.

(2) Any violation declared to be a municipal civil infraction.

(3) Section 10-34, pertaining to dogs running at large.

(4) Any provision of article III of chapter 74 pertaining to the regulation of the access to and ongoing use of public right-of-way by telecommunications providers.

(f) Notwithstanding the provisions of subsection (d) of this section, the violations of this Code listed in subsection (e) of this section are municipal civil infractions or trailway municipal civil infractions, as indicated. Except as otherwise provided, the sanctions for such violations are as follows:

(1) A civil fine of $50.00, plus costs.

(2) For a second or any subsequent violation by a person of the same provision within a one-year period (unless some other period is specifically provided) for which such person admits responsibility:

a. For the first repeat offense, a civil fine of not more than $250.00.

b. For a second repeat offense or any subsequent repeat offense, a civil fine of not more than $500.00.

c. For a third repeat offense, not more than $1,000.00, plus costs.

(g) Unless another sanction is specifically designated by provisions other than subsection (f) of this section, the sanctions for violation of the following provisions shall be as follows: Article III of chapter 74 pertaining to the regulation of the access to and ongoing use of public right-of-way by telecommunications providers:

(1) A civil fine of not less than $500.00 and not more than $5,000.00, plus costs and other sanctions, for each infraction.

(2) First repeat offense, not less than $1,000.00 and not more than $10,000.00.

(3) Second and subsequent repeat offenses, not less than $2,000.00 and not more than $20,000.00.

(h) Except as otherwise provided, the following city officials are authorized to issue municipal civil infraction citations:

The city manager or his designee, for any violation of this Code.

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

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

Charter reference(s)—Penalties for violations of ordinances, § 7.5.

State law reference(s)—Civil infractions, MCL 117.41.

Sec. 1-8. Severability.

If any provision of this Code or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Code that can be given effect without the invalid or unconstitutional provision or application; and to this end the provisions of this Code are severable.

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

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

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

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

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

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

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

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

Nothing in this Code or the ordinance adopting this Code affects the validity of any of the following ordinances or portions of ordinances, which ordinances or portions of ordinances continue in full force and effect to the same extent as if published at length in this Code:

(1) Establishing or amending the city's Charter.

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

(3) Detaching property or excluding property from the city.

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

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

(6) Granting any right or franchise.

(7) Making or approving any appropriation or budget.

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

(9) Adopting or amending the comprehensive master plan.

(10) Levying or imposing any special assessment.

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

(12) Dedicating, accepting or vacating any plat or subdivision.

(13) Levying, imposing or otherwise relating to taxes or fees in lieu of taxes not codified in this Code.

(14) Rezoning property or amending the zoning map.

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

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

(17) The purpose of which has been accomplished.

Chapter 2 ADMINISTRATION[2]

ARTICLE I. IN GENERAL

[2]Cross reference(s)—Any ordinance providing for salaries or other employee benefits not codified in this Code saved from repeal, § 1-11(8); animal control officer, § 10-38; community development, ch. 22; elections, ch. 26; special assessments, ch. 66; utilities, ch. 82; administration for industrial wastewater discharge, § 82-152; administrative enforcement remedies for industrial wastewater discharge, § 82-391 et seq.; administration and enforcement of zoning regulations, § 98-1 et seq.

State law reference(s)—Open meetings act, MCL 15.261 et seq.; freedom of information act, MCL 15.231 et seq.

Sec. 2-1. Department heads and personnel.

The following department heads and personnel are to be appointed by the city manager or his designee subject to the approval of the city council and shall be under the direction and supervision of the city manager:

(1) Police chief;

(2) Emergency services (fire) chief;

(3) Parks and recreation director;

(4) Utilities superintendent;

(5) City clerk;

(6) City assessor;

(7) City treasurer;

(8) Civic auditorium executive director;

(9) Cemetery superintendent;

(10) Department of public works superintendent;

(11) Development services director;

(12) Economic development director;

(13) City engineer;

(14) Other department heads, if by different title; and all personnel working for the city except for the city attorney.

(Comp. Ords. 1982, § 8.110.00; Ord. No. 2-07, 2-5-2007)

Charter reference(s)—Municipal powers, acquisition and maintenance of property, § 2.3(a), (b).

Secs. 2-2—2-30. Reserved.

ARTICLE II. BOARDS, COMMISSIONS AND AUTHORITIES[3]

DIVISION 1. GENERALLY

Secs. 2-31—2-50. Reserved.

[3]Charter reference(s)—Vacancies in boards and commissions, § 5.3.

Cross reference(s)—Construction board of appeals, § 14-31 et seq.; downtown development authority, § 22-31 et seq.; board of trustees for the downtown development authority, § 22-36; historic preservation commission, § 42-61 et seq.; city planning commission, § 98-73; zoning board of appeals, § 98-74.

DIVISION 2. PLANNING COMMISSION[4]

Sec. 2-51. Commission continued, membership.

The city planning commission heretofore created pursuant to Public Act No. 285 of 1931 (MCL 125.31 et seq.) and section 4.17 of the Charter is continued with the powers and duties as set forth in this article. The city planning commission shall consist of nine members, representing as far as possible different professions or occupations, appointed by the mayor and approved by the city council. Terms of office shall be three years. Members shall be eligible for reappointment for any number of terms, and one of such members may be a member of the zoning board of appeals. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor with the approval of the city council. However, the members of the city planning commission may, upon order of the council, be paid any necessary bona fide expenses incurred in service of the city as are authorized and itemized.

(Comp. Ords. 1982, § 7.405.01)

State law reference(s)—Similar provisions, MCL 125.33.

Sec. 2-52. Removal of member.

Members of the city planning commission may, after a public hearing, be removed by the mayor for inefficiency, neglect of duty or malfeasance in office, provided such removal is approved by the city council.

(Comp. Ords. 1982, § 7.405.02)

State law reference(s)—Similar provisions, MCL 125.33.

Sec. 2-53. Chairman, meeting, records.

The city planning commission shall elect a chairperson, vice-chairperson and secretary from among its members. The term of the chairperson, vice-chairperson and secretary shall be one year with eligibility for reelection. The commission shall hold at least one meeting every three months and keep a record of all its transactions.

(Comp. Ords. 1982, § 7.405.03)

State law reference(s)—Similar provisions, MCL 125.34.

Sec. 2-54. Executive secretary.

The city manager or his designee shall serve as executive secretary of the city planning commission. The executive secretary shall keep a record of all transactions, and he may make recommendations to the planning

[4]Charter reference(s)—Planning and zoning, § 4.17.

State law reference(s)—Municipal planning, MCL 125.31 et seq.

commission but may not vote. He shall provide staff assistance as necessary for the proper functioning of the commission.

(Comp. Ords. 1982, § 7.405.04)

Sec. 2-55. Special services.

The city planning commission may employ professional consultants for such services as it deems necessary within the budget appropriation allowed by the city council.

(Comp. Ords. 1982, § 7.405.05)

State law reference(s)—Planning commission, employees, special services expenditures, MCL 125.35.

Sec. 2-56. Funds.

The expenditures of the city planning commission, exclusive of gifts, shall be within the amounts appropriated to the commission by the council.

(Comp. Ords. 1982, § 7.405.06)

State law reference(s)—Similar provisions, MCL 125.35.

Sec. 2-57. Adoption of comprehensive master plan, contents, amendment.

The city planning commission shall make and adopt a comprehensive master plan for the physical development of the city, including any areas outside of its boundaries which, in the commission's judgment, bear relation to the planning of the city. The plan, with the accompanying maps, plats, charts and descriptive matter, shall show the commission's recommendations for the development of the territory, including, among other things, the general location, character and extent of streets, viaducts, subways, bridges, waterways, floodplains, waterfronts, boulevards, parkways, playgrounds and open spaces; the general location of public buildings and other public property; and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes; also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the ways, grounds, open spaces, buildings, property, utilities or terminals; the general location, character, layout and extent of community centers and neighborhood units; and the general character, extent and layout of the replanning and redevelopment of blighted districts and slum areas; as well as a zoning plan for the control of the height, area, bulk, location, and use of buildings and premises. As the work of making the whole master plan progresses, the commission from time to time may adopt and publish parts of the plan, any such part to cover one or more major sections or divisions of the city or one or more of the functional matters to be included in the plan. The commission from time to time may amend, extend or add to the plan.

(Comp. Ords. 1982, § 7.405.07)

State law reference(s)—Similar provisions, MCL 125.36.

Sec. 2-58. Platting.

The city planning commission shall recommend to the city council regulations governing the subdivision of land and site condominiums development within its boundaries. Such regulations may provide for the proper arrangements of streets in relation to other existing or planned streets and to the comprehensive plan for adequate and convenient open spaces for traffic, utilities, recreation, etc.

(Comp. Ords. 1982, § 7.405.08)

Sec. 2-59. Capital improvement program.

The city planning commission shall, no later than March 1 each year, recommend a six-year capital improvement program to the city council. Such program shall set forth projects in order of priority. The city council shall review such program and accept it or parts of it as it deems desirable.

(Comp. Ords. 1982, § 7.405.09)

Sec. 2-60. Public works; powers of council; failure to act; program.

No street, square, park or other public way, ground or open space or public building or structure shall be constructed or authorized in the city or in such planned section and district until its location, character and extent shall have been submitted to and approved by the city planning commission. In case of disapproval, the commission shall communicate its reasons to the city council, which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds of its entire membership; however, if the public way, ground, space, building, structure or utility is one the authorization or financing of which does not under the governing law or Charter provisions fall within the province of the city council, the submission to the planning commission shall be by the board, commission or body having such jurisdiction; and the planning commission's disapproval may be overruled by that board, commission or body by a vote of not less than two-thirds of its membership. The failure of the commission to act within 60 days from and after the date of official submission to the commission shall be deemed approval. For the purpose of furthering the desirable future development of the city under the master plan, the city planning commission, after the commission shall have adopted a master plan, shall prepare coordinated and comprehensive programs of public structures and improvements. The commission shall annually prepare such a program for the ensuing six years, which program shall show those public structures and improvements, in the general order of their priority, which in the commission's judgment will be needed or desirable and can be undertaken within the six-year period. The comprehensive coordinated programs shall be based upon the requirements of the community for all types of public improvements; and, to that end, each agency or department of the city concerned with such improvements shall upon request furnish the commission with lists, plans and estimates of time and cost of public structures and improvements within the purview of such department.

(Comp. Ords. 1982, § 7.405.10)

State law reference(s)—Similar provisions, MCL 125.39.

Sec. 2-61. Approval of plats and site condominiums.

Whenever the city planning commission has adopted a comprehensive plan or that part relating to streets, as provided in section 2-63 and filed a certified copy of such plan in the office of the county register of deeds, then no plat of a subdivision shall be recorded nor site condominium plan shall be approved until such plat or site condominium plan has been approved by the city planning commission. All subdivisions and site condominium plans shall be approved in accordance with the city's subdivision and site condominium regulations and zoning ordinance, chapters 46 and 98.

(Comp. Ords. 1982, § 7.405.11)

Sec. 2-62. Publicity, education.

The city planning commission shall have power to promote public interest in an understanding of the plan or any report and may employ such other means of publicity and education as it may determine.

(Comp. Ords. 1982, § 7.405.12)

State law reference(s)—Municipal planning commission, publicity and education, MCL 125.41.

Sec. 2-63. Adoption of part or whole of plan; public hearing; notice; resolution; certification.

(a) The city planning commission may adopt the plan as a whole by a single resolution. The commission may by successive resolutions adopt successive parts of the plan corresponding with major geographical sections or divisions of the city or with functional subdivisions of the subject matter of the plan. The commission may adopt any amendment or extension of the plan or addition to the plan.

(b) Before the adoption of the plan or any part, amendment, extension or addition to the plan, the commission shall hold not less than one public hearing. Notice of the time and place of the public hearing shall be given not less than 15 days prior to the hearing by one publication in a newspaper of general circulation in the city and in the official gazette, if any, of the city, and by registered United States mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the geographical sections or divisions of the city.

(c) The adoption of the plan or any part, amendment, extension or addition to the plan shall be by resolution of the commission carried by the affirmative votes of not less than two-thirds of the members of the commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the chairperson or the secretary of the commission.

(d) An attested copy of the plan or part of the plan shall be certified to the council and to the county register of deeds.

(Comp. Ords. 1982, § 7.405.13)

State law reference(s)—Similar provisions, MCL 125.38.

Sec. 2-64. Amendments to comprehensive master plan.

The comprehensive master plan, or any parts of the plan officially adopted by the planning commission, shall not be changed except by the approval of the city planning commission and in accord with the procedures specified in section 2-63.

(Comp. Ords. 1982, § 7.405.14)

Secs. 2-65—2-100. Reserved.

ARTICLE III. RETIREMENT SYSTEM[5]

DIVISION 1. GENERALLY

Sec. 2-101. Established.

(a) By authority given in chapter 5, section 5.15 of the Charter, there is created and established the City of Tecumseh Employees Retirement System.

(b) The retirement system shall become effective July 1, 1962.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-102. Short title.

This article may be cited as the City of Tecumseh Retirement System Ordinance.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-103. 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:

Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members deposit fund, together with regular interest.

Actuarial equivalent means a benefit having the same present value on the date payment commences as another stated benefit. In establishing actuarial equivalence, present value is determined by discounting all future payments for interest and mortality on the basis of the interest rate and mortality table adopted by the board of trustees.

Beneficiary means any person, except a retirant, who is in receipt of, or who has entitlement to, a pension or other benefit, payable from funds of the retirement system.

Board of trustees or *board* means the board of trustees provided for in this article.

City means the City of Tecumseh, Michigan, and shall include its several departments, commissions, boards and agencies.

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[5]Editor's note(s)—Ord. No. 2-12, adopted May 21, 2012, amended Art. III in its entirety to read as herein set out. Former Art. III pertained to similar subject matter and derived from Ord. No. 1-11, 3-7-2011; Ord. No. 2-11, 3-7-2011; Ord. No. 3-11, 3-7-11.

Charter reference(s)—Retirement plan for officers and employees, § 5.15.

Compensation means the base salary or base wages paid an employee for personal services rendered by him to the city. Compensation excludes other payments such as the following:

(1) Payments in lieu of holiday time;

(2) Payments for overtime;

(3) Unused vacation time;

(4) Unused sick leave;

(5) Clothing, food and equipment;

(6) Longevity;

(7) Work shift premium; and

(8) Special bonuses.

Credited service means the personal service rendered to the city by an employee to the extent such service is credited him by the board of trustees, in accordance with the provisions of this article.

Employee means any city employee in a permanent, full-time position with the city.

Final average salary means the average of the highest annual compensation paid a member during any period of three consecutive years of credited service contained within the ten years of credited service immediately preceding the date employment with the city last terminates. If a member has less than three years of credited service, his final average salary shall be the average of the annual rates of compensation during the total years of credited service. Member means any employee who is included in the membership of the retirement system.

Investment service provider means any individual, third party agent or consultant, or other entity that receives direct or indirect compensation for consulting, investment management, brokerage, or custody services related to the system's assets.

Pension means an annual amount payable by the retirement system throughout the future life of a person, or for a temporary period, as provided in this article. All pensions shall be paid in equal monthly installments.

Pension reserve means the present value of all payments to be made on account of any pension payable from funds of the retirement system. Such pension reserve shall be determined upon the basis of such mortality and other tables of experience, and regular interest, as the board of trustees shall from time to time adopt.

Regular interest means such rate or rates of interest per annum, compounded annually, as the board of trustees shall from time to time adopt.

Retirant means any member who retires with a pension payable from funds of the retirement system.

Retirement means a member's withdrawal from the employ of the city with a pension payable from funds of the retirement system.

Retirement system or *system* means the retirement system created and established by this article.

Service provider means a person retained to provide services to the retirement system and includes investment advisors, consultants, custodians, accountants, auditors, attorneys, actuaries, administrators and physicians.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

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

Secs. 2-104—2-120. Reserved.

DIVISION 2. BOARD OF TRUSTEES

Sec. 2-121. Created.

There is created a board of trustees in whom is vested the power and authority to administer, manage and operate the retirement system, and to construe and make effective the provisions of this article. The board shall have the authority to retain and reasonably compensate allowable service providers. The board shall consist of five trustees, as follows:

(1) Two members of the council to be selected by the council to serve at the pleasure of the council.

(2) A citizen who is a resident and taxpayer of the city and who is neither a member, retirant nor beneficiary of the retirement system, to be appointed by the council.

(3) Two members of the retirement system to be elected by the members of the system in accordance with such rules and regulations as the board shall from time to time adopt to govern such elections; however, no more than one such member trustee shall be from any one city department, and the mayor shall appoint such member trustees to serve on the first board.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-122. Trustees' terms of office.

For the first board of trustees, the term of office of the appointed citizen trustee shall expire June 30, 1965, and the terms of office of the two member trustees shall expire June 30, 1964, and June 30, 1963, as the mayor shall designate. The regular term of office for the appointed citizen trustee and the member trustees shall be three years. Each trustee shall continue to serve as trustee until his successor has qualified for the office of trustee.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-123. Trustees' oath of office.

Each trustee shall, within ten days from and after his appointment or election as trustee, take an oath of office before the city clerk.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-124. Vacancy on board; how filled.

If a trustee fails to attend three consecutive meetings of the board of trustees, unless in each case excused for cause by the remaining trustees attending such meetings, or if an employee trustee leaves the employ of the city, he shall be considered to have resigned from the board; and the board shall, by resolution, declare his office of trustee vacated as of the date of adoption of such resolution. If a vacancy occurs in the office of trustee, the vacancy shall be filled, for the unexpired portion of the term, in the same manner as the office was previously filled.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-125. Quorum; vote; meetings; proceedings.

Three trustees shall constitute a quorum at any meeting of the board of trustees. Each trustee shall be entitled to one vote on each question before the board, and at least three concurring votes shall be required for a decision by the board at any of its meetings. The board shall hold meetings regularly, at least one in each quarter year, and shall designate the time and place of the meeting. The board shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the board shall be public.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-126. Chairman; retirement system officers.

(a) The board of trustees shall designate from its own number a chairperson and a vice-chairperson.

(b) The city manager or his designee shall serve as secretary to the board of trustees, and he shall be the administrative officer of the retirement system.

(c) The city treasurer shall be treasurer of the retirement system, and he shall be the custodian of its moneys and investments.

(d) The city attorney shall be legal advisor to the board of trustees.

(e) The council shall designate an actuary, who shall be the technical advisor to the board of trustees and who shall perform such other duties as are required of him under this article.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-127. Removal from office.

In addition to the requirements set forth in section 5.4 of the City Charter, a Trustee may also be removed from office by order of a circuit court with jurisdiction. In any case, the requirements to remove a Trustee from office must meet the minimum requirements of Public Act 347 of 2012.

(Ord. No. 4-13, 8-5-2013)

Secs. 2-128—2-150. Reserved.

DIVISION 3. RECORDS, REPORTS AND TABLES OF RATES OF INTEREST

Sec. 2-151. Records; annual reports.

The secretary shall keep or cause to be kept such data as shall be necessary for an actuarial valuation of the assets and liabilities of the retirement system. The board of trustees shall annually render a report to the council showing the fiscal transactions of the system for the preceding fiscal year and shall furnish the council such additional information regarding the operation of the system as the council shall from time to time request. The annual report shall contain the information required in Public Act 347 of 2012. The annual report shall be published on the system's/city's website or made available to the public if a website is not available. The annual report will be for the year ending June 30 of each plan year and will be published no later than December 31 following the end of the plan year.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-152. Experience tables; regular interest; adoption of.

The board of trustees shall from time to time adopt such mortality and other tables of experience, and a rate or rates of regular interest, as are required in the proper operation of the retirement system.

Secs. 2-153—2-170. Reserved.

DIVISION 4. MEMBERSHIP

Sec. 2-171. Status.

(a) The membership of the retirement system shall include all permanent, full-time employees of the city, except:

(1) Any employee who is employed by the city in a position normally requiring less than 2,080 hours of work per annual;

(2) Any employee whose services are compensated on a fee basis;

(3) Volunteer firefighters as such; and

(4) Elected officials.

(b) In any case of doubt as to the membership status of any employee, the board of trustees shall decide the question.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-172. Termination of membership.

(a) Any member who ceases to be employed in a position covered by the retirement system for any reason other than his retirement and before he is credited with at least five years of credited service if hired before July 1, 2011, or six years of service credit if hired after June 30, 2011, shall thereupon cease to be a member and his credited service at that time shall be forfeited by him. Any benefit forfeited under this subsection 2-172(a) or under any other provision of this article may not be used to increase the benefit which other members would otherwise receive under the system and shall be applied as soon as possible to reduce contributions made by the city to the retirement system. If the member is reemployed by the city in a position covered by the system, he shall again become a member. A member who was first hired prior to July 1, 2011 and is reemployed within a period of three years from and after the date he last ceased to be a member, his credited service last forfeited by him shall be restored to his credit, provided he returns to the members deposit fund within 12 months of the date of his credit, provided he returns to the members deposit fund within 12 months of the date of his reemployment by the city the amount, if any, he withdrew, together with regular interest from the date of withdrawal to the date of repayment. Members who were first hired after June 30, 2011 will not be eligible to purchase previous credited service under this section. Upon a member's retirement, he shall thereupon cease to be a member of the system.

(b) A member, hired prior to July 1, 2011, who terminates employment and elects a refund of his member contributions may elect to have any portion of his refund made in the form of a direct trustee-to-trustee transfer to a specified eligible retirement plan. The trustee-to-trustee transfer may be made only if:

(1) The refund is an eligible rollover distribution as defined in Section 402(f)(2)(a) of the Internal Revenue Code.

(2) An eligible retirement plan is an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code, or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(3) A member hired after June 30, 2011 will not [be] entitled to a refund of member contributions and benefits of this section 2-172(b).

(c) (1) An active city employee who is a member of the system may be retired from the service of the city with the benefits set forth as follows, provided that the member meets all of the requirements set forth herein. Any member who is eligible for regular retirement on April 15, 2011, and files a written application for retirement between April 15, 2011 and April 30, 2011, who forfeited service credit under subsection (a), shall have his or her credited service last forfeited by him or her restored to his or her credit, provided he or she returns to the members deposit fund the amount, if any, he or she withdrew, such repayment to be made by the member no later than five days from the member's date of retirement. Upon such a member's retirement, he or she shall thereupon cease to be a member of the system.

(2) To minimize the impact on city services, a member retiring under this provision may not select his or her date of retirement. While the city manager may take the person's preferences into account, the city manager shall determine the date of retirement for a person retiring under this provision.

(3) To be eligible under this provision, a member must enter into a voluntary separation agreement, waiver and release (agreement) with the city.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-173. Service credit.

The board of trustees shall fix and determine by appropriate rules and regulations the amount of service to be credited any member; however, in no case shall less than ten days of service rendered by him in any calendar month be credited as a month of service, nor shall less than ten months of service rendered by him in any calendar year be credited as a year of service, nor shall more than one year of service be credited any member for all service rendered by him in any calendar year. Based upon such rules and regulations, and the provisions of this article, the board shall credit each member with the service rendered by him before and after July 1, 1962.

Members must contribute to the pension fund in accordance with section 2-301 in order to be credited with the applicable service credit.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-174. Military service credit.

All contributions, pensions and service credit with respect to qualified military service will be provided under the retirement system in accordance with Section 414(u) of the Internal Revenue Code.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-175. No trustee shall gain from investments of system.

Except as otherwise provided in this article, no trustee and no employee of the city shall have any interest, direct or indirect, in the gains or profit arising from any investments made by the board of trustees. No person,

directly or indirectly, for himself or as an agent or partner of others, shall borrow or in any manner use any moneys or investments of the retirement system except to make current and necessary payments as are authorized by the board. No such person shall become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the board. Nothing contained in this section shall be construed to impair the rights of any member, retirant or beneficiary of the retirement system to benefits provided by the system.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-176. Method of making payments.

All payments from moneys of the retirement system shall be made by the city treasurer, and such payments shall be made only upon the written authority signed by two persons designated by the board of trustees. A duly attested copy of a resolution designating such persons and bearing upon its face specimen signatures of such persons shall be filed with the city treasurer. No such written authority to make payments from the moneys of the system shall be executed unless the payment shall have been previously authorized by a specific or continuing resolution adopted by the board.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-177. Correction of errors.

Should any change or error in the records of the city or the retirement system result in any person receiving from the system more or less than he would have been entitled to receive had the records been correct, the board of trustees shall correct such error and as far as is practicable shall adjust the payment of the benefit in such manner that the actuarial equivalent of the benefit to which such person was correctly entitled shall be paid.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-178. Subrogation.

If a person becomes entitled to a pension or other benefit payable by the retirement system as the result of an accident or injury caused by the act of a third party, the city shall be subrogated to the rights of the person against such third party to the extent of the benefits to which the city pays or becomes liable to pay.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-179. Assignments prohibited.

The right of a person to a pension, to the return of accumulated contributions, the pension itself, any pension option, and any other right accrued or accruing to any member, retirant or beneficiary, under the provisions of this article, and all moneys belonging to the retirement system, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever and shall be unassignable, except as is specifically provided in this article. If a member is covered by a group insurance or prepayment plan participated in by the city and should be permitted to and elect to continue such coverage as a retirant, he may authorize the board of trustees to have deducted from his pension the payments required of him to continue coverage under such group insurance or prepayment plan. The city shall have the right of set off for any claim arising from embezzlement by or fraud of a member, retirant or beneficiary.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-180. Fraud penalty.

Whoever with intent to deceive shall make any statement or report required under this division which is untrue, or shall falsify or permit to be falsified any record of the retirement system, shall be punished as provided in section 1-7.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Secs. 2-181—2-200. Reserved.

DIVISION 5. VOLUNTARY AND DEFERRED RETIREMENT

Sec. 2-201. Voluntary retirement for employees hired prior to July 1, 2011.

(a) Any member who has attained 55 years and has five or more years of credited service in force may retire upon his written application filed with the board of trustees setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing, he desires to be retired. Upon his retirement, he shall be entitled to a pension provided for in section 2-221.

(b) Effective January 1, 1994, any member of the Police Officers Labor Council who has attained 55 years or greater with five or more years of credited service or 25 or more years of service regardless of age may retire upon his or her written application filed with the board of trustees setting forth at what time, not less than 30 days or more than 90 days subsequent to the execution and filing thereof, he/she desires to be retired. Upon his/her retirement, he/she shall be entitled to a pension provided for in section 2-221 hereof.

(c) Effective July 1, 2000, any non-union member, and who has attained age 55 years and has completed five or more years of credited service or has completed 30 or more years of credited service regardless of age may retire subject to the provisions of paragraph (a) of this section. Upon retirement, the member shall be entitled to a pension provided for in section 2-221 hereof.

(d) Effective July 1, 2000, any member of the International Union of Operating Engineers, Local 547 bargaining unit, who has attained 55 years and has five or more years of credited service in force or who has 30 years of credited service in force, regardless of age, may retire upon his or her written application filed with the board of trustees setting forth at what time, not less than 30 days or more than 90 days subsequent to the execution and filing thereof, he/she desires to be retired. Upon his/her retirement, he/she shall be entitled to a pension provided for in section 2-221 hereof.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-202. Deferred retirement for employees hired prior to July 1, 2011.

If a member who has five or more years of credited service leaves the employ of the city prior to his attainment of age 55 years, he shall be entitled to a pension computed according to the provisions of section 2-221 in force at the time of the member's separation from city employment provided he does not withdraw his accumulated contributions from the member's deposit fund. His pension shall begin the first day of the calendar month next following the month in which he files his application for the pension with the board of trustees on or after his attainment of age 55 years.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-203. Voluntary retirement for employees hired after June 30, 2011.

Any member who has attained 60 years and has six or more years of credited service in force may retire upon his written application filed with the board of trustees setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing, he desires to be retired. Upon his retirement, he shall be entitled to a pension provided for in section 2-222.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-204. Deferred retirement for employees hired after June 30, 2011.

If a member who has six or more years of credited service leaves the employ of the city prior to his attainment of age 60 years, he shall be entitled to a pension computed according to the provisions of section 2-222 in force at the time of the member's separation from city employment provided he does not withdraw his accumulated contributions from the member's deposit fund. His pension shall begin the first day of the calendar month next following the month in which he files his application for the pension with the board of trustees on or after his attainment of age 60 years.

Secs. 2-205—2-220. Reserved.

DIVISION 6. PENSION AND HEALTH INSURANCE

Sec. 2-221. Pension for employees hired prior to July 1, 2011.

Those employees who were hired by the city prior to July 1, 2011 shall be entitled to a pension as follows:

(1) *Non-union members.*

a. Non-union members retiring from active employment after July 1, 2000, as provided in this article, shall receive a straight life pension equal to the lesser of:

1. Two and one-quarter percent of his/her final average salary multiplied by the number of years, and fraction of a year, from time of employment; or

2. Eighty percent of his/her final average salary.

b. Non-union members retiring from active employment after July 1, 2008, as provided in this article, shall receive a straight life pension equal to the lesser of:

1. Two and one-half percent of his/her final average salary multiplied by the number of years, and fraction of a year, from time of employment; or

2. Eighty percent of his/her final average salary.

(2) *POLC Union Members.*

a. Upon a POLC member's retirement, as provided in this article, he shall receive a straight life pension equal to .0250 of his final average salary multiplied by the number of years, and fraction of a year, from time of employment.

b. The final figure attained (percentage × final average salary × qualified years of service) shall be limited to 80 percent of the final average salary. For all retirements commencing on or after July 1, 2002, the pension multiplier shall be increased from .0225 to .0250 at city expense.

c. A current employee of the POLC bargaining unit who is 55 or older with five or more years of service or has 25 years or more of service regardless of age and is eligible for retirement based upon age and service and who actually retires and receives pension benefits between July 1, 2005 and June 1, 2008 will have his/her final average salary based on the best year of the last ten. After June 1, 2008, the final average salary will be as defined in this article. This provision does not modify how the final average salary is calculated.

d. For all retirements after July 1, 2008, the final figure attained (percentage × final average salary x qualified years of service) shall be limited to 75 percent of the final average salary. For all retirements commencing on or after July 1, 2008, the pension multiplier shall be .0275 percent.

(3) *International Union of Operating Engineers, Local 547 Members.*

a. Effective July 1, 2000 Upon an IUOE member's retirement, as provided in this ordinance, he shall receive a straight life pension equal to .0225 of his final average salary multiplied by the number of years, and fraction of a year, from time of employment. The final figure attained (percentage × final average salary × qualified years of service) shall be limited to 80 percent of the final average salary.

b. For all retirements after July 1, 2008, the final figure attained (percentage × final average salary × qualified years of service) shall be limited to 80 percent of the final average salary. For all retirements commencing on or after July 1, 2008, the pension multiplier shall be .025 percent.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-222. Pension for employees hired after June 30, 2011.

Upon a member's retirement, as provided in section 2-203 or 2-204 of this article, he shall receive a straight life pension equal to .0150 of his final average salary multiplied by the number of years, and fraction of a year, from time of employment.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-223. Post-retirement pension increases.

(a) *Employees hired prior to July 1, 2011.* Each July 1, all members who were hired prior to July 1, 2011 and who have been retired for at least 12 months, or their survivor beneficiaries, shall receive a cost-of-living increase. The increase will be based on the increase in the Consumer Price Index for All Urban Wage Earners (CPI-U) published for the prior month of March, but will not exceed 2.8 percent. The first increase under this section will be effective on July 1, 1994.

(b) *Employees hired after June 30, 2011.* There shall be no post-retirement pension increases for those employees hired after June 30, 2011.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-224. Health insurance benefits hired prior to July 1, 2011.

Those employees who were hired by the city prior to July 1, 2011 shall be entitled to health insurance benefits as follows:

(1) For all retirees who have attained age 55 and their eligible spouses, the retirement system shall pay a portion of the premium for covered health insurance. Covered health insurance means the health

insurance, within the meaning of Section 9832(b)(1) of the Internal Revenue Code, that covers a retiree and his eligible spouse or an eligible surviving spouse. The health insurance may be provided under a plan maintained by the city, an individual insurance policy or from any other source.

(2) The portion of the premium paid by the system shall be five percent of the cost of city provided retiree health insurance coverage for each year of service credit (not to exceed 100 percent), but not to exceed the maximum covered premium. The maximum covered premium is the same for all retirement, regardless of the date of retirement, and is $100.00 per month as of July 1, 1993. Each July 1, the maximum covered premium shall be increased, based on the increase in the Consumer Price Index for All Urban Consumers (CPI-U) published for the immediately preceding month of March, but not to exceed 2.5 percent. The first increase under this section will be effective July 1, 1994, and will be applied to the maximum covered premium ($100.00 per month).

(3) An eligible spouse is a retiree's spouse who was married to the retiree on the date of retirement. An eligible surviving spouse is a person who was married to a retiree on the date of retirement and on the date of the retiree's death or is the recipient of a survivor benefit in accordance with section 2-228

(4) Payment of covered health insurance premiums shall be made from a separate account established under the retirement system pursuant to Section 401(h) of the Internal Revenue Code. At no time may assets of the retirement system in excess of the amounts then credited to the account be used for paying covered health insurance premiums under this section; nor may any assets of the retirement system attributable to amounts then credited to the account be used or diverted to any purpose other than paying for such covered health insurance premiums.

(5) Amounts paid for covered health insurance under the retirement system, when added to contributions for life insurance protection under the retirement system, if any, shall be subordinate to the pension benefits provided under the system and, in any event, shall not exceed an aggregate amount equal to one-third of the contributions (including member contributions) made to the retirement system after the date on which the account is first established.

(6) Those employees who were hired by the city after June 30, 2011 will not be entitled to health insurance benefits as follows.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-225. Ad hoc formula increases.

Every retirant and beneficiary who is entitled to receive a pension in December 1993 that was calculated under a formula other than two percent per year of service will have his pension recomputed. The recomputed pension will be based on the two percent per year of service formula in effect in December 1993. All other factors in determining the recomputed pension (years of service, final average salary, option reduction factor, etc.) will be the same as they were in the original computation. The recomputed pension will become payable effective December 1993.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-226. Ad hoc COLA increases.

Every retirant and beneficiary who is entitled to receive a pension in December 1993 will receive an ad hoc increase. The increase will be based on the increase in the Consumer Price Index for All Urban Wage Earners (CPI-U) from the first of the month coinciding with or following the date of retirement to June 30, 1993. For survivor beneficiaries, the date of retirement will be the date the retirant retired. The base pension amount to be increased

is the pension amount that would have been payable effective in December 1993, including the recalculations provided in section 2-225.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-227. Terminal payments.

If a retirant dies before he has received in straight life pension payments, an aggregate amount equal to his accumulated contributions standing to his credit in the members deposit fund at the time of his retirement, the difference between his accumulated contributions, and the aggregate amount of straight life pension payments received by him shall be paid to such persons as he shall have nominated by written designation duly executed and filed with the board of trustees. If there is no such designated person surviving the retirant, such difference, if any, shall be paid to his estate. In no case shall any benefits be paid under this section on account of the death of a retirant if he had elected either option A or B provided for in section 2-228.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013; Ord. No. 03-18, 8-20-2018)

Sec. 2-228. Pension options.

Prior to the effective date of his retirement, but not thereafter, a member may elect to receive his pension as a straight life pension payable throughout his life or he may elect to receive the actuarial equivalent, at that time, of his straight life pension in a reduced pension payable throughout his life, and nominate a beneficiary, in accordance with the provisions of option A or B set forth below:

(1) *Option A. Joint and survivor pension.* Upon the death of a retirant who elected option A, his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the board of trustees prior to the date of his retirement; or

(2) *Option B. Modified joint and survivor pension.* Upon the death of a retirant who elected option B half his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the board of trustees prior to the date of his retirement.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-229. Survivor pension.

(a) Death as a result of a duty related incident. Effective March 18, 2011, if a member, hired prior to July 1, 2011 with at least five years of service or a member hired after June 30, 2011 with at least six years of service, dies as a result of a personal injury or disease arising solely and exclusively out of and in the course of the member's employment with the city, the member's widow or widower will be eligible for a survivor pension at any age. The benefit will be computed as a survivor pension benefit under Option A of section 2-228, with a minimum benefit of 162/3 percent of the final average salary.

(b) Death as a result of a non-duty related incident. Effective March 18, 2011, if a member, with at least ten years of service, dies as a result of a non-duty related incident or illness, the member's widow or widower will be eligible for a survivor pension benefit under Option A of section 2-228 and deferred to the member's normal retirement age.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-230. Pension suspended.

If a retirant is employed or re-employed by the city, payment of his pension shall be suspended during the period of his employment or re-employment. Upon termination of such employment or re-employment, payment of his pension shall be resumed. During the period of his re-employment by the city, he shall not again become a member of the retirement system except as otherwise provided in this article if a retirant is employed or re-employed by the city. Provided, however, that an employee who retires from the position of city clerk or deputy clerk or city treasurer may be re-employed by the city on a part-time basis and still receive the full pension and retirement benefits due to them as a result of their previous employment and retirement. The retirement benefits, service credit, and final average compensation of the retiree who is re-employed under this provision shall not be adjusted or otherwise affected as the result of such re-employment. The re-employment of the retiree under this provision is subject to any limitations by state or federal law.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013; Ord. No. 3-14, 12-15-2014)

Secs. 2-231—2-250. Reserved.

DIVISION 7. DISABILITY FOR ALL MEMBERS

Sec. 2-251. Disability retirant.

Upon the application of a member, or his department head on behalf of the member, a member who is in the employ of the city, has five or more years of credited service in force, and becomes totally and permanently incapacitated for duty in the employ of the city, by reason of a personal injury or disease, may be retired by the board of trustees provided that, after a medical examination of the member made by or under the direction of a medical committee consisting of two physicians, one of whom shall be named by the board, one by the member. If the two physicians disagree on the employee's disability status, a third physician, who will report to the board, named by the other two physicians will provide the majority opinion. The majority opinion will be in writing to the board, that the member is mentally or physically totally incapacitated for duty in the employ of the city, that such incapacity will probably be permanent, and that the member should be retired. The service requirement of five or more years contained in this section shall be waived in the case of a member, with less than five years of credited service in force, whom the board finds to be in receipt of workers compensation on account of his disability arising out of and in the course of his employment to the city.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-252. Disability pension.

Upon the retirement of a member on account of disability, as provided in section 2-251, he shall receive a pension computed in accordance with the provisions of section 2-221 or 2-222 as applicable; but his straight life disability pension shall not be less than 16.666 percent of his final average salary, and his disability pension shall be subject to section 2-253. Upon his retirement he will have the right to elect an option provided for in section 2-227.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-253. Reexamination of disability retirants.

(a) At least once each year during the first five years following a member's retirement on account of disability, and at least once in each three-year period thereafter, the board of trustees may require the retirant, if he has not attained age 55 years, to undergo a medical examination to be made by or under the direction of a physician designated by the board. If the retirant refuses to submit to such medical examination in any such period, his disability pension may be suspended by the board until his withdrawal of such refusal. Should such refusal continue for one year, all his rights in and to a disability pension may be revoked by the board. If upon such medical examination of the retirant the physician reports to the board that the retirant is physically able and capable of resuming employment with the city, he shall be returned to city employment and his disability pension shall terminate provided the report of the physician is concurred in by the board. In returning the retirant to city employment, reasonable latitude shall be allowed the city in placing him in a position commensurate with this type of work and compensation at the time of his retirement.

(b) A disability retirant who is returned to city employment, as provided in subsection (a) of this section, shall again become a member of the retirement system. His credited service in force at the time of his retirement shall be restored to full force and effect.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Secs. 2-254—2-280. Reserved.

DIVISION 8. LIMITATIONS AND DISTRIBUTIONS

Sec. 2-281. Benefit limitations.

Benefits paid under the city retirement system shall not exceed the limitations of Internal Revenue Code Section 415, the provisions of which are incorporated by reference.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-282. Required distributions.

Notwithstanding any provision in this article to the contrary, the distribution of benefits shall be in accordance with the following requirements based upon a reasonable and good faith interpretation of the provisions of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section, the provisions of which are incorporated by reference:

(1) A member's benefit shall be distributed to him not later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70½ or the calendar year in which the member retires.

(2) A member's benefit shall be paid over a period not exceeding the life of the member or the joint lives of the member and his beneficiary.

(3) If the member dies after starting to receive benefits but before the member's entire benefit has been distributed, the remaining portion of such benefit will continue to be distributed at least as rapidly as under the method of distribution being used before the member's death.

(4) If the member dies before distribution of his benefit commenced, the member's entire benefit will be distributed no later than five years after the member's death, except to the extent that an election is made to receive distributions in accordance with subsections a. or b. below:

a. If any portion of the member's benefit is payable to a beneficiary, distributions may be made in substantially equal installments over the life or life expectancy of the beneficiary, commencing no later than one year after the member's death;

b. If the beneficiary is the member's surviving spouse, the date distributions are required to begin in accordance with subsection a. above shall not be earlier than the date on which the member would have attained age 70½ and, if the spouse dies before payments begin, subsequent distributions shall be made as if the spouse had been the member.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-283. Compensation limitation.

For years beginning after December 31, 2001, the annual compensation of each member taken into account under the system for any year shall not exceed $200,000.00, as adjusted by the Secretary of the Treasury at the same time and in the same manner as under Section 401(a)(17)(B) of the Internal Revenue Code, except that the dollar increase in effect on January 1 of any calendar year is effective for years beginning in such calendar year. If a plan determines compensation on a period of time that contains fewer than 12 calendar months, then the annual compensation limit is an amount equal to the annual compensation limit for the calendar year in which the compensation period begins, multiplied by the ratio obtained by dividing the number of full months in the period by 12. If compensation for any prior year is taken into account in determining a member's contributions or benefits for the current year, the compensation for such prior year is subject to the applicable annual compensation limit in effect for that prior year under Section 401(a)(17) of the Internal Revenue Code.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Secs. 2-284—2-300. Reserved.

DIVISION 9. FUNDS

Sec. 2-301. Members deposit fund.

(a) The members deposit fund is created. It shall be the fund in which shall be accumulated, at regular interest, the contributions of members and from which shall be made refunds and transfers of accumulated contributions, as provided in this article.

(b) A member's contributions to the retirement system shall be as follows:

Employees hired before July 1, 2011.

- Effective July 1, 2017, covered members not under a collective bargaining agreement, contributions to the retirement system shall be 6.50 percent of base salary.
- Effective July 1, 2017 members of the International Union of Operating Engineers Local 324, contributions to the retirement system shall be 6.50 percent of base salary.
- Effective July 1, 2017, covered members under the Police Officers Labor Council, contributions to the retirement system shall be 7.75 percent of base salary.

Employees hired on or after July 1, 2011.

- Effective July 1, 2018, all covered members not under a collective bargaining agreement, contributions to the retirement system shall be 5.00 percent of base salary.
- Effective July 1, 2018, covered members under the International Union of Operating Engineers Local 324, contributions to the retirement system shall be 5.00 percent of base salary.
- Effective July 1, 2018, covered members under the Police Officers Labor Council, contributions to the retirement system shall be 5.00 percent of base salary.

(c) The officer or officers responsible for making up the payroll shall cause the contributions provided for in paragraph (b) of this section to be deducted from the compensations of each member on each and every payroll, for each and every payroll period, from the date of his entrance in the retirement system to the date his city employment terminates. The member's contributions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any member is thereby changed. Each member shall be deemed to consent and agree to the deductions made and provided for herein. Payment of his/her compensation less said deduction shall be full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by him/her during the period covered by such payment, except as to benefits provided by this article. When deducted, each of said contributions shall be paid to the retirement system and shall be credited to the member's individual account in the members deposit fund from whose compensation said deduction was made.

(d) In addition to the contributions deducted from the compensations of a member, as hereinbefore provided, a member shall deposit in the members deposit fund, by a single contribution or by an increased rate of contribution approved by the board of trustees, all amounts he/she may have withdrawn the reform and not repaid thereto, together with regular interest thereon from the date of withdrawal to the date of repayment. In no case shall any member be given credit for service rendered prior to the date he withdrew his accumulated contributions until he/she repays to the members deposit fund the amounts due said fund by him.

(e) Upon a member's retirement, his accumulated contributions standing to his credit in the member's deposit fund shall be transferred to the retirement reserve fund. Except as otherwise provided in this article, at the expiration of a period of four years from and after the date a member ceases to be an employee of the city, any balance standing to his credit in the members deposit fund, unclaimed by the member or his legal representative, shall be transferred to the income fund.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013; Ord. No. 01-17, 7-3-2017; Ord. No. 02-17, 9-5-2017; Ord. No. 02-18, 7-2-2018; Ord. No. 03-18, 8-20-2018)

Sec. 2-302. Pension reserve fund.

(a) The pension reserve fund is created. It shall be the fund in which shall be accumulated the contributions made by the city to the retirement system for pension benefits and from which shall be made transfers of pension reserves, as provided in this section.

(b) Upon the basis of such mortality and other tables of experience, and regular interest, as the board of trustees shall from time to time adopt, the actuary shall annually compute the pension reserves for service rendered and to be rendered by members, and the pension reserves for pensions being paid retirants and beneficiaries. The pension reserve liabilities so determined shall be financed by annual city contributions to be appropriated by the council, such contributions to be determined in accordance with the following provisions:

(1) The appropriations for members' current service shall be a percentage of their annual compensations which will produce an amount which, if paid annually by the city during their future service, will be sufficient, at the time of their retirements, to provide the pension reserves, not financed by members' future contributions, for the portions of the pensions to be paid them based upon their future service;

(2) The appropriation for members' accrued service shall be a percentage of their annual compensations which will produce an amount which, if paid annually by the city over a period of years, to be determined by the council, will amortize, at regular interest, the unfunded pension reserves for the accrued service portions of the pensions to which they may be entitled upon retirement; and

(3) The appropriation for pensions being paid retirants and beneficiaries shall be a percentage of the annual compensations of members which will produce an amount which, if paid annually by the city over a period of years, to be determined by the council, will amortize, at regular interest, the unfunded pension reserves for pensions being paid retirants and beneficiaries.

(c) If the amount appropriated in the budget in any fiscal year is insufficient to pay in full the amounts due in that year to all retirants and beneficiaries of the retirement system, the amount of such insufficiency shall be provided by the city.

(d) Upon the retirement of a member, the difference between the pension reserve for the pension payable on his account and his accumulated contributions shall be transferred from the pension reserve fund to the retirement reserve fund.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-303. Health insurance reserve fund.

The health insurance reserve fund is created. It shall be the fund in which shall be accumulated the contributions made by the city to the retirement system for post-retirement health insurance premiums.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-304. Retirement reserve fund.

The retirement reserve fund is created. It shall be the fund from which shall be paid all pensions as provided in this article. If a disability retirant returns to city employment, his pension reserve at that time shall be transferred from the retirement reserve fund to the members deposit fund and the pension reserve fund in the same proportion as the pension reserve was originally transferred.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-305. Income fund.

The income fund is created. It shall be the fund to which shall be credited all interest, dividends and other income from investments of the retirement system; all transfers from the members deposit fund by reason of lack of claimant; and all other moneys received by the retirement system the disposition of which is not specifically otherwise provided for in this article. The board of trustees may accept gifts and bequests, which shall be credited to the income fund. There shall be transferred from the income fund all amounts required to credit regular interest to the members deposit fund, retirement reserve fund, and pension reserve fund, as provided in this article. Whenever the board determines that the balance in the income fund is more than sufficient to cover the current charges to the fund, the board may, by resolution, provide for contingency reserves, or for the transfer of such

excess or portion of such excess to cover the needs of the other funds of the retirement system, except the expense fund.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-306. Expense fund and budget.

(a) The expense fund shall be the fund to which shall be credited all moneys provided by the city to pay the administrative expenses of the retirement system, and from which such administrative expenses shall be paid.

(b) The board shall adopt an annual budget. System funds will be used to pay reasonable compensation to allowable service providers and for plan expenses and member benefits.

(c) Expenses for professional training, education, and travel for board members may not exceed the amounts approved in the budget, unless properly amended by the board. At no time shall the training and education expenses in included in the budget exceed $150,000.00 or $12,000.00 for each trustee or the amount as amended by state law from time to time. The amounts in this section may be amended from time to time, but in no case exceed the amounts limited by local or state law.

(d) All financial records, including training, education and travel expenses shall be retained for a period of no less than six years.

(e) A supplemental actuarial analysis of any proposed benefit change is required to be provided to the city council and the retirement board, at least seven days before action to adopt the benefit change.

(f) System assets shall not be used for any actuarial expenses related to the supplemental actuarial analysis required for a benefit change.

(g) The board will adopt a written policy or procedure regarding ethics and training, education and travel reimbursement.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-307. Investment of moneys; restricted use of funds; assets not segregated.

(a) The board of trustees shall be the trustees of the funds of the retirement system and shall have full power to invest and reinvest such funds, subject to all terms, conditions, limitations and restrictions imposed by the laws of the state. The board shall have full power to hold, purchase, sell, assign, transfer and dispose of any securities and investments in which the moneys of the retirement system have been invested, including the proceeds of such investments.

(b) All moneys and investments of the retirement system shall be held for the exclusive purpose of meeting the disbursements for pensions and other payments authorized by this article and shall be used for no other purpose whatsoever.

Available cash on deposit shall not exceed ten percent of the total assets of the system in the funds.

(c) The members deposit fund, pension reserve fund, retirement reserve fund, income fund, health insurance fund and expense fund shall be interpreted to refer to the accounting records of the retirement system and not to actual segregation of the assets of the system in such funds.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-308. Allowance of regular interest.

The board of trustees shall, at the end of each fiscal year, allow and credit regular interest to the members' individual accounts in the members deposit fund computed upon their individual balances at the beginning of such fiscal year; and to the mean balances for the year in the pension reserve fund and the retirement reserve fund. The amounts of interest so credited shall be charged to the income fund. If the balance in the income fund is not sufficient to cover the amounts of interest charged to it, the amount of such insufficiency shall be transferred from the pension reserve fund to the income fund. Members hired after June 30, 2011 will not have a member deposit fund and are not eligible to the provisions in section 2-308.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Secs. 2-309—2-330. Reserved.

DIVISION 10. REFUND

Sec. 2-331. Refund of members' contributions.

(a) Any member who ceases to be employed by the city before he is credited with at least five years of credited service shall be paid the balance standing to his credit in the members deposit fund, provided he files his written application with the board of trustees.

(b) Any member who dies before he is credited with at least five years of credited service shall have the balance standing to his credit in the members deposit fund at the time of his death paid to such person as he shall have nominated by written designation duly executed and filed with the board of trustees. If no such designated person survives the member, his accumulated contributions shall be paid to his estate.

(c) Payment of refunds of members deposit fund balances, as provided in this section, shall be made according to such rules and regulations as the board of trustees shall from time to time adopt.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013; Ord. No. 01-20, § 1, 2-3-2020)

DIVISION 11. EARLY RETIREMENT INCENTIVE PROGRAM

Sec. 2-332. Early retirement incentive program established.

(a) Wherever "ERIP" is used in this chapter, it shall refer to the early retirement incentive program. Subject to the provisions and limitations set forth herein, an active city employee who is a member of City of Tecumseh Employees Retirement System (TERS) may be retired from the service of the city with the ERIP benefits set forth herein, provided that the TERS member meets all of the requirements set forth herein to be eligible for retiring under the ERIP, provided the member enters into a voluntary separation agreement, waiver and release (agreement) with the city, provided the member had completed a letter of intent to the city manager, and provided that his or her completed agreement is received in the city manager's office within the 60-day ERIP window period defined herein (ERIP eligible filers).

(b) The 60-day ERIP window period shall begin on the ordinance from which this article's derived effective date (ERIP beginning date) and end on the 60th day thereafter unless that 60th day falls on a weekend or a city holiday, in which case it shall end on the next day that is not a weekend or a city holiday (ERIP ending date). The ERIP ending date shall be included in the ERIP window period, so that the city manager's office shall

continue to receive completed agreements until close of business on the ERIP ending date. The city manager's office shall determine any procedures for receiving a completed agreement, including what constitutes a completed agreement and what constitutes the date and time the agreement was received by the city manager's office. In order for the ERIP to meet its goal of assisting with the city's financial situation while minimizing the impact on city services, the following provisions and limitations shall apply to the ERIP:

(1) Only TERS members currently in an employed status with the city on the ERIP beginning date shall be eligible to enter into an agreement. TERS members in a terminated status shall not be eligible to submit an agreement. Former city employees shall not be eligible to submit an agreement. An eligible member who is a member of a unit of employees represented by a collective bargaining agent may participate in the ERIP subject to agreement with the bargaining representative.

(2) An ERIP eligible filer may rescind his or her agreement under its terms.

(3) To minimize the impact on city services, an ERIP eligible filer may not select his or her effective date of retirement under the ERIP. While the city manager may take the person's preferences into account, the city manager shall determine the effective date of retirement for a person retiring under the ERIP. However, such date must be no sooner than seven days after the ERIP eligible filer submits his/her agreement and no later than November 1, 2010.

The city manager's decision as to a person's effective date of retirement under the ERIP shall be final and binding, regardless of whether the ERIP eligible filer agrees with his decision provided however the date may be altered by the city manager in the best interests of the city. The ERIP eligible filer may be required to retire as soon as administratively possible, or may be required to continue working for the city until November 1, 2010.

(c) Persons retiring pursuant to the ERIP shall receive benefits pursuant to the following terms.

(1) *Option 1.* Group 1 is defined as follows:

a. Member must be eligible for a regular retirement on or before June 1, 2010.

b. Each Group 1 member retiring under the ERIP will receive "Plan A" as follows:

The city will pay up to 12 months of health insurance for an eligible member who retires from city employment between the earliest of June 1, 2010, but no later than August 5, 2010. However, following retirement, the member must accept any other available health care coverage at which point the city's obligation to provide health care coverage shall cease. If the member refuses to accept such health care coverage, the city's obligation to pay health care coverage shall cease. In no case shall city paid health care coverage be paid after August 5, 2011.

(2) *Option 2.* Group 2 is defined as follows:

a. Member must be eligible for a regular retirement on or before June 1, 2010.

b. Member must submit a written retirement notice to the retirement board prior to July 1, 2010.

c. Each Group 2 member retiring under the ERIP shall receive "Plan B" as follows:

The city will pay the cost of adding an additional 12 months of service credit to an eligible member who retires between the earliest of June 1, 2010, but no later than before October 1, 2010. The city will pay up to three months of health insurance. However, following retirement, the member must accept any other available health care coverage at which point the city's obligation to provide health care coverage shall cease. If the member refuses to accept such health care coverage, the city's obligation to pay health care coverage shall cease.

(3) *Option 3.* Group 3 is defined as follows:

a. Member must have at least 25 years of service credit on November 1, 2010. Retirement must be effective on or before November 1, 2010.

b. Member must submit written retirement notice to the retirement board prior to July 1, 2010.

c. Each Group 3 member retiring under the ERIP shall receive "Plan G" as follows:

The city will pay the cost of up to 12 months of health insurance. However, following retirement, the member must accept any other available health care coverage at which point the city's obligation to provide health care coverage shall cease. If the member refuses to accept such health care coverage, the city's obligation to pay health care coverage shall cease. In no case shall city paid health care coverage be paid after October 1, 2011. The member's pension multiplier will be increased by 0.25.

(4) *Option 4.* Group 4 is defined as follows:

a. Member must have at least 24 years of service credit on October 1, 2010.

b. Retirement must be effective on or before October 1, 2010.

c. Member must be eligible for a regular retirement on or before July 1, 2010, with added service credit.

d. Member must submit written retirement notice to the retirement board prior to July 1, 2010.

e. Each Group 4 member retiring under the ERIP shall receive "Plan F" as follows:

The city will pay the cost to add up to 12 months of service credit to the member. The maximum service credit will equal 25 years after additional service credit is added. The member's pension multiplier will be increased by 0.25.

(d) The following provisions and limitations shall apply to the ERIP benefits set forth above:

(1) A person retiring under the ERIP whose applicable ERIP group changes between the ERIP beginning date and the person's effective date of retirement, or who qualifies for more than one ERIP group, shall select the group to which the person wishes to belong (that is, either the person's applicable group(s) as of the ERIP beginning date, or the person's applicable group(s) as of his or her effective date of retirement).

(2) If person is approved by the city manager's office for retirement under the ERIP, but the person dies prior to his or her effective date of retirement, the person's eligible spouse, if any, shall be entitled to applicable survivorship benefits under this article III.

(3) Any benefit payable pursuant to the ERIP is subject to the requirements and limitations applicable to benefits payable from a qualified governmental pension plan under Internal Revenue Code (Code) Sections 401(a) and 414(d), and the regulations and guidance issued under those Code Sections. Therefore, any ERIP benefits may be adjusted, as necessary, to maintain the tax qualified status of TERS.

(e) Unless otherwise specified, the provisions in the City Charter and the Tecumseh Code pertaining to TERS shall not be affected by the ERIP.

(f) If the government of the United States or a final court of competent jurisdiction determines that one or more provisions of this chapter pertaining to the ERIP are unlawful or invalid, the remaining provisions shall remain in full force and effect.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

Sec. 2-333. Early retirement incentive program for POLC employees in response to the COVID-19 crisis.

(a) Eligibility criteria.

(1) Member must have at least 23 years of service credit on or before June 30, 2020.

(2) Member must have attained 50 years of age; and the minimum retirement ages of 55 and 60 years are temporarily suspended.

(3) Member must submit written retirement notice to the retirement board prior to December 31, 2020.

(4) Retirement must be effective on or before June 30, 2021.

(b) The city will pay the cost to add up to six months of service credit to the member, including both required city and member contributions. The maximum service credit will equal 25 years after additional service credit is added.

(Ord. No. 02-20, § 1, 9-8-2020)

Secs. 2-334—2-360. Reserved.

DIVISION 12. INVESTMENT POLICIES AND PROCEDURES

Sec. 2-361. Service providers.

(a) All service providers to the system will ensure they are compliant with local, state and federal laws.

(b) In doing so, an investment service provider will provide a written disclosure of all fees or other compensation associated with its relationship with the retirement system, through a board approved disclosure form. The form will be provided to the board on or around December 31 of each plan year.

(c) Service providers to the board will be required to complete and submit a political contribution disclosure form on or around December 31 of each plan year to the board. The form will be approved by the board of trustees. Failure to supply the form in a timely manner will disqualify the service provider from providing services to the board.

(d) The board will not retain the services of a provider who are in violation of Public Act 347 of 2012 or who have made political contributions, including contributions to a legal defense fund, which are in violation of the Act.

(e) The board will require reimbursement of all costs, including legal defense fees, paid by a system on behalf of an investment fiduciary or service provider in the event the judiciary or service provider is convicted of or entered a no contest plea for a felony or misdemeanor arising out of his or her service to the retirement system.

(Ord. No. 2-12, 5-21-2012; Ord. No. 4-13, 8-5-2013)

ARTICLE IV. FINANCE[6]

DIVISION 1. GENERALLY

Secs. 2-362—2-370. Reserved.

DIVISION 2. CONTRACTS, PURCHASING AND SALE OF PROPERTY[7]

Sec. 2-371. Definitions.

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

Appropriation means sum of money from public funds set aside for a specific purpose and authorized to expend for a specific purpose by city council.

Cash receipt, unless otherwise specifically exempted by city council, means all monies (i.e., cash, currency, checks, money orders or other financial instruments) received for goods or services provided by the city, for the sale of city property (including scrap), or for any other purpose shall be remitted, immediately, to the city treasurer and properly receipted through the city's accounting system. No employee may retain or expend any such monies.

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[6]Charter reference(s)—General finance, § 8.1 et seq.

Cross reference(s)—Any ordinance promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness saved from repeal, § 1-11(4); any ordinance authorizing or approving any contract, deed or agreement saved from repeal, § 1-11(5); any ordinance making or approving any appropriation or budget saved from repeal, § 1-11(7); any ordinance levying or imposing any special assessment saved from repeal, § 1-11(10); any ordinance levying, imposing or otherwise relating to taxes or fees in lieu of taxes not codified in this Code saved from repeal, § 1-11(13); emergency response cost recovery, § 30-121 et seq.; special assessments, ch. 66.

State law reference(s)—Municipal finance act, MCL 131.1 et seq., uniform budgeting and accounting act, MCL 141.421 et seq., deposit of public moneys, MCL 211.43b.

[7]Editor's note(s)—Ord. No. 11-01, adopted November 5, 2001, amended in their entirety §§ 2-381—2-386, and replaced said sections with new §§ 2-381—2-406. Said former sections pertained to similar subject matter and derived from Comp. Ords. 1982, §§ 6.101.00—6.106.00. To better fit the format of the Code, said new sections have been renumbered, at the discretion of the editor and enacted as §§ 2-371—2-396.

Charter reference(s)—Contracts or purchases, pecuniary interest prohibited, § 5.13.

State law reference(s)—Conflicts of interest as to contracts, MCL 15.321 et seq., purchase of lands and property for public purposes, MCL 123.721 et seq.

Competitive sealed bid means a method for acquiring or selling goods, services, property, and construction for public use in which award is made to the most responsive and responsible bidder, based solely on the response to the criteria set forth in the bid documents, and does not include discussions or negotiations with bidders.

Construction means all construction work for projects valued at $5,000.00 or more.

Contract includes a contract of services and shall include any type of services, leases for grounds, buildings, offices or maintenance of equipment, machinery, and other city-owned personal property. The term "contract" shall not include professional and other contract services, which may be unique and not subject to competition. Contract means any agreement entered into by the city for the procurement of supplies, materials, equipment, contractual services or construction, but not including collective bargaining agreements.

Contractual services means and includes all telephone, gas, water, electric light and power service; towel and cleaning service; insurance; leases for all grounds, buildings, offices or spaces required by the using department and the rental of same. The term shall not include professional and other contractual services which are in the nature unique and not subject to competition.

Cooperative purchasing means the combination of procurement requirements of two or more public agencies in order to obtain the benefits of volume purchases or reduction in administrative expenses.

Department means any department, agency, commission, bureau or other unit in the city government using supplies or procuring contractual services as provided for in this division.

Department head means those personnel appointed by the city manager or his designee subject to the approval of the city council and shall be under the direction and supervision of the city manager as defined in article I, section 2-1 of the City Code.

Emergency means an apparent emergency that endangers the peace, health, safety, or welfare of the city and its people or property.

Equipment means all equipment with a life expectancy of five years or more and valued at $1,000.00 or more.

Materials means and includes all materials.

Professional services means services rendered by members of a recognized profession which involve extended analysis, exercise of discretion, and independent judgment in their performance, and an advanced, specialized type of knowledge, expertise or training customarily acquired either by a prolonged course of study or equivalent experience in the field, and these are unique and not subject to price competition in the usual sense.

Purchasing means the act and process of procuring equipment, material, supplies, and services. This includes the process of buying or leasing including determination of need, selection of vendor or contractor, arriving at a fair and reasonable price and terms, preparation of contract or purchase order and follow-up to ensure timely delivery. Purchasing does not include the regular personnel services and labor of city employees or charges for non-capital public utility expenditures.

Purchasing agent means the city manager or any officer or employee designated by the city manager to act as purchasing agent.

Request for proposal means a method for acquiring or selling goods, services, property and construction for public use in which the award is made to the most responsive and responsible proposer based on the criteria set forth in the request for proposal documents and does include discussion or negotiations with the proposer.

Requisition means a written request defining exactly the construction, equipment, materials, supplies, or service to be supplied to the requisitioning department.

Supplies means and includes all supplies.

(Ord. No. 11-01, 11-5-2001; Ord. No 6-05, 9-19-2005)

Sec. 2-372. Purchasing agent.

The city manager shall act as purchasing agent of the city or, under his responsibility, delegate such duties to some officer or employee of the city, and shall adopt any necessary rules respecting requisitions and purchase orders. The city manager shall be responsible for the purchase and sale of all city property.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-373. Department head responsibilities.

Department heads are responsible to ensure that appropriated funds are available and adopted in the fiscal year budget prior to filing detailed requisitions with the purchasing agent on any purchase or obligation of the city. Department heads shall file with the purchasing agent detailed requisitions for purchase costs or estimates of the project requirements prior to approval of the purchase. The purchasing agent shall be responsible for approving all purchases of the city and may reject any requisition from a department head, subject to appeal to city council for final disposition.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-374. Authorization for expenditures.

The city manager, or his duly authorized representative, shall have exclusive power and responsibility to make purchases of all supplies, apparatus, equipment, materials, and other things requisite for public purposes for the city, and to make all necessary contracts for work or labor to be done, or material or other necessary things to be furnished for the benefit of the city.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-375. Authority to purchase or contract.

The authority to contract or purchase on behalf of the city is vested in the city council and shall be exercised in accordance with the provisions of the law, provided that contracts, purchases, and sales may be made by the city manager, subject to the provision of this chapter.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-376. Purchasing small goods and services under $500.00.

All items under the price of $500.00 may be purchased outright in the open market by a department head or his/her designated representative, when it has been determined by the department head that it is not economically feasible to buy the item in quantities that require the city to purchase the item by competitive quotes or bidding.

The invoice for the purchased items shall be signed by the city employee who made the purchase. This invoice shall then be coded by the department head for proper payment and turned promptly into the city treasurer's office.

(Ord. No 6-05, 9-19-2005)

Sec. 2-377. Purchase of goods and services equal to or over $500.00 but less than $5,000.00.

All purchases equal to or over $500.00 and less than $5,000.00 may be purchased in the open market by a department head, or his/her designated representative, when the department head determines it is not economically feasible, nor necessarily appropriate, to buy the items in quantities that require competitive bidding. Generally, phone quotes from vendors are sufficient; written quotations are preferred if time permits. Such purchases shall be made after the availability of funds by the appropriate department head is confirmed.

The invoice for the purchased items shall be signed by the city employee who made the purchase. This invoice shall then be coded by the department head for proper payment and turned promptly into the city treasurer's office.

(Ord. No. 11-01, 11-5-2001; Ord. No 6-05, 9-19-2005; Ord. No. 7-12, 11-19-2012)

Sec. 2-378. Purchase of goods, services or construction equal to or over $5,000.00 but less than $10,000.00.

All purchases of supplies, materials, services or equipment, costing $5,000.00 or over, but less than $10,000.00 may be made in the open market after soliciting competitive written quotes. Quotes shall be solicited by telephone or direct mail requests to prospective vendors or through personal contact. The names of each vendor submitting a written quotation and the date and amount of each quotation shall be recorded and available for public inspection. The purchase shall be awarded to the lowest responsible and responsive vendor. A purchase order request containing the names of the vendors submitting quotes shall be completed and submitted to the city manager for approval. The appropriate department head shall determine that an appropriation has been approved by the city council in the annual budget, or that funds are available through proper fund adjustments.

(Ord. No. 11-01, 11-5-2001; Ord. No 6-05, 9-19-2005; Ord. No. 7-12, 11-19-2012)

Sec. 2-379. Purchases of goods, services or construction of $10,000.00 or over.

Any expenditure or contract obligating the city in an amount of $10,000.00 or more must be made through formal sealed competitive bids, approved and awarded by the city council.

The city clerk shall provide for such procurement through competitive sealed bids as follows:

(1) Bids shall be solicited by newspaper advertisement when directed by the city council. Notice soliciting sealed competitive bids shall be published in a newspaper of general circulation in the City of Tecumseh at least ten calendar days prior to the final date for submission of bids to the city. Such notice shall briefly state the following: the specifications of the supplies, materials, service or equipment requested; the amount of any required surety to be submitted with the bid or contract; the time and place for filing and opening of bids; and the general terms and conditions of the award of the contract.

(2) The city clerk shall also solicit sealed bids from qualified prospective bidders known to the city and who have requested inclusion in city bidding solicitation, by sending each a copy of the request for bid proposal or the newspaper notice.

(3) The city council shall reserve the right to reject any and all bids submitted and such right to rejection shall be included with any notice of request for bids.

(4) The department heads and city manager shall review the proposals received and provide necessary recommendations to the city council.

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

(6) The purchasing agent, or his designee, shall 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.

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

(8) Bids shall be opened in public at the time and place designated in the notice requesting bids in the presence of the purchasing agent, the city clerk, and at least one other city official, preferably the head of the department most closely concerned with the subject of the contract. The bids shall thereupon be carefully examined and tabulated and reported to the city council with the recommendation of the purchasing agent at the next council meeting. After tabulations, all bids may be inspected by the competing bidders.

(9) When such bids are submitted to the city council, if the city council shall find any of the bids to be satisfactory, it may accept a bid. Such award may be by resolution or ordinance. The city council shall have the right to reject any or all bids and to waive irregularities in bidding and to accept bids that do not conform in every respect to the bidding requirements.

(10) At the time the contract is executed by the city, the contractor shall file a bond executed by a surety company authorized to do business in the state to the city, conditioned to pay all laborers, mechanics, subcontractors and material men as well as all just debts, dues and demands incurred in the performance of such work and shall file a performance bond when one is required. The contractor shall also file evidence of public liability insurance naming the city as an additional insured in an amount satisfactory to the city manager, and agree to save the city harmless from loss or damage caused to any person or property by reason of the contractor's negligence.

(11) All bids and deposits of certified or cashier's checks may be retained until the contract is awarded and signed. If any successful bidder fails or refuses to enter into the contract awarded to him within five days after the bid 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 city council may, in its discretion, award the contract to the next lower qualified bidder or the contract may be rebid.

(Ord. No. 11-01, 11-5-2001; Ord. No 6-05, 9-19-2005; Ord. No. 7-12, 11-19-2012)

Sec. 2-380. Criteria for responsible bidders.

Whenever satisfactory quotes or bids are received, the purchase or contract shall be awarded to the lowest responsible and responsive bidder whose bid is most advantageous to the city. The city has the right to accept or reject any or all bids it deems necessary or advisable. In determining which bid is most advantageous and/or competent, the city manager and city council, upon the advice of the purchasing officer or department head, may consider the following in addition to price:

(1) The ability, capacity and skill of the bidder to perform the contract or provide the service required.

(2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.

(3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.

(4) The quality of performance of previous contracts or services of the bidder.

(5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.

(6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.

(7) The quality, availability and adaptability of the supplies, or contractual services to the particular use required.

(8) The ability of the bidder to provide further maintenance and service for the use of the subject of the contract.

(9) The number and scope of any additional, limiting, or qualifying conditions attached to the bid by the bidder.

(10) The failure of a bidder to promptly supply information in connection with an inquiry from the city manager or purchasing officer with respect to any of the above-enumerated provisions may be grounds to disqualify such bidder.

(Ord. No. 11-01, 11-5-2001; Ord. No 6-05, 9-19-2005)

Sec. 2-381. Purchase orders.

A purchase order is the instrument used to initiate purchases. It is used to introduce a greater measure of responsibility and accountability over implementation of the annual budget and improves control of expenditures so that budget amounts are not exceeded. It is a formal notice to a vendor to furnish supplies or services described in detail.

A city purchase order shall be initiated by department head or city manager action and forwarded to personnel in the city treasurer's office. It will then be forwarded to the vendor.

A purchase order may be used for any purchase, but is required for all purchases of goods and services over $1,000.00 or more or as required by the city manager. Reoccurring expenditures such as utility billings, insurance premiums, etc. do not necessitate the use of a purchase order.

(Ord. No. 11-01, 11-5-2001; Ord. No 6-05, 9-19-2005)

Sec. 2-382. Emergency purchases.

In an emergency or an apparent emergency endangering the public peace, health, safety, or welfare of the city, the purchasing agent, the city manager, or any department head may purchase directly any supplies, materials, or equipment he deems immediately necessary. The agent shall advise the council of the purchase no later than the next regular meeting of the council.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-383. Preference for local bidders.

If the city receives a bid from a city tax-paying business bidder and the amount of said bid is no more than ten percent greater, or an amount not to exceed $1,000.00, than that of a non-city tax paying business bidder, then the council in its discretion may consider the bids equal.

If the city receives a bid from a Lenawee County tax-paying business bidder and the amount of said bid is no more than five percent greater, or an amount not to exceed $1,000.00, than that of a non-Lenawee County tax-paying business bidder, then the council in its discretion may consider the bids equal with a city tax-paying bidder receiving preference over another Lenawee County tax-paying business bidder.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-384. Exception to competitive bidding.

Competitive bidding shall not be required in respect to contracts for professional services. In any other case where competitive bidding clearly is not practical or where no advantage would result to the city to require competitive bidding, the city council, upon the written recommendation of the city manager, may authorize the selection of a contract without competitive bidding. Where a contract is let without competitive bidding, the proposed contract may be approved by the city attorney as to form and content unless prepared by him by direction of the city council, and submitted to the city council.

Other exceptions to competitive bidding include the following:

(1) Where the subject of the contract is other than a public work or improvement and the product or material contracted for is not competitive in nature or no advantage to the city would result from requiring competitive bidding and the council by resolution authorizes execution of a contract without competitive bidding.

(2) In the employment of professional services, including medical, accounting, auditing, data processing, legal, planning, engineering, and architectural.

(3) Where the city elects to do, with city forces, work suitable for contracting, provided such work is authorized by the council.

(4) In purchasing any type of insurance coverage.

(5) Uniforms and protective clothing.

(6) Non-contractible services, where the scope of the work is not definitive or the cost of preparing contract documents exceeds the cost of the service.

(7) Specialty professional and technical services and supplies, including equipment repair.

(8) Where a grant donor provides what the city manager deems to be a substantial portion of the financial resources necessary for the city council approved and authorized purchase or project and the grant donor requires a specific vendor or vendors.

(9) Purchases, contracts, and services city council deems necessary to be in the interest of the city.

Sec. 2-385. City council approval required.

(a) All contracts over $5,000.00 in value per fiscal year, except as required by ordinance, city council or state law.

(b) The purchase of goods and services over $5,000.00 in any one fiscal year.

(c) Any other situation where the city manager or city attorney deems it appropriate to have formal approval by city council.

(d) Any expenditure not approved by city council in the annual budget appropriation.

(Ord. No. 11-01, 11-5-2001; Ord. No 6-05, 9-19-2005)

Sec. 2-386. Gifts and rebates prohibited.

The city manager, department heads, and every employee of the city involved in the purchasing function are prohibited from soliciting, demanding, accepting, or agreeing to accept, direct or indirectly, from any person to whom a contract or purchase might be awarded or is awarded, any gift, offer of employment, rebate, money, or anything of material value whatsoever, except where given for use and benefit of the city.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-387. Rejection of bids.

The city council shall reserve the right to accept or reject any or all bids submitted if in the council's discretion such action would be in the best interest of the city.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-388. Inspection of materials.

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

(Ord. No. 11-01, 11-5-2001)

Sec. 2-389. Sale or disposal of property.

Whenever any city property, real or personal, is no longer needed for corporate or public purposes, it may be offered for sale. Personal property may be sold or applied against the purchasing price of like personal property by the purchasing agent after receiving quotations or competitive bids for the best price obtainable. Any salvage, surplus material, supplies or equipment may be disposed of in a manner determined in the best interest of the city by city council. Sale of city property shall adhere to the following procedures; and all proceeds shall be deposited with the city treasurer:

(1) Property with an estimated value under $2,500.00 may be sold at the discretion of the department head.

(2) Property with an estimated value equal to or over $2,500.00 but less than $5,000.00 may be sold after soliciting and receiving offers by telephone, in person or direct/electronic mail, and the sale has been authorized by the city manager. The amounts offered by each prospective purchaser shall be recorded and available for public inspection.

(3) Property with a value of $5,000.00 or more may be sold after soliciting and receiving written competitive bids or proposals, and the sale has been authorized by the city council. The bids and proposals shall be recorded and available for public inspection.

(Ord. No. 11-01, 11-5-2001; Ord. No. 07-19, § 1, 9-16-2019)

Sec. 2-390. Purchases or contracts made with funds received as gifts or donations.

Purchases may be made or contracts awarded for the furnishing of materials, supplies, equipment, labor, real property, or other resources, or a combination thereof, involving the expenditures of funds received as gifts or donations utilizing the most practical and reasonable procurement method approved by city council.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-391. Requests for proposals.

The city council may, at its sole discretion, as an alternative to the bidding, solicit and receive a request for proposal to purchase, contract, or sell any property or service to the city. Requests for proposals shall contain at least the following:

(1) A description of the work, materials, supplies, services, products, construction items or properties involved.

(2) A date by which the proposals shall be submitted.

(3) A statement of the proposal shall be in writing using the English language.

(4) A statement of the minimum information that the proposal shall contain.

City council shall reserve the right to accept or reject any and all proposals submitted if in the council's discretion such action would be in the best interest of the city.

The authority to award all requests for proposals on behalf of the city is vested in the city council.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-392. No division of purchase.

No contract or purchase shall be artificially divided to circumvent the purchasing procedures in this chapter.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-393. Purchase or sale of real property.

The authority to purchase or sell real property on behalf of the city is vested in the city council using any procedure that is lawful and city council deems is in the best interest of the city.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-394. Waiver by city council.

The city council reserves the authority to waive any regulation or procedure pertaining to purchasing contained in this chapter, if the city council deems it in the best interest of the city to do so.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-395. Prohibition of interest.

Any purchase or contract within the purview of this division in which the purchasing agent or any officer or employee of the city is financially interested, directly or indirectly, shall be void, except that before the execution of a purchase or contract the city council shall have the authority to waive compliance with this section when it finds such action to being in the best interests of the city.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-396. Penalties.

Any officer or employee willfully violating any of the provision of this division shall be subject to warning, suspension, or dismissal. All violations of this division shall be municipal civil fractions subject to a civil fine of not more than $500.00.

(Ord. No. 11-01, 11-5-2001)

Sec. 2-397. Purchase from petty cash.

The purpose of petty cash is to provide funds for incidental purchases or items necessary for immediate and urgent projects. Petty cash is not to be used to circumvent the purchasing procedures.

Purchases from petty cash shall be monitored by the city treasurer and excessive use or misuse shall be reported directly to the city manager.

(Ord. No 6-05, 9-19-2005)

Editor's note(s)—Ord. No. 6-05, adopted Sept. 19, 2005, set out provisions intended for use as § 2-400. To preserve the style of the Code, and at the editor's discretion, these provisions have been included as § 2-397.

Sec. 2-398. Purchasing service available to other public agencies.

If, in the opinion of the purchasing officer, it is appropriate to enter into cooperative purchasing agreements, the purchasing service of the city may be made available without charge to any public authority in which the city has an interest.

(Ord. No 6-05, 9-19-2005)

Editor's note(s)—Ord. No. 6-05, adopted Sept. 19, 2005, set out provisions intended for use as § 2-401. To preserve the style of the Code, and at the editor's discretion, these provisions have been included as § 2-398.

Sec. 2-399. Default to the city.

The city shall not accept the bid of any person, firm or corporation who is in default on the payment of taxes, licenses or other monies due the city nor shall the city council or any employee award any contract or purchase goods or services to any person, firm or corporation who is in default on the payment of taxes, licenses or other monies due the city.

(Ord. No 6-05, 9-19-2005)

Editor's note(s)—Ord. No. 6-05, adopted Sept. 19, 2005, set out provisions intended for use as § 2-402. To preserve the style of the Code, and at the editor's discretion, these provisions have been included as § 2-399.

Sec. 2-400. Reserved.

ARTICLE V. ELECTED OFFICIALS' COMPENSATION COMMISSION[8]

Sec. 2-401. Created.

An elected officials' compensation commission is created which shall determine the salaries of the mayor and members of the city council. The commission shall consist of five members who are registered voters of the city; appointed by the mayor and subject to confirmation by a majority for the members elected and serving on the city council. The terms of office of members of the commission shall be five years, except that of the members first appointed, one member shall be appointed for each of the following terms: one year, two years, three years, four years and five years. The initial term length shall be determined by lot. Members shall be appointed before October 1 of the year of appointment. All vacancies shall be filled for the remainder of the unexpired term. No member or employee of the city government or member of the immediate family of such members or employee shall be eligible to be a member of the commission.

(Ord. No. 7-01, 8-20-2001)

Sec. 2-402. Purpose.

The compensation commission shall determine the level of compensation for the mayor and the councilpersons. Said compensation shall be effective 30 days after the commission files a copy with the city clerk. The commission shall also serve a copy of determination upon the mayor and each councilperson personally or by regular mail at their last known address. In the event of rejection by city council, the existing compensation shall continue.

Unless the city council, by resolution adopted by two-thirds of the members serving on the council, rejects the determination.

(Ord. No. 7-01, 8-20-2001)

Sec. 2-403. Rules and regulations.

The compensation commission shall meet for not more than 15 sessions every odd numbered year and shall file it's determination within 45 calender days of its first meeting. A majority of the members of the commission shall constitute a quorum for conducting business of the commission. The commission shall take no action or make determination without an agreement of a majority of the members serving on the commission. The commission shall elect a chairperson from among its members. A session shall be defined as any calender day on which the commission meets and a quorum is present. The members of the commission shall receive no compensation, but shall be entitled to their actual and necessary expenses incurred in the performance of their duties and shall not have power to expend public funds.

(Ord. No. 7-01, 8-20-2001)

[8]Editor's note(s)—Ord. No. 7-01, adopted Aug. 20, 2001, added art. V, designated as §§ 2-400—2-404. At the discretion of the editor said article has been redesignated as §§ 2-401—2-405, to better fit the format of the Code.

Sec. 2-404. Public meetings.

The business which the compensation commission may perform shall be conducted at public meetings of the commission, held in compliance within the open meeting act (Act No. 257 of the Public Acts of Michigan of 1978 MCL 15.261 et seq.), as amended. Public notices of the time, date and place of the meeting of the commission shall be given in the manner required by such Act.

(Ord. No. 7-01, 8-20-2001)

Sec. 2-405. Meeting minutes.

Minutes of said meeting of the compensation commission shall be prepared and retained by the commission in the performance of its official function and shall be made available to the public in compliance with Act No. 442 of the Public Acts of Michigan of 1978 (MCL 15.231 et seq.), as amended.

(Ord. No. 7-01, 8-20-2001)

Chapter 6 AMUSEMENTS[9]

ARTICLE I. IN GENERAL

Sec. 6-1. Gambling not permitted.

Nothing in this article shall in any way be construed to authorize, license or permit any gambling devices whatsoever, or that may be contrary to the law of the state.

(Ord. No. 08-19, § 1, 9-6-2019)

Secs. 6-2—6-30. Reserved.

ARTICLE II. RESERVED[10]

Secs. 6-31—6-56. Reserved.

Chapter 10 ANIMALS[11]

[9]Cross reference(s)—Businesses, ch. 18.

[10]Editor's note(s)—Ord. No. 08-19, § 1, adopted September 16, 2019, repealed article II, §§ 6-31—6-33 and 6-51—6-56, which pertained to amusement devices and derived from Comp. Ords. 1982, §§ 3.810.01—3.810.09.

[11]Cross reference(s)—Environment, ch. 34.

State law reference(s)—Authority of city to adopt an animal control and licensing ordinance, MCL 287.290; wildlife conservation, MCL 324.40101 et seq.; dangerous animals, MCL 287.321 et seq.; crimes relating to animals and birds, MCL 750.49 et seq.

ARTICLE I. IN GENERAL

Sec. 10-1. Prohibited animals.

(a) No farm animal, wild animal or nondomestic animal, such as a horse, cow, swine, sheep, goat, chicken, goose, duck, chimpanzee or alligator, shall be kept in the city.

(b) Should a person hold a valid City of Tecumseh permit to harbor or to have custody or control of a Vietnamese Pot Bellied Pig, issued on or before January 18, 2015, the animal approved with said permit will be considered existing and non-conforming and subject to the conditions for approval included in the permit. Should the actual Vietnamese Pot Bellied Pig approved with such permit become deceased or be relocated outside of the City of Tecumseh limits, the permit will be considered to be automatically revoked. The permit previously issued will not be transferable to another individual or another Vietnamese Pot Bellied Pig.

(c) It is a public nuisance for any person to violate the provisions of this section. Any person found guilty of violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 4.520a.00; Ord. No. 1-15, 1-5-2015)

Sec. 10-2. Control and removal of animal excrement.

(a) No person owning, harboring, keeping, possessing or in charge of an animal shall permit, cause, suffer or allow such animal to discharge its excrement upon any parking lot, public thoroughfare, sidewalk, street, highway, road, boulevard, school property, cemetery, passageway, bypass, play area, park or any place where people congregate or walk, or upon any public property whatsoever, or upon any private property without permission of the owner of such property, unless such person has in his immediate possession an appropriate device and uses such device for the transmission of such excrement immediately by a person to a suitable receptacle or location.

(b) It is a public nuisance for any person to violate the provisions of this section. Any person found guilty of violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 4.523.00)

Sec. 10-3. Exceptions.

(a) Section 10-2 shall not apply where the violation involves a dog which is used as a guide or leader dog for a blind person, a hearing dog for a deaf or audibly impaired person, or a service dog for a physically limited person.

(b) As used in this section:

Audibly impaired means audibly impaired as defined in section 1 of Public Act No. 82 of 1981 (MCL 752.61).

Blind person means a blind person as defined in section 1 of Public Act No. 260 of 1978 (MCL 393.351).

Deaf person means a deaf person as defined in section 1 of Public Act No. 82 of 1981 (MCL 752.6).

Physically limited means physically limited as defined in section 1 of Public Act No. 1 of 1966 (MCL 125.1351).

Secs. 10-4—10-30. Reserved.

ARTICLE II. DOGS[12]

DIVISION 1. GENERALLY

Sec. 10-31. Ownership.

Every person in possession of any dog or who shall permit such dog to remain about his premises for the space of ten days shall, for the purposes of this article, be deemed the owner of the dog.

(Comp. Ords. 1982, § 3.900a.00)

Sec. 10-32. License required.

It shall be unlawful for any person to own, possess or harbor a dog four months of age or over in the city without first having obtained a state license for the dog as provided by Public Act No. 339 of 1919 (MCL 287.261 et seq.).

(Comp. Ords. 1982, § 3.900a.00)

State law reference(s)—Dog license, MCL 287.266 et seq.

Sec. 10-33. Immunization required.

No dog shall be permitted upon the public streets or off the premises of its owner unless such dog has been immunized against rabies in a manner approved by the United States Department of Agriculture, or unless the dog is confined in the process of being transported to or from the premises of the owner.

(Comp. Ords. 1982, § 3.900a.00)

Sec. 10-34. Reasonable control required.

No dog shall be allowed to run at large in the city unless the dog is under the reasonable control of the owner. For the purposes of this section, a dog shall be deemed under such reasonable control:

(1) When the dog is with the owner or some member of the owner's family; or

(2) When the dog is on the premises of the owner, and not with the owner or some member of the owner's family.

(Comp. Ords. 1982, § 3.900a.00)

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

Sec. 10-35. Control.

For the purposes of this article, a dog shall be deemed not to be under reasonable control:

(1) When such dog commits damage to the person or property of anyone other than the owner, except in the defense of the owner, his family or his property; or

(2) In the case of a female dog while in heat, off the premises of the owner, unless confined in the process of being transported to or from the premises of the owner.

(Comp. Ords. 1982, § 3.901.00)

Sec. 10-36. Kennels.

It shall be unlawful for any person to operate a dog kennel in the city unless operated by a duly licensed person and in conformance with the city zoning ordinance. Members of a household collectively owning, harboring or keeping for pleasure or profit four or more dogs shall be deemed the operator of a dog kennel.

(Comp. Ords. 1982, § 3.902.00; Ord. No. 5-09, 12-21-09)

State law reference(s)—Kennels, MCL 287.270 et seq.

Sec. 10-37. Nuisance.

No person shall keep or harbor a dog which, by loud or frequent or habitual barking, yelping or howling, shall cause a serious annoyance to the neighborhood or to people passing to and fro upon the streets. No person shall own or harbor a fierce or vicious dog, or a dog that has been bitten by any animal known to have been afflicted with rabies. Any person who shall have in his possession a dog which has contracted or is suspected of having contracted rabies, or which has been bitten by any animal known to have been afflicted with rabies, shall, upon demand of the animal control officer, or any police officer of the city, produce and surrender the dog to the police department of the city to be held for observation and treatment; provided that with the approval of the animal control officer or a police officer any such dog may be surrendered to a registered veterinary, or to any approved nonprofit corporation organized for the purpose of sheltering dogs. It shall be the duty of any person owning or harboring a dog which has been attacked or bitten by another dog or another animal showing the symptoms of rabies to immediately notify the police department that such person has such dog in his possession.

(Comp. Ords. 1982, § 3.903.00)

Sec. 10-38. Animal control officer.

It shall be the duty of the animal control officer or other person appointed by the city manager or his designee to make diligent inquiry as to the dogs owned, harbored or kept in the city and whether such dogs and kennels are licensed after March 1 of each year by the animal control officer, or other duly delegated officer; and such dogs may be seized and impounded by such officer, or the person owning or harboring such dogs may be notified to procure a license for the dogs within five days of the date of such notice. The animal control officer shall make a report to the city clerk of all unlicensed dogs found in the city after March 1. It shall be the duty of the animal control officer to enforce the provision of this article, and in the furtherance of such duties he may make complaints to the district court of the county in regard to any violations of this article of which he has knowledge.

(Comp. Ords. 1982, § 3.906.00)

Cross reference(s)—Administration, ch. 2.

State law reference(s)—Minimum employment standards for animal control officers, MCL 287.289c.

Sec. 10-39. Cruel treatment.

No person, or any other person, owning or harboring any dog shall treat a dog in a cruel or inhumane manner, or willfully or negligently cause or permit any dog to suffer unnecessary torture or pain.

(Comp. Ords. 1982, § 3.907.00)

State law reference(s)—Cruelty to animals, MCL 750.50.

Sec. 10-40. Criminal penalty.

Any person violating any of the provisions of this article shall upon conviction be guilty of a misdemeanor and shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 3.908.00)

Secs. 10-41—10-60. Reserved.

DIVISION 2. IMPOUNDMENT

Sec. 10-61. Pound.

The city shall provide and maintain a pound, and it shall be the duty of the animal control officer or any other person employed by the city manager or his designee for that purpose and of any police officer of the city to promptly seize, take up and place in the pound all unlicensed dogs harbored or being kept any place within the city contrary to the provisions of this division.

(Comp. Ords. 1982, § 3.904.00)

State law reference(s)—Dog pounds, MCL 287.331 et seq.

Sec. 10-62. Release.

(a) No dog shall be released from the pound unless licensed, and the owner or person entitled to claim the dog shall pay the fees as set forth from time to time by city council, for the following:

  (1) A daily board charge, plus any actual charge for necessary emergency care and treatment.

  (2) An additional cost for unlicensed dogs.

  (3) An additional impounding fee.

(b) All dogs released from the pound to owners or purchasers shall receive rabies immunization as required by Public Act No. 339 of 1919 (MCL 287.261 et seq.).

(c) All dogs not claimed and released within five days after being impounded, unless there is a known rabies exposure, shall be destroyed and/or otherwise disposed of.

(d) Adequate records shall be kept to report the disposition of all dogs brought to the pound, these records including but not limited to a description of the dog, date, time and place of pickup. Copies of these records shall be kept on file at the dog pound, with the animal control officer and with the city police department.

(Comp. Ords. 1982, § 3.905.00)

Secs. 10-63—10-80. Reserved.

ARTICLE III. WILDLIFE

DIVISION 1. FEEDING OF WILDLIFE

Sec. 10-81. Purpose.

The city shall control the feeding of deer within the city as the practice may cause unsustainable growth, intensify deer population densities, decrease the overall health of the herd, increase the probability and occurrence of transferable diseases to humans within the area (e.g., Lyme disease), and actively encourages the presence of an urban deer population that aggravates other property impacts.

(Ord. No. 01-19, § 1, 2-4-2019)

Sec. 10-82. Deer feeding prohibited.

No person shall intentionally feed, cause to be fed, provide for, or make available food or other substances for the consumption by deer within the city, either on private or public property. This section shall not apply to:

(1) Naturally growing vegetation or their seed, planted vegetation growing in yards or flower beds for landscaping, or planted vegetation for human consumption in gardens.

(2) Bird seed, grain, or corn; if contained in an elevated bird feeder and not purposely deposited on the ground or in a feeder trough.

(3) Public employees acting within the scope of their authority for purposes of public health or safety or wildlife management purposes.

(Ord. No. 01-19, § 1, 2-4-2019)

Chapter 14 BUILDINGS AND BUILDING REGULATIONS[13]

ARTICLE I. IN GENERAL

[13]Cross reference(s)—Community development, ch. 22; environment, ch. 34; fire prevention and protection, ch. 38; historical preservation, ch. 42; alteration, construction, movement or demolition of historic landmark preservation, § 42-131 et seq.; land divisions and other subdivisions of land, ch. 46; solid waste, ch. 62; streets, sidewalks and other public places, ch. 70; utilities, ch. 82; vegetation, ch. 86; waterways, ch. 94; zoning, ch. 98.

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

Sec. 14-1. Building inspection fees.

A building inspection fee shall be charged by the city to the applicant for a permit for new construction, alteration, removal, demolition, signs, fences, etc. The amount of such fee shall be established, from time to time, by resolution of the city council and shall cover the cost of inspection and the supervision resulting from enforcement of this chapter.

(Comp. Ords. 1982, § 7.402.00)

Secs. 14-2—14-30. Reserved.

ARTICLE II. CONSTRUCTION BOARD OF APPEALS[14]

Sec. 14-31. Creation; powers and duties.

A city construction board of appeals is created and shall consist of not more than five members appointed by the city council for two-year terms. The construction board of appeals is granted those powers and duties as set forth in Public Act No. 230 of 1972 (MCL 125.1501 et seq.).

(Comp. Ords. 1982, § 7.401.04a)

State law reference(s)—State construction board of appeals, MCL 125.1514.

Secs. 14-32—14-60. Reserved.

ARTICLE III. BUILDING CODE

Sec. 14-61. Agency designated.

Pursuant to the provisions of the state building code, in accordance with Section 8b(6) of Public Act No. 230 of 1972, as amended (MCL 125.1501 et seq.), the building official of the city is designated as the enforcing agency to discharge the responsibilities of the city under such act. The city assumes responsibility for the administration and enforcement of such act throughout its corporate limits.

(Comp. Ords. 1982, § 7.401.01; Ord. No. 03-19, § 1, 5-6-2019)

State law reference(s)—State construction code act, enforcement responsibility, MCL 125.1509.

Sec. 14-62. Code appendix enforced.

Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the jurisdiction of the community adopting this ordinance.

[14]Cross reference(s)—Boards, commissions and authorities, § 2-31 et seq.

(Ord. No. 03-19, § 1, 5-6-2019)

Sec. 14-63. Designation of regulated flood prone hazard areas.

The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled "Lenawee County, Michigan (All Jurisdictions)" and dated August 5, 2019, and the flood insurance rate map(s) (FIRMS) panel number(s) of 88 (26091C0088D), 89 (26091C0089D), 93 (26091C0093D), 202 (26091C0202D), 205 (26091C0205D), 206 (26091C0206D) and 210 (26091C0210D) dated August 15, 2019 are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

(Ord. No. 03-19, § 1, 5-6-2019)

Secs. 14-64—14-90. Reserved.

ARTICLE IV. ELECTRICAL CODE[15]

Sec. 14-91. Agency designated.

Pursuant to the provisions of the state electrical code, in accordance with Public Act No. 230 of 1972 (MCL 125.1501 et seq.), the electrical official of the city is designated as the enforcing agency to discharge the responsibilities of the city under such act. The city assumes responsibility for the administration and enforcement of such act throughout its corporate limits.

(Comp. Ords. 1982, § 5.207.01)

State law reference(s)—State construction code act, enforcement responsibility, MCL 125.1509.

Secs. 14-92—14-120. Reserved.

ARTICLE V. PLUMBING CODE[16]

Sec. 14-121. Agency designated.

Pursuant to the state plumbing code, in accordance with Public Act No. 230 of 1972 (MCL 125.1501 et seq.), the plumbing official of the city is designated as the enforcing agency to discharge the responsibilities of the city under Public Act No. 230 of 1972 (MCL 125.1501 et seq.). The city assumes responsibility for the administration and enforcement of the act throughout its corporation limits.

(Ord. No. 3-00, § 1, 4-3-2000)

[15]Cross reference(s)—Utilities, ch. 82.

[16]Cross reference(s)—Utilities, ch. 82.

Secs. 14-122—14-150. Reserved.

ARTICLE VI. MECHANICAL CODE[17]

Sec. 14-151. Agency designated.

Pursuant to the state mechanical code, in accordance with Public Act No. 230 of 1972 (MCL 125.1501 et seq.), the mechanical official of the city is designated as the enforcing agency to discharge the responsibilities of the city under such act. The city assumes responsibility for the administration and enforcement of such act throughout its corporate limits.

(Ord. No. 4-99, § 1, 9-7-1999)

Secs. 14-152—14-180. Reserved.

ARTICLE VII. PROPERTY MAINTENANCE CODE

Sec. 14-181. Adoption of code by reference.

Pursuant to the provisions of Public Act No. 179 of 1909 (MCL 117.1 et seq.), the 2021 edition of the International Property Maintenance Code, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Tecumseh, 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 therefore; 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 Tecumseh 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, if any, prescribed in section 14-184.

(Comp. Ords. 1982, § 7.403.01; Ord. No. 06-21, § 1, 5-17-2021)

Charter reference(s)—Enactment of codes by reference, § 7.7.

Sec. 14-182. Code on file.

Complete printed copies of which are on file and available for public use and inspection in the office of the development services department of the City of Tecumseh, being marked and designated as the International Property Maintenance Code, 2021 edition, as published by the International Code Council.

(Comp. Ords. 1982, § 7.403.02; Ord. No. 06-21, § 1, 5-17-2021)

[17]Cross reference(s)—Utilities, ch. 82.

Sec. 14-183. References in code.

Reference in the code adopted in this article to "state" and "Michigan" shall mean the State of Michigan; reference to "municipality" and "Tecumseh" shall mean the City of Tecumseh; reference to the "municipal charter" shall mean the Charter of the City of Tecumseh; and references to "local ordinances" shall mean the City of Tecumseh ordinances. All references to the International Building Code, International Residential Code, International Energy Conservation Code, National Electric Code, International Existing Building Code, International Mechanical Code, and International Plumbing Code, mean the Michigan Building Code, Michigan Residential Code, Michigan Uniform Energy Code, Michigan Electrical Code, Michigan Rehabilitation Code for Existing Buildings, Michigan Mechanical Code, and Michigan Plumbing Code respectively.

(Comp. Ords. 1982, § 7.403.03; Ord. No. 06-21, § 1, 5-17-2021)

Sec. 14-184. Changes in code.

The following sections of the 2021 International Property Maintenance Code (IPMC) are amended or deleted as set forth and additional sections and subsections are added as indicated. Subsequent section numbers used in this section shall refer to the like numbers used in this section shall refer to like numbered sections of the 2021 International Property Maintenance Code.

The following sections are hereby revised:

Section 101.1. Insert: City of Tecumseh, Lenawee County, State of Michigan Section 103.1. Insert: City of Tecumseh Development Services Department

Section 104.1. Insert: [The amount shall be established, from time to time, by resolution of city council and shall cover the cost of inspection(s) and the supervision resulting from the enforcement of the code]

Add Section 104.3: Inspection fees.

(1) There shall be no inspection fee, provided that no corrective action is ordered by the building official.

(2) When a complaint is received that results in corrective action, an inspection fee will be charged at an hourly rate set from time to time, with a one hour minimum. The fee shall be charged to the owner of record according to the files at the city assessor's office; and if the fee is not paid when due, the fee shall be collected as a special assessment against the premises as provided for in pertinent city ordinances.

(3) Notwithstanding the provisions in subsections (1) and (2) of this section, if a permit is required to complete the corrective action, there shall be no inspection fee assessed.

Section 109.4 Violation penalties: Any person who shall violate any provision of this code upon conviction shall be punished as provided in section 1-7 of the City of Tecumseh Code of Ordinances. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 110.4. Delete and replace with the following:

Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to fines as specified in section 1-7 of the City of Tecumseh Code of Ordinances.

Section 302.4. Insert: Six (6) inches.

Section 304.14. Insert: April 1 to December 1.

Section 602.3. Insert: October 1 to May 15.

Section 602.4. Insert: September 15 to May 15.

(Comp. Ords. 1982, § 7.403.04; Ord. No. 06-21, § 1, 5-17-2021)

Chapter 18 BUSINESSES[18]

ARTICLE I. IN GENERAL

Secs. 18-1—18-30. Reserved.

ARTICLE II. LICENSES[19]

DIVISION 1. GENERALLY[20]

Secs. 18-31—18-50. Reserved.

DIVISION 2. TRANSIENT MERCHANTS AND SOLICITORS[21]

[18]Charter reference(s)—Municipal powers, regulation of trades, occupations and amusements, § 2.3(n).

Cross reference(s)—Amusements, ch. 6; community development, ch. 22; emergency services, ch. 30; secondhand goods, ch. 58; telecommunications, ch. 74; utilities, ch. 82; vehicles for hire, ch. 90; OS-1 office-service districts, § 98-331 et seq.; B-1 local business districts, § 98-208 et seq.; B-2 central business districts, § 98-401 et seq.; B-3 general business districts, § 98-209; I-C industrial-commercial districts, § 98-210.; I-1 industrial districts, § 98-211 et seq.; franchises, app. A.

[19]Charter reference(s)—Municipal powers, licenses, § 2.3(q).

State law reference(s)—Charitable organizations and solicitations act, MCL 400.271 et seq.

[20]Editor's note(s)—Ord. No. 2-08, adopted June 2, 2008, deleted div. 1 in its entirety and included similar provisions in div. 2. (See §§ 18-58 and 18-65.) Former div. 1, §§ 18-31, 18-32, pertained to limitations and criminal penalty, and derived from Comp. Ords. 1982, §§ 3.978.00 and 3.979.00.

[21]Editor's note(s)—Ord. No. 2-08, adopted June 2, 2008, amended div. 2 in its entirety to read as herein set out. Former div. 2, §§ 18-51—18-53, pertained to similar subject matter, and derived from Comp. Ords. 1982, §§ 3.974a.00 and 3.975.00.

Cross reference(s)—Streets, sidewalks and other public places, ch. 70.

State law reference(s)—Transient merchants, MCL 445.371 et seq.; home solicitation sales, MCL 445.111 et seq.; Public Safety Solicitation Act, MCL 14.301 et seq.; veteran's license for peddlers, MCL 35.441 et seq.

Sec. 18-51. Purpose.

The city council has determined that it is in the best interest of the city to enact an ordinance, as set forth in this chapter, regulating organizations, companies and persons soliciting sales door-to-door in the City of Tecumseh's residential areas, to protect the general health, safety and welfare of our citizens.

(Ord. No. 2-08, 6-2-2008)

Sec. 18-52. Definitions.

Not-for-profit means any recognized religious or charitable organization as defined by MCL 400.223 which has a valid license pursuant to provisions of Act 169 of the Public 169 of the Public Acts of 1975, as amended, being MCL 400.271 et seq.

Peddler means any person who travels by foot, motor vehicle or any other type of conveyance, from place to place, selling or offering for sale goods or services to residents.

Service club means a not-for-profit organization or society that may from time to time solicit sales for a charitable cause, or to benefit the community by helping to fund a public improvement.

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, merchandising or services.

Transient merchant means any person engaging temporarily in the sale of goods or merchandise that may temporarily locate in a parking lot, or occupy a building, room or structure or any kind.

(Ord. No. 2-08, 6-2-2008)

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

Sec. 18-53. License required.

It shall be unlawful for any solicitor, peddler, transient merchant, service club or not-for-profit organization to engage in soliciting door-to-door within the corporate limits of the City of Tecumseh, without first obtaining a license to be issued by the city manager or his designee, upon the completion of a form to be furnished to the applicant by the city clerk or her designee.

(Ord. No. 2-08, 6-2-2008)

Sec. 18-54. Fees.

Fees shall be charged to obtain a solicitor's license and shall be based on a per person/per day basis, or a per person/yearly license may be purchased. If a yearly license is obtained, it shall expire at the end of the calendar year in which it is purchased. Yearly licenses purchased July 1 or after, shall be half the cost of the annual rate established by council. Not-for-profit organizations, including service clubs, must obtain a solicitor's license, but will not be charged a fee. License fees will be set from time to time by resolution of the city council.

(Ord. No. 2-08, 6-2-2008)

Sec. 18-55. Application for license.

Applicants for a license under this article must file with the city clerk, an application to be furnished by the city clerk, providing the following information:

(1) Business name, owner, address and phone number.

(2) A brief description of the nature of the business, services or goods to be sold.

(3) Full name, date of birth and phone number, driver's license or picture identification card of all persons soliciting.

(4) Length of time for which the license is desired.

(5) If a vehicle is to be used, vehicle description, license plate number, current vehicle registration, valid drivers license and current insurance.

(6) If the applicant intends to handle or sell anything for human consumption, he shall furnish with his application a valid health permit issued by the Lenawee County Health Department.

(7) A letter from any property owner who authorizes the use of his property by a transient merchant, verifying such authorization.

(8) At time of filing the application, a fee as set by resolution of the city council shall be paid to the City of Tecumseh, to cover the cost of the investigation.

(9) No license shall be issued to any peddler, solicitor or transient merchant for the purpose of selling merchandise or services from a vehicle parked on a public street or public parking lot.

(Ord. No. 2-08, 6-2-2008)

Sec. 18-56. Application investigation.

Upon receipt of an application for a solicitors license, the original shall be referred to the chief of police, or his designee, who shall cause such investigation of the applicant's business and criminal background to be made as he deems necessary, for the protection of the public good. To allow adequate time to conduct the investigation, the city may hold an application for up to three business days, before issuing a license or contacting the applicant concerning reason for denial.

(Ord. No. 2-08, 6-2-2008)

Sec. 18-57. Denial or revocation of license.

(a) If as a result of the investigation, the applicant is found to be unsatisfactory, the chief of police or his designee shall endorse upon such application, his disapproval and reasons for same, and return the application to the city clerk who shall notify the applicant that no solicitors license will be issued.

(b) A license may be denied to any applicant and any license may be revoked by the City of Tecumseh for any of the following causes:

(1) Fraud, misrepresentation or false statement(s) contained in the application.

(2) Fraud, misrepresentation or false statement(s) made when engaging in business as a peddler or commercial solicitor.

(3) Any violation of this division or any other ordinance of the City of Tecumseh.

(4) Conducting the business of peddling or commercial solicitation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(Ord. No. 2-08, 6-2-2008)

Sec. 18-58. Exemptions/limitations.

Licensing fees shall not apply to sales or solicitations made in pursuance of a recognized charitable event (covered by a special events permit) or a fund raising drive conducted by persons representing a nonprofit organization, including churches and service clubs. However, nonprofit organization(s) must obtain a license. Additionally, the following persons and/or entities shall be exempt from the requirement to pay a license fee:

(1) Any veteran in possession of a current valid license issued pursuant to the Peddler's License Act, MCL 35.441 et seq.

(2) Any recognized service club.

(3) Youth organizations such as Girls Scouts of America and/or Boy Scouts of America.

(4) Any person or entity exempt from such license fee pursuant to any provision of state or federal law.

(Ord. No. 2-08, 6-2-2008)

Sec. 18-59. License transfer not allowed.

No license or permit issued under the provisions of this division shall be used by any person(s) other than the one to whom it was issued.

(Ord. No. 2-08, 6-2-2008)

Sec. 18-60. Showing of license.

Solicitors, peddlers and transient merchants are hereby required to carry license on their person while they are engaging in selling goods or services door-to-door, and shall be required to produce such license at the request of any law enforcement official or citizen of the City of Tecumseh.

(Ord. No. 2-08, 6-2-2008)

Sec. 18-61. Hours of solicitation.

Licensed solicitors may go door-to-door in residential neighborhoods from the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday. Hours of solicitation may be changed from time to time by adopted resolution of the city council.

(Ord. No. 2-08, 6-2-2008)

Sec. 18-62. Proper entry onto private property.

Persons engaged in door-to-door solicitation may only enter private property from the driveway and proceed directly to the entrance that represents the street address of such private property. Solicitors are prohibited from

crossing one parcel to another and may not use public right-of-ways; i.e. solicitors shall not walk across front yards and shall not enter side or rear yards.

(Ord. No. 2-08, 6-2-2008)

Sec. 18-63. Courteous; respectful of resident rights.

Persons engaged in soliciting door-to-door shall at all times be courteous and respectful of the private property and rights to privacy of city residents.

(Ord. No. 2-08, 6-2-2008)

Sec. 18-64. Request to leave.

If a resident requests a peddler to leave the premises, they shall immediately do so without further discussion.

(Ord. No. 2-08, 6-2-2008)

State law reference(s)—Refusal to leave, MCL 750.552

Sec. 18-65. Criminal penalty.

Any person violating any of the provisions of this article and divisions stated within, shall upon conviction, be guilty of a misdemeanor, and shall be punished as provided in subsection l-7(d).

(Ord. No. 2-08, 6-2-2008)

Secs. 18-66—18-90. Reserved.

DIVISION 3. PERMANENT BUSINESS REGISTRATION/LICENSE REQUIREMENT[22]

Sec. 18-91. Purpose.

The city council has determined that it is in the best interest of the city to require a business registration/license for permanent businesses that choose to locate within the city, to protect the general health, safety and welfare of our citizens by identifying legitimate businesses, and to promote compliance with all planning, zoning, building and other related city ordinances and codes.

(Ord. No. 4-09, 6-1-09)

[22]Editor's note(s)—Ord. No. 4-09, adopted June 1, 2009, amended former Div. 3, § 18-91, in its entirety to read as herein set out. Former Div. 3 pertained to a requirement for a business license requirement for the sale of services and derived from the Compiled Ordinances of 1982.

Sec. 18-92. Definitions.

For the purpose of this division, a "permanent business" shall mean any retail store, restaurant, industry, service provider, (including professional/medical services), that is leased, owned, operated or conducted for profit and established on any premises within the City of Tecumseh.

(Ord. No. 4-09, 6-1-09)

Sec. 18-93. License required.

No person, company or corporation shall engage in the operation of a business within the city without first obtaining a business license in accordance with the requirements and provisions of this division. Any permanent business duly registered on the effective date of this division shall be deemed registered and licensed.

(Ord. No. 4-09, 6-1-09)

Sec. 18-94. Application.

Application for a license under this division shall be made to the city manager upon forms supplied by the city clerk, and shall set forth such information required by the city for the purpose of enforcing this division. Said applicant shall provide the following information:

(1) Business name, owner, address and phone numbers.

(2) A brief description of the nature of the business, services, or goods to be sold.

(3) A copy of a valid health permit issued by the Lenawee County Health Department if handling or selling anything for human consumption.

(Ord. No. 4-09, 6-1-09)

Sec. 18-95. Preliminary inspection of premises.

Upon receiving an application for a license under this division, the development services director or his designee shall be given a copy of said application and perform all necessary inspections of the premises to be licensed, to ensure that the proposed premises comply with all safety and zoning regulations. A business license will not be issued until a certificate of occupancy has been approved by the development services department. An application for a certificate of occupancy and associated application fee shall be submitted to the development services department.

(Ord. No. 4-09, 6-1-09)

Sec. 18-96. Issuance.

Applicants satisfying the requirements and provisions of this division shall be issued a business license signed by the city manager or his designee.

(Ord. No. 4-09, 6-1-09)

Sec. 18-97. Posting.

A business license granted under this article shall be posted in a conspicuous place within the licensed premises, at all times.

(Ord. No. 4-09, 6-1-09)

Sec. 18-98. Fees.

A licensing fee shall be set from time to time by adopted resolution of the city council, and paid when the application for a license is filed with the city clerk.

(Ord. No. 4-09, 6-1-09)

Sec. 18-99. Non-transferable.

No license shall be transferable unless authorized by the city manager. Every license holder shall immediately notify the city clerk's office of any location or business address change, or any other change in information provided on their original business license application, including change of ownership, name or type of business.

(Ord. No. 4-09, 6-1-09)

Sec. 18-100. Record of license.

The city clerk shall keep a permanent record of all applications for licenses made under this division indicating whether the license applied for in each case was granted or withheld, and if withheld, the reasons for denial of a business license.

(Ord. No. 4-09, 6-1-09)

Sec. 18-101. Denial, revocation or suspension.

(a) The issuance of a business license by the city may be denied by the city manager or his designee, or the issued license revoked or suspended by the city manager at any time, for any of the following reasons:

(1) Failure to pay required fee when submitting application.

(2) Fraud, misrepresentation or false statement(s) contained within the application.

(3) Fraud, misrepresentation, or false statement(s) made when engaging in business.

(4) Failure or inability of an applicant to meet and satisfy the requirements and provisions of this division or any other ordinance contained within the city's Code of Ordinances.

(5) Conducting business in an unlawful manner, or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(Ord. No. 4-09, 6-1-09)

Secs. 18-102—18-109. Reserved.

DIVISION 4. ANNUAL OR SEASONAL BUSINESS/LICENSE REQUIREMENT

Sec. 18-110. Purpose.

The city council has determined that it is in the best interest of the city to require an annual or seasonal business registration/license for businesses located outside of the corporate city limits that wish to sell goods or services for profit to residents, including those that are seasonal in nature.

(Ord. No. 4-09, 6-1-09)

Sec. 18-111. Definitions.

For the purpose of this section, a "seasonal" or "annual" business shall mean any person, company or corporation located outside the corporate Tecumseh city limits that engages in the sale of food, merchandise or services on an annual or seasonal basis for profit, such as hot dog or ice cream vendors selling from trucks or carts, or the sale of prepackaged frozen grocery or food items from delivery trucks to residents requesting this service.

(Ord. No. 4-09, 6-1-09)

Sec. 18-112. Exclusions.

(a) Any contractor required to be licensed by the State of Michigan and subsequently registered with the city's development services department.

(b) Farmer's markets receiving approval through a "special events permit" issued by the city, as well as other vendors approved to participate in community events such as festivals or historic/holiday home tours sponsored by local organizations that promote our city and local businesses.

(c) Manufacturer's representatives selling wholesale goods to commercial establishments and industrial firms.

(d) Solicitors conducting door-to-door sales of goods and services (regulated under Ordinance 2-08, regulating door-to-door sales, Chapter 18 Businesses, Article II Licenses, Section 18-51 et seq.).

(e) Businesses subject to permanent business registration/licensing.

(Ord. No. 4-09, 6-1-09)

Sec. 18-113. License required.

No person, company or corporation shall engage in the operation of an annual or seasonal business without first obtaining a business license in accordance with the requirements and provisions of this division. Any annual or seasonal business duly registered on the effective date of the ordinance from which this division derives shall be deemed registered and licensed.

(Ord. No. 4-09, 6-1-09)

Sec. 18-114. Application.

Application for a license under this article shall be made to the city manager upon forms supplied by the city clerk, and shall set forth such information required by the city for the purpose of enforcing this article (see list of information applicant needs to provide under section 18-94.

(Ord. No. 4-09, 6-1-09)

Sec. 18-115. Issuance.

Applicants satisfying the requirements and provisions of this article shall be issued an "annual" or "seasonal" business license signed by the city manager or his designee.

(Ord. No. 4-09, 6-1-09)

Sec. 18-116. Showing of license.

At the request of any law enforcement official or citizen of the city, a person in possession of an "annual" or "seasonal" business license is required to show such license.

(Ord. No. 4-09, 6-1-09)

Sec. 18-117. Fee, non-transferable, record of license, denial, revocation or suspension.

All "annual" or "seasonal" licenses granted under this division are subject to the same conditions listed under sections 18-98, 18-99, 18-100 and 18-101 of this article.

(Ord. No. 4-09, 6-1-09)

Sec. 18-118 Criminal penalty.

Any person violating any of the provisions of this chapter and articles stated within, shall upon conviction, be guilty of a misdemeanor, and shall be punished as provided in section 1-7(d).

(Ord. No. 4-09, 6-1-09)

Secs. 18-119, 18-120. Reserved.

ARTICLE III. BED AND BREAKFAST

Sec. 18-121. Purpose.

This article is established to enable single-family dwelling units of historic significance to conduct bed and breakfast operations as defined in the city's zoning ordinance, chapter 98. This chapter is enacted on the basis of the public policy that supports the city as a tourist destination for persons interested in the architectural and historical significance of the city's single-family structures. This article also focuses on the need to provide an incentive for owners to continue occupancy and maintenance of historic structures. This article emphasizes

protection to neighborhoods with the provisions of standards that prohibit nuisance and detrimental change in the single-family character of any site proposed for a bed and breakfast operation.

(Comp. Ords. 1982, § 3.984.01)

Charter reference(s)—Municipal powers, licenses, § 2.3(q).

Sec. 18-122. Licensing fees.

It shall be unlawful for any person to operate a bed and breakfast operation without first having obtained a license. The fee for issuance of a license required under this section shall be collected by the office of the city development department. The fee for issuance of the license shall be set from time to time, and the issuance fee and annual license fee may be changed by city council resolution. An annual license fee set from time to time shall be paid at the office of the city development department, who shall issue the license in January of each year.

(Comp. Ords. 1982, § 3.984.03)

Sec. 18-123. Application requirements.

Applicants for a license to operate a bed and breakfast shall submit a floor plan of the single-family dwelling unit illustrating that the proposed operation will comply with the city's zoning ordinance, chapter 98, other applicable city codes and ordinances, and within the terms of this article.

(Comp. Ords. 1982, § 3.984.04)

Sec. 18-124. Consideration of issuance.

After application is duly filed with the city development department for a license under this article, the planning commission shall determine whether any further licenses shall be issued based upon the public need to protect neighborhoods from detrimental change and to encourage the occupancy and maintenance of historic buildings and structures by single-family owners. In the determination by the planning commission of the number of bed and breakfast operations required to provide for such public need, the planning commission shall consider the effect upon residential neighborhoods and public convenience, concentration and location of existing license holders, and the necessity of the issuance of additional licenses.

(Comp. Ords. 1982, § 3.984.05)

Sec. 18-125. Public nuisance violations.

Bed and breakfast operations shall not be permitted whenever the operation endangers, offends or interferes with the safety or rights of others so as to constitute a nuisance.

(Comp. Ords. 1982, § 3.984.06)

Sec. 18-126. Authority for denial.

The floor plan for a bed and breakfast operation shall be reviewed by the city development department for compliance with all city, state and federal codes and ordinances. If the city development department finds that an applicant cannot meet a particular requirement, the city development department shall have authority to deny the applicant a license. The denial may be appealed to the city board of appeals, who may then weigh the facts of the case and make a final decision.

(Comp. Ords. 1982, § 3.984.07)

Sec. 18-127. Suspension, revocation and renewal.

The city development department shall have the authority to refuse to renew a license or to suspend or revoke a license for continued and repeated violations of the provisions of this article. A decision to deny a license may be appealed to the city council by the applicant. Any license issued under the provisions of this article may be revoked by the city council for good cause shown after investigation and opportunity to the holder of such license to be heard in opposition. In such investigation, the compliance or noncompliance with state law and local ordinances, the conduct of the licensee in regard to the public and other consideration shall be weighed in determination of such issue.

(Comp. Ords. 1982, § 3.984.08)

Sec. 18-128. Transferability.

No license issued under this article is transferable.

(Comp. Ords. 1982, § 3.984.08)

Sec. 18-129. Penalty for violations.

It shall be a misdemeanor to violate this article. Violation of this article shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 3.984.09)

Secs. 18-130—18-160. Reserved.

ARTICLE IV. GOING OUT OF BUSINESS SALES[23]

DIVISION 1. GENERALLY

Sec. 18-161. 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:

Going out of business sale means any sale whether described by such name or by any other name such as, but not limited to, "closing out sale", "liquidation sale", "lost our lease sale", "forced to vacate sale", held in such a manner as to indicate a belief that upon disposal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted.

[23]State law reference(s)—Going out of business sales, closing out sales, bankruptcy sales, fire sales and the like, MCL 442.211 et seq.

Goods means all goods, wares, merchandise and other personal property excepting choses in action and money.

Removal sale means any sale held in such a manner as to include a belief that upon disposal of the stock of goods on hand the business will cease and discontinue at the premises where the sale is conducted and thereafter will be moved to and occupy another location.

(Comp. Ords. 1982, § 3.983.01)

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

State law reference(s)—Similar definitions, MCL 442.211.

Secs. 18-162—18-180. Reserved.

DIVISION 2. LICENSE[24]

Sec. 18-181. Required; application of article.

No person shall advertise, represent or hold out that any sale of goods is an insurance, bankruptcy, mortgage, insolvent, assignee's, executor's, administrator's, receiver's, trustee's, removal or sale, going out of business or sale of goods damaged by fire, smoke, water or otherwise, unless he first obtains a license to conduct the sale from the city clerk. This article shall not apply to any sales by a person regularly engaged in insurance or salvage sale of goods, or the sale of goods which have been damaged by fire, smoke, water or otherwise, who acquired the goods for the account of others as a result of fire or other casualty.

(Comp. Ords. 1982, § 3.983.02)

State law reference(s)—Similar provisions, MCL 442.212.

Sec. 18-182. Application, contents.

Any applicant for a license under this article shall file an application in writing and under oath, on a form to be provided, with the clerk, setting out the following facts and information regarding such a proposed sale:

(1) The name and address of the applicant for the license, who must be the owner of the goods to be sold, and in addition, if the applicant is a partnership, corporation, firm or association, the name and the position of the individual filing such application.

(2) The name and style in which such sale is to be conducted, and the address where the sale is to be conducted.

(3) A description of the place where such a sale is to be held.

(4) The nature of the occupancy, whether by lease or sublease, and the effective date of termination of such occupancy.

(5) The dates and period of time during which the sale is to be conducted.

(6) The name and address of the person who will be in charge and responsible for the conduct of the sale.

[24]Charter reference(s)—Municipal powers, licenses, § 2.3(q).

(7) A full explanation with regard to the condition or necessity which is the occasion for the sale, including a statement of the descriptive name of the sale and the reasons why the name is truthfully descriptive of the sale. If the application is for a license to conduct a going out of business sale, it shall also contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale. If the application is for a license to conduct a removal sale, it shall also contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale, in addition to the location of the premises to which the business is to be moved. If the application is for a license to conduct a sale of goods damaged by fire, smoke, water or otherwise, it shall also contain a statement as to the time, location and cause of the damage.

(8) A full, detailed and complete inventory of the goods that are to be sold, which inventory shall:

a. Itemize the goods to be sold and contain sufficient information concerning each item, including make and brand name, if any, to clearly identify it.

b. List separately any goods which were purchased during a 60-day period immediately prior to the date of making application for the license.

c. Show the cost price of each item in the inventory, together with the name and address of the seller of the items to the applicant, the date of the purchase, the date of the delivery of each item to the applicant and the total value of the inventory at cost.

d. In no case exceed 200 percent of the total value of merchandise upon which personal property tax was paid by the applicant or his predecessor as evidenced by a copy of the last personal property tax receipt issued.

(9) A statement that no goods will be added to the inventory after the application is made or during the sale and that the inventory contains no goods received on consignment.

(Comp. Ords. 1982, § 3.983.03)

State law reference(s)—Similar provisions, MCL 442.214.

Sec. 18-183. Fee.

Any applicant under this article shall submit to the city clerk with the license application or renewal a fee set from time to time.

(Comp. Ords. 1982, § 3.983.04)

Sec. 18-184. Effect of license.

(a) Any license issued in this article shall be subject to the following terms:

(1) The license shall authorize the sale described in the application for a period of not more than 30 days from the start of the sale; the license may be renewed not more than twice for a period not to exceed 30 days for each renewal only upon affidavit of the licensee that the goods listed in the inventory have not been disposed of and that no new goods have been added to the inventory. The application for renewal shall be made not more than 13 days prior to the time of the expiration of the license and shall contain a new inventory conforming to the requirements in this article.

(2) The license shall authorize only the one type of sale described in the application at the location named.

(3) The license shall authorize only the sale of goods and merchandise described in the inventory attached to the application, and no person shall order any goods for the purpose of selling and disposing of the goods under any sale authorized by this article. Any unusual purchase or additions to the stock within 60 days prior to the filing of the application under this article shall be presumptive evidence that the purchases and additions were in contemplation of the sale authorized by this article.

(4) Any license provided for in this article shall not be assignable or transferable.

(b) No license under this article shall be issued to any person to conduct a sale, other than the sale of goods damaged by fire, smoke or otherwise on the same premises within one year from the conclusion of the prior sale of the nature covered by this article.

(c) Subsection (b) of this section shall not apply to any person who acquired right or title in goods as an heir, litigant or pursuant to an order of the court.

(Comp. Ords. 1982, § 3.983.05)

Sec. 18-185. Visibility.

A copy of the application for a license to conduct a sale under this article shall be posted in a conspicuous place in the sales room where the goods are to be sold; however, the copy of the inventory attached to the application need not show the purchase price of the goods. A duplicate copy of the license shall be attached to the front door of the premises where the sale is conducted. Any advertisement published in connection with the sale shall conspicuously show the license number and the date of expiration.

(Comp. Ords. 1982, § 3.983.06)

State law reference(s)—Similar provisions, MCL 442.217.

Sec. 18-186. Penalties.

(a) No goods shall be sold on the premises at or during a sale authorized under this article, except in conformance with the requirements of this article. No goods shall be sold or offered for sale excepting the goods described in and inventoried in the original application. No goods shall be sold or offered for sale which were purchased in contemplation of such sale.

(b) Any violation of this article shall void any license issued to conduct a sale under this article in addition to any other penalty imposed by this article.

(c) Any person who advertises, represents, conducts or carries on a sale as described in this article without first having obtained a license shall be deemed as violating the provisions of this article and upon conviction shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 3.983.07)

Chapter 22 COMMUNITY DEVELOPMENT[25]

[25]Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 14; businesses, ch. 18; environment, ch. 34; historical preservation, ch. 42; land divisions and other subdivisions of land, ch. 46; special assessments, ch. 66; streets, sidewalks and other public places, ch. 70; utilities, ch. 82; vegetation, ch. 86; waterways, ch. 94; zoning, ch. 98.

ARTICLE II. DOWNTOWN DEVELOPMENT AUTHORITY[26]

DIVISION 1. GENERALLY

Sec. 22-31. Title.

This article shall be known and cited as the downtown development authority ordinance.

(Comp. Ords. 1982, § 8.200.01; Ord. No. 14-21, § 1, 12-6-2021)

Sec. 22-32. Definitions.

The terms used in this article shall have the same meaning as given to them in Part 2 of Act 57, as amended, or as provided in this section unless the context clearly indicates to the contrary. As used in this article:

Act 57 means Part 2 of Public Act No. 57 of 2018 (MCL 125.4201—MCL 125.4230).

Authority means the City of Tecumseh Downtown Development Authority as created by this article.

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.

Downtown district means the downtown district designated by this article.

(Comp. Ords. 1982, § 8.200.02; Ord. No. 14-21, § 1, 12-6-2021)

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

Sec. 22-33. Determination of necessity.

The city council determines that it is necessary, and has so expressed its determination in the passage of 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 central business district of the city; to eliminate the causes for that economic and physical deterioration; and to promote economic growth and development by establishing a downtown development authority pursuant to Act 57.

(Comp. Ords. 1982, § 8.200.03; Ord. No. 14-21, § 1, 12-6-2021)

Sec. 22-34. Creation of authority.

There is created pursuant to Act 57 a downtown development authority for the city. The authority shall be a public body corporate and shall be known and exercise its powers under the title of "Tecumseh 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 article

[26]Cross reference(s)—Boards, commissions and authorities, § 2-31 et seq.

and Act 57. The enumeration of a power in this article or in Act 57 shall not be construed as a limitation upon the general powers of the authority.

(Comp. Ords. 1982, § 8.200.04; Ord. No. 14-21, § 1, 12-6-2021)

State law reference(s)—Similar provisions, MCL 125.4202.

Sec. 22-35. Description of downtown district.

The downtown district in which the authority shall exercise its powers as provided by Act 57 shall consist of the following described territory in the city, subject to such changes as may be made pursuant to this article and Act 57: An area in the city within the boundaries described as follows:

Lots 10 through 14, inclusive, block 1, Assessor's Plat of Henry L. Hewitt's Addition to the City of Tecumseh, and also, lots 1 and 3 through lot 32, inclusive, block 6, Henry L. Hewitt's Addition to the City of Tecumseh, and also, lots 1 through 16, inclusive, and the north 72 feet of lot 17, block 7 of Henry L. Hewitt's Addition to the City of Tecumseh, and also, lots 22 through 32, inclusive, of block 7 of Henry L. Hewitt's Addition to the City of Tecumseh, and also, lots 109, 111, and the west 80 feet of lots 110 and 112 and lots 113 through 174, inclusive, and lot 177 of Assessor's Plat No. 2 of the City of Tecumseh, and also, lots 57 through 60, inclusive, and lots 62, 63 and the south 132 feet of lot 64 of the Original Plat of the City of Tecumseh, all situated in Lenawee County, Michigan.

Lots 15, 16, 1 and 2 on block 1, Assessor's Plat of Henry L. Hewitt's Addition; lots 52, 51, 50, 49, 48, 47, that piece or parcel of land described as commencing on the east line of the northeast corner of lot 44 south 1 degree 2 minutes west 514 feet; thence north 89 degrees 52 minutes east 192 feet; thence south 12 degrees 48 minutes east 105.5 feet; thence south 89 degrees 25 minutes east 14.63 feet; thence north 0 degrees 46 minutes east 538.7 feet; thence north 60 degrees 25 minutes west 290.6 feet to the place of beginning, lots 53, 54, 135 and 136 of Assessor's Plat No. 1; all that piece or parcel of land described as commencing at the northeast corner of lot 110 north 0 degrees 22 minutes east 260.8 feet; thence north 89 degrees 53 minutes west 276.5 feet; thence south 8 degrees 42 minutes west 266.55 feet; thence south 89 degrees 53 minutes east 316.1 feet to the place of beginning, lots 109, 110 and the E½ of lot 112 of Assessor's Plat No. 2; lots 15, 16, 1, 4, 5, S½ of lot 6 on the Original Plat; lots 221 and 222 on Assessor's Plat No. 2; N½ of lot 26, N½ of the east 94 feet of lot 25, the N ⅓of the west five feet of lot 25, the N ⅓of lots 24, 23, the N½ of lots 22 and 21, lots 18, 17, 2, 3, 28, 27 and 56 on the Original Plat; lots 175 and 176 of Assessor's Plat No. 2 and lots 1, 18, 17, 16, and 15 on block 8 of Assessor's Plat of Henry L. Hewitt's Addition; also lot 2 on block 6, Assessor's Plat of Henry L. Hewitt's Addition and the south 112 feet of lot 61 on the Original Plat, all situated in Lenawee County, Michigan.

(Comp. Ords. 1982, § 8.200.05; Ord. No. 14-21, § 1, 12-6-2021)

Sec. 22-36. Board of trustees.

(a) The authority shall be under the supervision and control of a board consisting of the chief executive officer of the city and not less than 8 or more than 12 members. Members shall be appointed by the chief executive officer of the city, subject to approval by the city council. Not less than a majority of the members shall be persons having an interest in property located in the downtown district. Not less than one of the members shall be a resident of the downtown district if the downtown district has 100 or more persons residing within it. A member shall serve a term of four years. Terms shall be staggered. A member shall hold office until the member's successor is appointed. An appointment to fill a vacancy shall be made by the chief executive officer of the city for the unexpired term only. Members of the board shall serve without compensation but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board.

(b) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(c) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, Public Act No. 267 of 1976 (MCL 15.261 et seq.). Public notice of the time, date and place of the meeting shall be given in the manner required by Public Act No. 267 of 1976 (MCL 15.261 et seq.). The board shall adopt rules consistent with Public Act No. 267 of 1976 (MCL 15.261 et seq.) governing its procedure and the holding of regular meetings, subject to the approval of the city council. Special meetings may be held if called in the manner provided in the rules of the board.

(d) Pursuant to notice and after having been given an opportunity to be heard, a member of the board may be removed for cause by the city council. Removal of a member is subject to review by the circuit court.

(e) All expense items of the authority shall be publicized monthly, and the financial records shall always be open to the public.

(f) In addition to the items and records prescribed in subsection (e) of this section, a writing prepared, owned, used, in the possession of or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Public Act No. 442 of 1976 (MCL 15.231 et seq.).

(Comp. Ords. 1982, § 8.200.06; Ord. No. 14-21, § 1, 12-6-2021)

Cross reference(s)—Boards, commissions and authorities, § 2-31 et seq.

State law reference(s)—Similar provisions, MCL 125.4204.

Sec. 22-37. Powers of the authority.

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

(Comp. Ords. 1982, § 8.200.07; Ord. No. 14-21, § 1, 12-6-2021)

State law reference(s)—Powers of downtown development authority board, MCL 125.4207; downtown development authority, taxing power, MCL 125.4212.

Sec. 22-38. Director; bond.

If a director is ever employed as authorized by section 205 of Act 57, they 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 57.

(Comp. Ords. 1982, § 8.200.08; Ord. No. 14-21, § 1, 12-6-2021)

State law reference(s)—Downtown development authority, director, bond, MCL 125.1655.

Sec. 22-39. Bylaws.

The board of trustees shall adopt rules and regulations governing its procedures and the holding of regular meetings subject to the approval of the city council. Such rules of operation shall be governed by Public Act No. 267 of 1976 (MCL 15.261 et seq.) and Public Act No. 442 of 1976 (MCL 15.231 et seq.).

(Comp. Ords. 1982, § 8.200.09; Ord. No. 14-21, § 1, 12-6-2021)

Sec. 22-40. Fiscal year; adoption of budget.

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

(b) The board shall annually prepare a budget and shall submit it to the council on the same date that the proposed budget for the city is required by the 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.

(Comp. Ords. 1982, § 8.200.10; Ord. No. 14-21, § 1, 12-6-2021)

Charter reference(s)—Budget procedures, § 8.2.

State law reference(s)—Downtown development authority, budget, MCL 125.4228.

Secs. 22-41—22-60. Reserved.

DIVISION 2. TAX INCREMENT FINANCING PLAN

Sec. 22-61. 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:

Base year assessment roll means the base year assessment roll caused by the city to be prepared in accordance with section 22-64.

Captured assessed value means the amount in any one year by which the current assessed value as finally equalized of all taxable property in the development district exceeds the initial assessed value.

Development area means the area described in section 22-63.

Development plan means the "Development Plan No. 3 and Tax Increment Financing Plan No. 3," dated July 8, 2021 as transmitted to the city by the downtown development authority for public hearing and confirmed by this division, copies of which are on file in the office of the city clerk.

State law reference(s)—Downtown development authority, development plan, MCL 125.4217 et seq.

Downtown development authority means the City of Tecumseh Downtown Development Authority.

Initial assessed value—1984 downtown district means the most recently assessed value as finally equalized of all the taxable property within the boundaries of the development area at the time of adoption of this division, being the values of the assessment roll equalized in May of 1984 for properties within the downtown district as established by division 1 of this article and this division.

Initial assessed value—1991 downtown district means the most recently assessed value as finally equalized of all the taxable property within the boundaries of the development area at the time of adoption of the ordinance from which this division derives, being the values of the assessment roll equalized in May 1992 for properties within the expanded downtown district as established by Ordinance No. 3-91, section 22-35.

Project fund means the downtown development authority tax increment project fund established pursuant to section 22-66.

Taxing jurisdiction means each unit of government levying an ad valorem property tax on property in the development area.

(Comp. Ords. 1982, § 8.202.01; Ord. No. 14-21, § 1, 12-6-2021)

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

Sec. 22-62. Approval and adoption of development plan and tax increment financing plan.

The development plan and tax increment financing plan were approved by the Tecumseh City Council at its November 1, 2021 regular meeting, following the requisite public hearing at its October 4, 2021 regular meeting and recommendation by the downtown development authority board at its July 8, 2021 regular meeting.

Development plan no. 3 and tax increment financing plan no. 3 are hereby adopted by the ordinance from which this article is derived. The duration of the plan shall be 30 years from the effective date of the ordinance from which this section is derived, except as it may be extended or reduced by subsequent amendment of the plan and this division. A copy of the plan and all amendments to the plan shall be maintained on file in the city clerk's office and cross-indexed to this division.

(Comp. Ords. 1982, § 8.202.02; Ord. No. 14-21, § 1, 12-6-2021)

Sec. 22-63. Boundaries of development area.

The boundaries of the development area include the downtown development districts created in section 22-31 as described as follows:

> Lots 10 through 14, inclusive, block 1, Assessor's Plat of Henry L. Hewitt's Addition to the City of Tecumseh, and also, lots 1 and 3 through 32, inclusive, block 6, Henry L. Hewitt's Addition to the City of Tecumseh, and also, lots 1 through 16, inclusive, and the north 72 feet of lot 17, block 7 of Henry L. Hewitt's Addition to the City of Tecumseh, and also lots 22 through 32, inclusive, of block 7 of Henry L. Hewitt's Addition to the City of Tecumseh, and also, lots 109, 111, and the west 80 feet of lots 110 and 112 and lots 113 through 174, inclusive, and lot 177 of Assessor's Plat No. 2 of the City of Tecumseh, and also, lots 57 through 60, inclusive, the south 112 feet of lot 61, and lots 62, 63 and the south 132 feet of lot 64 of the Original Plat of the City of Tecumseh, all situated in Lenawee County, Michigan.
>
> Lots 15, 16, 1 and 2 on block 1, Assessor's Plat of Henry L. Hewitt's Addition; lots 52, 51, 50, 49, 48, 47, that piece or parcel of land described as commencing on the east line of the northeast corner of lot 43 south 1 degree 2 minutes west 514 feet; thence north 89 degrees 52 minutes east 192 feet; thence south 12 degrees 48 minutes east 105.5 feet; thence south 89 degrees 25 minutes east 14.63 feet; thence north 0

degrees 46 minutes east 538.7 feet; thence north 60 degrees 25 minutes west 290.6 feet to the place of beginning, lots 53, 54, 135 and 136 of Assessor's Plat No. 1; all that piece or parcel of land described as commencing at the northeast corner of lot 110 north 0 degrees 22 minutes east 260.8 feet; thence north 89 degrees 53 minutes west 276.5 feet; thence south 8 degrees 42 minutes west 266.55 feet; thence south 89 degrees 53 minutes east 316.1 feet to the place of beginning, lots 109, 110 and the E½ of lot 112 of Assessor's Plat No. 2; lots 15, 16, 1, 4, 5, S½ of lot 6 on the Original Plat; lots 221 and 222 on Assessor's Plat No. 2; N½ of lot 26, N½ of the east 94 feet of lot 25, the N ⅓of the west five feet of lot 25, the N½ of lots 24, 23, the N½ of lots 22 and 21, lots 18, 17, 2, 3, 28, 27 and 56 on the Original Plat; lots 175 and 176 of Assessor's Plat No. 2 and lots 1, 18, 17, 16 and 15 on block 8 of Assessor's Plat of Henry L. Hewitt's Addition; also lot 2 on block 6, Assessor's Plat of Henry L. Hewitt's Addition and the south 112 feet of lot 61 on the Original Plat, all situated in Lenawee County, Michigan.

(Comp. Ords. 1982, § 8.202.03; Ord. No. 14-21, § 1, 12-6-2021)

Sec. 22-64. Preparation of base year assessment roll.

(a) Prior to the fourth Monday of May, the city shall cause the initial base year assessment roll to be prepared for those properties included in the 1991 downtown district expansion. The initial base year assessment roll shall list each taxing jurisdiction in which the development area is located, the initial assessed value of the development area on the effective date of the ordinance from which this section derives and the amount of tax revenue derived by each taxing jurisdiction from ad valorem taxes on the property within the development area. Properties located in the downtown district created in 1984, and included in the 1984 development plan and tax increment plan, shall retain their initial base assessment roll as established by this division.

(b) Copies of the initial base year assessment roll shall be transmitted to the city treasurer, county treasurer, downtown development authority and each taxing jurisdiction, together with a notice that the assessment roll has been prepared in accordance with this division and the tax increment financing plan contained in the development plan approved by this division.

(Comp. Ords. 1982, § 8.202.04; Ord. No. 14-21, § 1, 12-6-2021)

Sec. 22-65. Preparation of annual base year assessment roll.

Each year within 15 days following the final equalization of property in the development area, the city shall cause to be prepared an updated base year assessment roll. The updated base year assessment roll shall show the information required in the initial base year assessment roll and, in addition, the captured assessed value for that year. Copies of the annual base year assessment roll shall be transmitted by the city to the same persons as the initial base year assessment roll, together with a notice that it has been prepared in accordance with this division.

(Comp. Ords. 1982, § 8.202.05; Ord. No. 14-21, § 1, 12-6-2021)

Sec. 22-66. Establishment of project fund.

The treasurer of the downtown development authority shall establish a separate fund which shall be kept in a depository bank account in a bank approved by the city treasurer, to be designated the tax increment project fund. All moneys received by the downtown development authority pursuant to the development plan shall be deposited in the project fund. All moneys in that fund and earnings on the fund shall be used only in accordance with the development plan.

(Comp. Ords. 1982, § 8.202.06; Ord. No. 14-21, § 1, 12-6-2021)

Sec. 22-67. Payment of tax increments to downtown development authority.

Pursuant to sections 214 and 215 of Act 57, the city and county treasurers shall, as ad valorem taxes are collected on the property in the development area, pay that proportion of the taxes, except for penalties and collection fees, that the captured assessed values bears to the initial assessed value to the treasurer of the downtown development authority for deposit in the project fund. The payments shall be made on the dates on which the city and county treasurers are required to remit taxes to each of the taxing jurisdictions.

(Comp. Ords. 1982, § 8.202.07; Ord. No. 14-21, § 1, 12-6-2021)

Sec. 22-68. Use of moneys in the project fund.

The money credited to the project fund and on hand in the fund from time to time shall annually be used in the following manner and following order of priority:

(1) To pay into the debt retirement fund for all outstanding series of bonds issued pursuant to this plan, an amount equal to the interest and principal coming due (in the case of principal whether by maturity or mandatory redemption) prior to the next collection of taxes, less any credit for sums on hand in the debt retirement fund.

(2) To establish a reserve account for payment of principal and interest on bonds issued pursuant to this plan, an amount equal to one-fifth the largest combined annual principal and interest payments due on bonds issued pursuant to this plan until the amount to the credit of the reserve account is equal to the largest combined annual principal and interest requirements on bonds issued pursuant to this plan.

Any amounts to the credit of the reserve account at the beginning of a fiscal year in excess of the requirement of the preceding sentence shall be considered tax increment revenue for that year.

(3) To pay the administrative and operating costs of the downtown development authority and the city for the development area, including planning and promotion, to the extent provided in the annual budget of the downtown development authority.

(4) To pay, the extent determined desirable by the downtown development authority and approved by the city, the cost of completing the remaining public improvements as set forth in the development plan to the extent those costs are not financed from the proceeds of bonds.

(5) To pay the cost of any additional improvements to the development that are determined necessary by the downtown development authority and approved by the city council.

(6) To reimburse the city for funds advanced to acquire property, clear land, make preliminary plans, and improvements necessary for the development of the development area in accordance with this plan.

Any tax increment receipts in excess of those needed under subsections (1)—(6) of this section shall revert to the taxing jurisdiction or used for future development activities within the development area, as defined in the development plan or as expanded to include all or parts of the downtown development district pursuant to amendment or modification of the development plan pursuant to applicable provisions of Act 57 and other laws.

(Comp. Ords. 1982, § 8.202.08; Ord. No. 14-21, § 1, 12-6-2021)

Sec. 22-69. Annual reports and website.

(a) Subject to section 910 of Act 57, the authority shall maintain a website or utilize the existing website of the city that is operated and regularly maintained with access to authority records and documents, including all of the following:

(1) Minutes of all board meetings.

(2) Annual budget, including encumbered and unencumbered fund balances.

(3) Annual audits.

(4) Currently adopted development plan, if not included in a tax increment financing plan.

(5) Currently adopted tax increment finance plan, if currently capturing tax increment revenues.

(6) Current authority staff contact information.

(7) A listing of current contracts with a description of those contracts and other documents related to management of the authority and services provided to the authority.

(8) An updated annual synopsis of activities of the authority.

(b) Subject to section 911 of Act 57, annually, on a form and in the manner prescribed by the Michigan department of treasury, the authority shall submit to the city council, the governing body of a taxing unit levying taxes subject to capture by the authority, and the department of treasury a report on the status of the tax increment financing account. The report shall include all of the following:

(1) The name of the authority.

(2) The date the authority was formed, the date the tax increment financing plan is set to expire or terminate, and whether the tax increment financing plan expired during the immediately preceding fiscal year.

(3) The date the authority began capturing tax increment revenues.

(4) The current base year taxable value of the tax increment financing district.

(5) The unencumbered fund balance for the immediately preceding fiscal year.

(6) The encumbered fund balance for the immediately preceding fiscal year.

(7) The amount and source of revenue in the account, including the amount of revenue from each taxing jurisdiction.

(8) The amount in any bond reserve account.

(9) The amount and purpose of expenditures from the account.

(10) The amount of principal and interest on any outstanding bonded indebtedness.

(11) The initial assessed value of the development area or authority district by property tax classification.

(12) The captured assessed value retained by the authority by property tax classification.

(13) The tax increment revenues received for the immediately preceding fiscal year.

(14) Whether the authority amended its development plan or its tax increment financing plan within the immediately preceding fiscal year and if the authority amended either plan, a link to the current development plan or tax increment financing plan that was amended.

(15) Any additional information the city council or the department of treasury considers necessary.

(Comp. Ords. 1982, § 8.202.09; Ord. No. 14-21, § 1, 12-6-2021)

Sec. 22-70. Refund of surplus tax increments.

Any unencumbered surplus money in the project fund at the end of the year, as shown by the annual report of the downtown development authority, shall be paid by the authority to the city or county treasurer, as the case may be, and rebated by them to the appropriate taxing jurisdiction.

(Comp. Ords. 1982, § 8.202.10)

State law reference(s)—Downtown development authority, reversion of surplus funds to taxing bodies, MCL 125.1665.

Chapter 26 ELECTIONS[27]

Sec. 26-1. Precinct 1.

Precinct 1 of the City of Tecumseh shall consist of all that part of the City of Tecumseh lying easterly and northerly of a line beginning in the center line of North Union Street at the north city limits; thence Southerly in the center line of North Union Street to the center of Brown Street; thence easterly in the center line of Brown Street to the center of North Maumee Street; thence southerly in the center line of North Maumee Street to the center of Chicago Boulevard; thence easterly in the center line of Chicago Boulevard to the eastern boundary of the city limits.

(Comp. Ords. 1982, § 11.010.01; Ord. No. 17-97, § 1, 12-22-1997; Ord. No. 13-21, § 1, 11-1-2021)

Sec. 26-2. Precinct 2.

Precinct 2 of the City of Tecumseh shall consist of all that part of the City of Tecumseh lying westerly and northerly of a line beginning in the center line of North Union Street at the north city limits; thence Southerly in the center line of North Union Street to the center of West Chicago Boulevard; thence westerly in the center line of West Chicago Boulevard to the center of Adrian Street; thence Southerly in the center line of Adrian Street to the center of West Pottawatamie Street; thence Westerly in the center line of West Pottawatamie Street to the center of Occidental Road; thence northerly in the center line of South Occidental Road to the center of Chicago Boulevard; thence westerly in the center line of Chicago Boulevard to the west boundary of the city limits.

(Comp. Ords. 1982, § 11.010.02; Ord. No. 17-97, § 2, 12-22-1997; Ord. No. 13-21, § 1, 11-1-2021)

Sec. 26-3. Precinct 3.

Precinct 3 of the City of Tecumseh shall consist of all that part of the City of Tecumseh lying easterly and southerly of a line beginning in the center line of East Chicago Boulevard at the east city limits; thence Westerly in the center line of East Chicago Boulevard to the center of Maumee Street; thence northerly in the center line of North Maumee Street to the center of Brown Street; thence westerly in the center line of Brown Street to the center of North Union Street; thence southerly in the center line of North Union Street and South Union Street to

[27]Charter reference(s)—Elections, § 3.1 et seq.; elections, wards and precincts, § 3.3.

Cross reference(s)—Administration, ch. 2.

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

the center of West Russell Road; thence Easterly in the center line of West Russell Road to the center of Raisin Center Highway; thence southerly in the center line of Raisin Center Highway to the south boundary of the city limits.

(Comp. Ords. 1982, § 11.010.03; Ord. No. 17-97, § 3, 12-22-1997; Ord. No. 13-21, § 1, 11-1-2021)

Sec. 26-4. Precinct 4.

Precinct 4 of the City of Tecumseh shall consist of all that part of the City of Tecumseh lying westerly and southerly of a line beginning in the center line of West Chicago Boulevard at the west city limits; thence easterly in the center line of West Chicago Boulevard to the center of Occidental Road; thence Southerly in the center line of South Occidental Road to the center of West Pottawatamie Street; thence easterly in the center line of West Pottawatamie Street to the center of Adrian Street; thence northerly in the center line of Adrian Street to the center of West Chicago Boulevard; thence easterly in the center line of West Chicago Boulevard to the center of Union Street; thence southerly in the center line of South Union Street to the center of West Russell Road; thence easterly in the center line of West Russell Road to the center of Raisin Center Highway; thence southerly in the center line of Raisin Center Highway to the south boundary of the city limits.

(Comp. Ords. 1982, § 11.010.04; Ord. No. 17-97, § 4, 12-22-1997; Ord. No. 13-21, § 1, 11-1-2021)

Chapter 30 EMERGENCY SERVICES[28]

ARTICLE I. IN GENERAL

Secs. 30-1—30-30. Reserved.

ARTICLE II. ALARM SYSTEMS[29]

DIVISION 1. GENERALLY

Sec. 30-31. Violation; penalty.

Any person who violates any of the provisions of this article shall be guilty of a misdemeanor.

(Comp. Ords. 1982, § 3.973.06)

Secs. 30-32—30-50. Reserved.

[28]Charter reference(s)—General municipal powers, § 2.2.

Cross reference(s)—Businesses, ch. 18; fire prevention and protection, ch. 38.

[29]Cross reference(s)—Fire prevention and protection, ch. 38.

State law reference(s)—Private security guard act of 1968, alarm systems, MCL 338.1051 et seq.

DIVISION 2. INSTALLERS, SELLERS, LESSORS AND OPERATORS

Sec. 30-51. Alarm systems license.

No person shall engage in the activity of installing, leasing, maintaining, repairing, replacing, servicing or responding to fire, crime in progress or other emergency alarm systems for profit within the city unless licensed pursuant to this division.

(Comp. Ords. 1982, § 3.973.01)

Charter reference(s)—Municipal powers, regulation of trades and occupations, § 2.3(n); municipal powers, licenses, § 2.3(q).

Sec. 30-52. Issuance of license.

The city clerk shall issue a license to a person to engage in the activity described in section 30-51 if application is made on the form supplied by the city and if the following are submitted by the applicant:

(1) The annual license fee shall be set from time to time and may be changed or amended by resolution of the city council.

(2) Evidence of public liability insurance in a sum as determined from time to time by resolution of the city council.

(Comp. Ords. 1982, § 3.973.02)

Sec. 30-53. Prohibited activities.

Persons engaged in the business of installing, leasing, maintaining, repairing, replacing or servicing burglar, holdup or fire alarm systems shall not do any of the following:

(1) Represent to anyone that any of the equipment they sell or service has been tested or in any way approved by the city. If the city will permit the system to connect directly or indirectly to the police or fire department, that fact may be communicated to customers.

(2) Install a system that requires a permit pursuant to section 30-71 unless such permit is first obtained by the user.

(3) Fail to provide repair service to any of their customers in the city within 24 hours of a request for such service.

(4) Engage in any such business when the insurance required is not in effect.

(Comp. Ords. 1982, § 3.973.03)

Secs. 30-54—30-70. Reserved.

DIVISION 3. CONNECTION PERMIT

Sec. 30-71. Alarm connection permit.

No person shall use or operate, attempt to use or operate or arrange, adjust, program or otherwise install any electric board, control system, device or devices that will, upon activation, either mechanically, electronically or by any other means, automatic or otherwise, initiate the intrastate or interstate calling, dialing or connection, either directly or indirectly, to any telephone number assigned to the police or fire department by a public telephone company, or to any other monitoring device operated by such city department without first obtaining from the city an alarm connection permit. Such permit shall be issued by the city upon payment of the permit fee and completion by the applicant of a form supplied the city. The form shall include an agreement by the applicant to pay for false alarm fees specified by this article. Except in the case of government-owned real estate, the application must also contain an agreement executed by the owner of the real estate on which the alarm system is located that if the fees required by this article are not paid, they may be assessed against the real estate pursuant to applicable state statute or city ordinance.

(Comp. Ords. 1982, § 3.973.04)

Secs. 30-72—30-90. Reserved.

DIVISION 4. FALSE ALARMS

Sec. 30-91. Penalty.

(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:

False alarm means an alarm received by the city when activated for a reason other than a fire, crime in progress or other emergency.

(b) *Fee.* Whenever the fire department responds to a false alarm, the person whose property is served by the alarm system shall pay a fee set from time to time for each fire department response to false alarms in any calendar year.

(c) *Revocation of permit.* Failure to pay such fees shall be cause for revocation of the alarm connection permit.

(Comp. Ords. 1982, § 3.973.05)

Secs. 30-92—30-120. Reserved.

ARTICLE III. EMERGENCY RESPONSE COST RECOVERY[30]

DIVISION 1. GENERALLY

Secs. 30-121—30-140. Reserved.

DIVISION 2. INCIDENT INVOLVING HAZARDOUS MATERIALS[31]

Sec. 30-141. 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:

Expenses means but is not 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 any contract labor and materials, and those costs associated within emergency hazardous material incident, in order to ensure the safety of the city and its populace. Expenses shall also include the cost incurred by the city as a result of any unit response to an emergency hazardous materials incident.

Haz mat unit means any vehicle or unit provided by the city equipped with apparatus designed to provide emergency service in situations involving a spill, leak, accident or other similar occurrence involving hazardous materials.

Hazardous material incident means a spill, leakage, release, or threat of such action of any hazardous materials requiring immediate action to mitigate a threat to public health, safety or welfare.

Hazardous materials includes all those materials designated as hazardous by the state in part 201 of Public Act No. 451 of 1994 (MCL 324.20101 et seq.) or by the Federal Superfund Amendment and Reauthorization Act (SARA), as amended.

Owner means any individual, firm, company, association, corporation, partnership, or group, including their officers and employees, who are either listed as the owner of record by the county register of deeds; have a land contract interest in, or are listed as the taxpayer of record of the real property where the emergency hazardous material incident occurred; or have title, use, permission or control of the hazardous material or the vehicle used to transport the hazardous material.

(Comp. Ords. 1982, § 5.301.000)

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

[30]Cross reference(s)—Finance, § 2-361 et seq.

[31]Cross reference(s)—Environment, ch. 34.

Sec. 30-142. Hazardous materials incident emergency.

If a spill, leakage, release or other dissemination of any hazardous material has occurred, the city emergency services chief 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.

(Comp. Ords. 1982, § 5.302.000)

Sec. 30-143. Expenses of an emergency hazardous materials incident.

In the event of an emergency hazardous material 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 the emergency hazardous materials incident. If the owner or person fails to pay the expenses within 60 days after the city mails its invoice of expenses to the owner or person, the city may take such collection efforts to recover the expenses that it deems appropriate, including but not limited to causing such expenses to be levied and assessed, as a special assessment upon the real property where the hazardous materials emergency occurred; however, such unpaid expenses may not be levied as a special assessment against any real property unless the owner or person in charge of or responsible for the real property has a connection or involvement with the hazardous material that resulted in an emergency hazardous material incident.

(Comp. Ords. 1982, § 5.303.000)

Sec. 30-144. Payment of invoice.

Payment of an invoice for expenses incurred by the city under this division shall not constitute an admission of guilt or responsibility under any other ordinance, rule or regulation.

(Comp. Ords. 1982, § 5.304.000)

Secs. 30-145—30-170. Reserved.

DIVISION 3. INCIDENTS INVOLVING ALCOHOL AND/OR CONTROLLED SUBSTANCES

Sec. 30-171. 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:

Emergency response means:

(1) The provision, sending and/or utilizing of police, public service, firefighting and rescue services by the city, or by a private individual or corporation operating at the request or direction of the city, to an incident resulting in an accident involving a motor vehicle where one or more of the drivers were operating the motor vehicle while impaired by or under the influence of an alcoholic beverage or controlled substance; or

(2) An incident resulting in traffic stop and arrest by a police officer when the driver was operating the motor vehicle while under the influence of an alcoholic beverage or controlled substance.

Expense of an emergency response means the direct and reasonable costs incurred by the city making an appropriate emergency response to the incident, including the costs of providing police, firefighting and rescue services at the scene of the incident. These costs further include the salaries or wages of the personnel responding to the incident and the costs connected with the administration and provision of a breathalyzer or intoximeter test.

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

Sec. 30-172. Presumptions.

For purposes of this division, a person is impaired or under the influence of an alcoholic beverage or a controlled substance or the combination of intoxicating liquor and a controlled substance when his physical or mental abilities are impaired to a degree that he no longer has the ability to operate a motor vehicle with the caution characteristic of a sober person of ordinary prudence. Further, it shall be presumed that a person was operating a motor vehicle while impaired by or under the influence of an alcoholic beverage if a chemical analysis of his blood, urine or breath indicates that the amount of alcohol in his blood was in excess of 0.07 grams per 100 milliliters of blood, per 210 liters of breath or 67 milliliters of urine.

Sec. 30-173. Liability for expense of an emergency response.

Any person who, while impaired by or under the influence of an alcoholic beverage or any controlled substance, or the combined impairment by or influence of an alcoholic beverage and any controlled substance, operates a motor vehicle, which operation results in an emergency response, shall be responsible and liable for the expense of the emergency response.

Sec. 30-174. Charge against person liable.

The expense of an emergency response shall be a charge against the person liable for expenses under this division. If the owner or person fails to pay such expenses within 60 days after the city mails its invoice of expenses to the owner or person, the city may take such collection efforts to recover the expenses that it deems appropriate.

Sec. 30-175. Payment of invoice.

Payment of an invoice for expenses incurred by the city under this division shall not constitute an admission of guilt or responsibility under any other ordinance, rule or regulation.

Chapter 34 ENVIRONMENT

ARTICLE I. IN GENERAL

Secs. 34-1—34-30. Reserved.

ARTICLE II. RESERVED[32]

Secs. 34-31—34-37. Reserved.

Chapter 38 FIRE PREVENTION AND PROTECTION[33]

ARTICLE I. IN GENERAL

Sec. 38-1. Where and how materials to be stored.

Every person who shall deposit any rubbish, flammable or combustible material, or any ashes, burning coals or embers within ten feet of any lumber, timber, wood, hay, straw, shavings, rubbish or combustive material or substance whatever within the corporate limits of the city, except in metallic, earthen or other noncombustible vessels or receptacles, or in places especially designed for that purpose by the emergency services chief, shall be guilty of a misdemeanor.

(Comp. Ords. 1982, § 5.100a.00)

State law reference(s)—Obstructing, endangering or disobeying firefighters, MCL 750.241.

Sec. 38-2. No one to ride on apparatus.

No person other than members of the fire department shall ride or get upon any apparatus of the department at, going to, or returning from any fire, nor upon any other occasion, without permission of the emergency services chief.

(Comp. Ords. 1982, § 5.102.00)

Secs. 38-3—38-30. Reserved.

ARTICLE II. OPEN BURNING

[32]Editor's note(s)—Ord. No. 3-02, adopted Sept. 16, 2002, repealed the former Art. II, §§ 34-31—34-37. The former Art. II, §§ 34-31—34-37, pertained to soil erosion and sedimentation control, and derived from Comp. Ords. 1982, §§ 7.406.01—7.406.07.

[33]Charter reference(s)—General municipal powers, § 2.2.

Cross reference(s)—Buildings and building regulations, ch. 14; emergency services, ch. 30; alarm systems, § 30-31 et seq.; littering and rubbish burning, § 62-71 et seq.; obstructing fire hydrants, § 82-112.

State law reference(s)—State fire prevention code, MCL 29.1 et seq.

Sec. 38-31. Regulated.

(a) *Purpose.* This article is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the City of Tecumseh by regulating the air pollution and fire hazards of open burning and outdoor burning.

(b) *Applicability.* This article applies to all outdoor burning and open burning within the City of Tecumseh.

(1) This article does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.

(2) This article does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.

(3) This article does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

(4) This article does not apply to burning for the purpose of heating masonry sand and water during cold weather construction.

(c) *Severability.* Should any portion of this article be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected.

(d) *Definitions.*

Brush means unseasoned wood, including the thick growth of shrubs, small trees, scrub, broken or cut branches or brushwood. Brush does not include twigs and small branches used to kindle a fire.

Campfire means a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.

Clean wood means natural wood which has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.

Construction and demolition waste means building waste materials, including but not limited to waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.

Fire chief means the chief of the Tecumseh Fire Department or other person designated by the fire chief.

Municipality means a county, township, city, or village.

Outdoor burning means open burning or burning in an outdoor wood-fired boiler or patio wood burning unit.

Open burning means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.

Outdoor wood-fired boiler means a wood-fired boiler, stove or furnace that is not located within a building intended for habitation by humans or domestic animals.

Patio wood-burning unit means a chimnea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.

Refuse means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.

(e) *General prohibition on outdoor burning and open burning.* Open burning and outdoor burning are prohibited in the City of Tecumseh unless the burning is specifically permitted by this article.

(f) *Open burning of refuse.*

(1) Open burning of refuse is prohibited.

(2) Open burning of the following materials is prohibited:

a. Construction and demolition waste.

b. Hazardous substances including but not limited to batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes, and solvents.

c. Furniture and appliances.

d. Tires.

e. Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.

f. Newspaper.

g. Corrugated cardboard, container board, office paper.

h. Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

(g) *Open burning of trees, logs, brush, stumps, leaves, and grass clippings, campfires-small bonfires.*

(1) Open burning of trees, logs, brush, stumps, leaves, and grass clippings is prohibited.

(2) Open burning of outdoor campfires and small bonfires is allowed only in accordance with all of the following provisions:

a. Except for barbecue, gas, and charcoal grills, no open burning shall be undertaken during periods when the Governor of Michigan has issued a burning ban applicable to the area.

b. All allowed open burning shall be conducted in a safe, nuisance-free manner, when wind and weather conditions minimize adverse effects and do not create a health hazard or a visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.

c. Except for barbecue, gas and charcoal grills, open burning under this section shall only be conducted at a location at least 35 feet from the nearest building that is not on the same property.

d. Campfires or small bonfires shall only be conducted between 7:00 a.m. and Midnight of the same day.

e. Open burning shall be constantly attended and supervised by a competent person of at least 18 years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

f. No materials may be burned upon any street, right of way, curb, gutter or sidewalk or on the ice of a lake, pond, and stream or water body.

g. Except for barbecue, gas and charcoal grills, patio wood burning units, no burning shall be undertaken within 25 feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the fire chief.

h. No open burning may be conducted on days when the department of environmental quality has declared an "air quality action day" applicable to the City of Tecumseh or when temperatures are expected to reach 90°F.

i. Outdoor campfires and small bonfires for cooking, ceremonies, or recreation are allowed provided they do not cause a nuisance.

j. Logs with a diameter less than four inches shall be allowed for campfires and bon fires. Larger logs shall be split into smaller pieces.

k. Campfire and bon fires shall be no larger that three feet in diameter and three feet in height at any time.

l. Except for barbecues, gas, and charcoal grills and patio wood burning units, open burning shall only be allowed in the rear yard of the property.

(h) *Agricultural burning.* Open burning of weeds, brush, and crop stubble on agricultural lands is prohibited.

(i) *Prescribed burning.*

(1) "Prescribed burn" means the burning, in compliance with a prescription and to meet planned fire or land management objectives, of a continuous cover of fuels. A "prescription" means a written plan establishing the criteria necessary for starting, controlling, and extinguishing a burn.

(2) Fires set for forest, prairie, and wildlife habitant management are allowed only if conducted in accordance with Part 515 of the Natural Resources and Environmental Protection Act, MCL 324.51501 et seq.

(j) *Outdoor wood-fired boilers.* No person shall install, use, or maintain an outdoor wood-fired boiler in the City of Tecumseh.

(k) *Patio wood-burning units.* A patio wood-burning unit may be installed and used in the City of Tecumseh only in accordance with all of the following provisions:

(1) The patio wood-burning unit shall not be used to burn refuse.

(2) The patio wood-burning unit shall burn only clean wood.

(3) The patio wood-burning unit shall be located at least 35 feet from the nearest structure that is not on the same property as the patio wood-burning unit.

(4) The patio wood-burning unit shall not cause a nuisance to neighbors.

(l) *Fire suppression training.* Notwithstanding subsections (e) and (f) of this section, structures and other materials may be burned for fire prevention training only in accordance with all of the following provisions:

a. The burn must be exclusively for fire prevention training. The burning shall not be used as a means to dispose of waste material including tires and other hazardous materials.

b. Any standing structure that will be used in fire suppression training must be inspected and should be inspected by a licensed asbestos inspector. A notification of this inspection must be submitted to the Michigan Department of Environmental Quality, Air Quality Division at least ten business days prior to burning a standing structure. The notification must be submitted using Form EQP 5661 "Notification of Intent to Renovate/Demolish."

c. All asbestos must be removed prior to conducting the fire suppression training. If the structure is a residential dwelling, the owner may remove the asbestos or have it removed by a licensed abatement contractor. If it is a commercial building, all asbestos must be removed by a licensed abatement contractor.

d. All ash shall be disposed of in an approved landfill or at an alternate location approved by the Michigan Department of Environmental Quality.

e. Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the fire chief determines that they are necessary for the fire practice.

f. At least ten days before a planned practice burn, residents within 300 feet of the site of the proposed burn shall be notified.

g. All fire suppression training should conform to the guidelines established by the National Fire Protection Association (NFPA) Standard on Live Fire Training Evolutions (NFPA 1403).

(m) *Burning permits.*

(1) An outdoor campfire or small bonfire does not require a permit provided that the fire complies with all other applicable provisions of this article.

(2) All burning under this section shall require compliance with all applicable provisions of this article and any additional special restrictions deemed necessary to protect public health and safety.

(n) *Liability.* A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

(o) *Right of entry and inspection.* The fire chief or any authorized officer, agent, employee or representative of the City of Tecumseh who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this article.

(p) *Enforcement and penalties.*

(1) The fire chief, his/her designated representatives, and local law enforcement agencies are authorized to enforce the provisions of this article.

(2) Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this article or fails to comply with a duly authorized order issued pursuant to this article shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
1st Offense within 3-year period*	$75.00	$500.00
2nd Offense within 3-year period*	150.00	500.00
3rd Offense within 3-year period*	325.00	500.00
4th or More Offense within 3-year period*	500.00	500.00

*Determined on the basis of the date of commission of the offense(s).

(3) The violator shall pay costs, which may include all expenses, direct and indirect, which the City of Tecumseh has incurred in connection with the municipal infraction. In no case, however, shall costs of less than $75.00 nor more than $500.00 be ordered. In addition, the City of Tecumseh shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this article. Each day that a violation of this article exists shall constitute a separate violation of this article.

(4) The fire chief, or his her designated representatives and/or local law enforcement agencies may at any time permanently revoke open burning for any reason, at any property within the City of Tecumseh when the property owner violates this article or the burning creates a continued nuisance to others.

(5) The fire chief, or his or her designated representative, is hereby authorized to enforce the provisions of this article and shall have the authority to render interpretations of this article, and to adopt policies, procedures, rules and regulations in order to clarify the application of its provisions.

(Comp. Ords. 1982, § 4.828.00; Ord. No. 6-12, 11-19-2012)

State law reference(s)—Open burning of leaves and grass clippings, MCL 324.11522.

Sec. 38-32. Burning on street.

It shall be unlawful for any person to burn leaves, trash, sticks, rubbish or other material upon the surface of any street within the city.

(Comp. Ords. 1982, § 5.103.00)

Cross reference(s)—Streets, sidewalks and other public places, ch. 70.

State law reference(s)—Open burning of leaves and grass clippings, MCL 324.11522.

Secs. 38-33—38-60. Reserved.

ARTICLE III. FLAMMABLE SUBSTANCES

Sec. 38-61. 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:

Fire wall means a brick or concrete wall not less than 12 inches in thickness, or a stone wall not less than 16 inches in thickness, to be without openings, to extend at least 18 inches above the roof and to be properly capped.

Gasoline or *naphtha* includes any gasoline, naphtha or other volatile petroleum products, whatever name called, that will flash at a temperature less than 80 degrees Fahrenheit, as tested in a Tagliabeau open cup.

(Comp. Ords. 1982, §§ 5.000a.00, 5.003.00)

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

Sec. 38-62. Manner of storing.

No person keeping gasoline or naphtha for sale or use shall store or permit to be stored within the corporate limits of the city any gasoline or naphtha within a building used for any purpose except when contained in a vaporproof supply tank.

(Comp. Ords. 1982, § 5.001.00)

Sec. 38-63. Drums, barrels, tanks.

(a) All cans, drums, barrels, tanks or other receptacles holding or containing more than ten gallons in which gasoline or naphtha is stored or handled may be placed above ground only if stored in a separate, well-ventilated box or building, not exceeding one story in height, which building or box shall be used exclusively for the storage of gasoline or naphtha, and be located at a distance of not less than ten feet from any other building or box and shall at all times be locked when not in use. Where there is no yard room, it may be stored in iron or steel tanks placed underground.

(b) All tanks in which gasoline or naphtha is stored in quantities exceeding 200 gallons shall be placed, if above ground, at a distance of not less than ten feet from a building separated by a fire wall not less than 12 inches thick, at a distance of not less than 20 feet from any building of combustible material, the tank to sit upon a substantial substructure not to exceed eight feet in height; however, nothing in this regulation shall be construed as prohibiting a manufacturer bringing into his factory in airtight cans or barrels or drums sufficient material for his daily operative needs. This does not apply to gasoline in quantities not exceeding 60 gallons when kept at a private home for private use only.

(Comp. Ords. 1982, § 5.002.00)

Sec. 38-64. How underground storage tank to be constructed.

All underground storage tanks shall be constructed of iron or steel coated on the outside with rust-resisting material, and thoroughly tested for leaks before putting in place. All underground tanks of not to exceed 500 gallons shall be made of material not less than 1/16inch in thickness. All tanks with a capacity of more than 500 gallons shall be made of material of not less than one-eighth inch in thickness. Each underground tank shall be provided with a vent pipe having a goose neck or pressure valve attached at the outer end, a filling pipe having a screw cap at the outer end, and a takeoff pipe with a cap or pump at the outer end, all of sufficient size, and made of iron, steel, brass or other suitable metal and connected securely with these pipes to the top of tank, the takeoff pipe extending down into the tank. All of these pipes shall run at a uniform ascending grade to a point outside of the building, provided no fire or lights, excepting electric installed in accordance with the National Electrical Code, are used in the room where located.

(Comp. Ords. 1982, § 5.004.00)

Sec. 38-65. Gasoline or naphtha; how handled or used for cleaning.

All gasoline or naphtha handled or used for cleaning or any other purpose where the vapor comes into contact with the open air shall be used or handled outside of any building or in a separate, well-ventilated building in which no fire or lights, other than electric lights installed in accordance with the National Electrical Code, are used separately from the other parts of the building by a fire wall constructed of brick, stone or concrete.

(Comp. Ords. 1982, § 5.005.00)

Sec. 38-66. Dynamite not to be stored in building used for other purposes; to be labeled.

(a) No person keeping dynamite for sale or use shall store or permit to be stored within the corporate limits of the city any dynamite within a building used for any other purpose.

(b) Any building containing dynamite must be labeled "dynamite" in letters not less than six inches in height or two inches in width on the building. The word "dangerous" must also be painted in plain sight of all passersby on all sides of a building containing dynamite.

(Comp. Ords. 1982, § 5.006.00)

State law reference(s)—Explosives act of 1970, MCL 29.41 et seq.

ARTICLE IV. FIRE PREVENTION CODE

Sec. 38-67 Adoption of code by reference.

Pursuant to the provisions of Public Act No. 207 of 1941, the 2018 edition of the International Fire Code, as published by the International Code Council, be and is hereby adopted as the Fire Code of the City of Tecumseh, in the State of Michigan for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said fire code on file in the office of the City of Tecumseh 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, if any, prescribed in section 38-70.

(Ord. No. 07-21, § 1, 5-17-2021)

Sec. 38-68. Code on file.

Complete printed copies of which are on file and available for public use and inspection in the office of the fire department of the City of Tecumseh, being marked and designated as the International Fire Code, 2018 edition, as published by the International Code Council.

(Ord. No. 07-21, § 1, 5-17-2021)

Sec. 38-69. References in code.

Reference in the code adopted in this article to "state" and "Michigan" shall mean the State of Michigan; reference to "municipality" and "Tecumseh" shall mean the City of Tecumseh; reference to the "municipal charter" shall mean the Charter of the City of Tecumseh; and references to "local ordinances" shall mean the City of Tecumseh ordinances.

(Ord. No. 07-21, § 1, 5-17-2021)

Sec. 38-70. Changes in the code.

The following sections of the 2018 International Fire Code (IFC) are amended or deleted as set forth and additional sections and subsections are added as indicated. Subsequent section numbers used in this section shall refer to the like numbers used in this section shall refer to like numbered sections of the 2018 International Fire Code.

The following sections are hereby revised:

Section 101.1. Insert: City of Tecumseh, Lenawee County, State of Michigan

Section 110.4. Insert: Violation penalties: Any person who shall violate any provision of this code upon conviction shall be punished as provided in section 1-7 of the City of Tecumseh Code of Ordinances. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 112.4. Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to fines as specified in section 1-7 of the City of Tecumseh Code of Ordinances.

That the geographic limits referred to in certain sections of the 2018 International Fire Code are hereby established as follows:

5704.2.9.6.1 Locations where above-ground tanks are prohibited. Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited unless the following conditions are met:

a. Meets all requirements and standards of the International Fire Code, as determined by the Fire Chief, or designee; and

b. Has been granted a Special Use Permit for such use under the Zoning Ordinance of the City of Tecumseh.

5706.2.4.4 Locations where above-ground tanks are prohibited. Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited unless the following conditions are met:

a. Meets all requirements and standards of the International Fire Code, as determined by the Fire Chief, or designee; and

b. Has been granted a Special Use Permit for such use under the Zoning Ordinance of the City of Tecumseh.

5806.2 Limitations. Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited unless the following conditions are met:

a. Meets all requirements and standards of the International Fire Code, as determined by the Fire Chief, or designee; and

b. Has been granted a Special Use Permit for such use under the Zoning Ordinance of the City of Tecumseh.

6104.2 Maximum capacity within established limits. Within the limits established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested areas, the aggregate capacity of any one installation shall not exceed a water capacity of 2,000 gallons (7570 L) unless the following conditions are met:

a. Meets all requirements and standards of the International Fire Code, as determined by the Fire Chief, or designee; and

b. Has been granted a Special Use Permit for such use under the Zoning Ordinance of the City of Tecumseh.

Exception: In particular installations, this capacity limit shall be determined by the code official, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed containers, degree of fire protection to be provided, and capabilities of the local fire department.

The following sections are hereby deleted:

Section 307, Open Burning, Recreational Fires and Portable Outdoor Fireplaces is deleted in the 2018 International Fire Code and replaced with Article II, Open Burning, Section 38-31 of the Code of Ordinances for the City of Tecumseh.

(Ord. No. 07-21, § 1, 5-17-2021)

Chapter 42 HISTORICAL PRESERVATION[34]

ARTICLE I. IN GENERAL

Secs. 42-1—42-30. Reserved.

ARTICLE II. HISTORIC LANDMARK PRESERVATION[35]

DIVISION 1. GENERALLY

Sec. 42-31. Purpose.

It is declared as a matter of public policy that the protection, enhancement, perpetuation and use of improvements of special character or special historical or aesthetic interest or value is public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this article is to:

(1) Safeguard the heritage of the city by preserving districts and historic landmarks in the city which reflect elements of its cultural, social, economic, political and architectural history.

(2) Safeguard the city's historic, aesthetic and cultural heritage as embodied and reflected in such improvements and districts.

(3) Stabilize and improve property values.

(4) Foster civic pride in the beauty and noble accomplishments of the past.

(5) Promote the use of historic landmarks for the education, pleasure and welfare of the people of the city.

(Comp. Ords. 1982, § 7.600.2600)

State law reference(s)—Similar provisions, MCL 399.202.

Sec. 42-32. 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:

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[34]Cross reference(s)—Buildings and building regulations, ch. 14; community development, ch. 22; environment, ch. 34; land divisions and other subdivisions of land, ch. 46; utilities, ch. 82; zoning, ch. 98.

State law reference(s)—Local historic districts act, MCL 399.201 et seq.; historical records and papers, MCL 399.5; historical activities, MCL 399.171 et seq.

[35]State law reference(s)—Local historic districts act, MCL 399.201 et seq.

Alteration means any act or process which changes one or more of the exterior architectural features of a structure designated for preservation or of any structure, 50 years or older, in a district designed for preservation.

Commission means the historic preservation commission.

Exterior architectural feature means the architectural style, design, general arrangement and components of all the outer surfaces of an improvement, as distinguished from the interior surfaces enclosed by such exterior surfaces, including but not limited to the kind and texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvement.

Historic district means an area or group of areas, not necessarily having contiguous boundaries, created by the city council for the purposes of this article.

Historic preservation means the protection, rehabilitation, restoration or reconstruction of districts, archeological and other sites, buildings, structures and objects.

Improvement means any building, structure, place, parking facility, fence, gate, wall, work of art, or other object constituting a physical betterment of real property, or any part of such betterment, excluding landscaping.

Landmark means any improvement which has a special character or special historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation and which has been designated as a landmark pursuant to the provisions of this article.

Owner means any person having such right to title to or interest in any improvement so as to be legally entitled, upon obtaining the required permits and approvals from the city agencies having jurisdiction over building construction, to perform with respect to such property and construction, alteration, removal, demolition or other work.

(Comp. Ords. 1982, § 7.600.2601)

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

Sec. 42-33. Exceptions.

Nothing in this article shall be construed to prevent ordinary maintenance or repair of a landmark; nor shall anything in this article be construed to prevent the construction, alteration, repair, moving or demolition of any structure under a permit issued by the inspector of buildings prior to the passage of the ordinance from which this article is derived.

(Comp. Ords. 1982, § 7.600.2614)

Sec. 42-34. Appeals.

Any person aggrieved by a decision of the historic preservation commission shall have the right to appeal concerning such decision to the city council.

(Comp. Ords. 1982, § 7.600.2615)

Secs. 42-35—42-60. Reserved.

DIVISION 2. HISTORIC PRESERVATION COMMISSION[36]

Sec. 42-61. Establishment.

The city historic preservation commission is created, consisting of seven members. Each member of the commission shall reside within the local unit. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. The members shall be appointed by the mayor. Members shall be appointed for three-year terms, and terms shall be staggered so that appointments do not recur at the same time. Members shall be eligible for reappointment. A vacancy on the commission shall be filled within 60 calendar days by an appointment made by the mayor. The commission shall include as a member, if available, a graduate of an accredited school of architecture who has two years of architectural experience or who is an architect registered in the state.

State law reference(s)—Similar provisions, MCL 399.204.

Sec. 42-62. Study committee.

The historic preservation commission shall act as a historic district study committee under Public Act No. 169 of 1970 (MCL 399.202 et seq.) until otherwise directed by resolution of the city council.

(Comp. Ords. 1982, § 7.600.2602)

Sec. 42-63. Rules.

(a) The historic preservation commission shall elect from its membership a chairperson and a vice-chairperson whose terms of office shall be fixed by the commission. The chairperson shall preside over the commission and shall have the right to vote. The vice-chairperson shall, in case of absence or disability of the chairperson, perform the duties of the chairperson.

(b) At least four members of the commission shall constitute a quorum for the transaction of its business, which shall provide for the time and place of holding regular meetings. They shall provide for the calling of special meetings by the chairperson or by at least two members of the commission. All meetings of the commission shall be open to the public, and any person or his duly constituted representative shall be entitled to appear and be heard on any matter before the commission before it reaches its decision.

(c) The commission shall keep a record, which shall be open to public view, of its resolutions, proceedings and actions. The concurring affirmative vote of a majority of members shall constitute approval of plans before it for review, or for the adoption of any resolution, motion or other action of the commission. The commission shall submit an annual report of its activities to the city council.

(Comp. Ords. 1982, § 7.600.2603)

[36]Cross reference(s)—Boards, commissions and authorities, § 2-31 et seq.

Sec. 42-64. Duties and powers.

(a) In addition to all other duties and powers set forth in this article, it shall be the duty of the commission to review all plans for the construction, alteration, repair, moving or demolition of a landmark or landmark site; and it shall have the power to pass upon such plans before a permit for each activity can be granted. In reviewing the plans, the commission shall give consideration to:

(1) The historical or architectural value and significance of the structure and its relationship to the historic value of the surrounding area;

(2) The general compatibility of exterior design, arrangement, texture, and materials proposed to be used;

(3) Guidelines for "Exterior Rehabilitation of Historic Structures," as published by the National Advisory Council on Historic Preservation; and

(4) Any other factor, including aesthetic, which it deems pertinent.

(b) The commission shall pass only on exterior features of structure and shall not consider interior arrangements, nor shall it disapprove applications except in regard to the considerations as set forth in subsection (a) of this section.

(c) The commission shall have the power to issue a certificate of approval if it approves the plans submitted to it for its review. The building inspector shall not issue a building permit until such certificate of approval has been issued by the commission or the city council.

(Comp. Ords. 1982, § 7.600.2606)

Sec. 42-65. Advice and guidance to property owners.

The historic preservation commission, upon request of any property owner, shall render advice and guidance with respect to any proposed work on a designated landmark site or any designated historic district. In rendering such advice and guidance, the historic preservation commission will be guided by the purposes and standards in this article.

(Comp. Ords. 1982, § 7.600.2611)

Sec. 42-66. Other duties.

The historic preservation commission may:

(1) Carry out, assist and collaborate in studies and programs designed to identify and evaluate structures, sites and areas worthy of preservation.

(2) Consult with and consider the ideas and recommendations of civic groups, public agencies and citizens interested in historic preservation.

(3) Inspect and investigate structures, sites and areas which it has reason to believe worthy of preservation.

(4) Disseminate information to the public concerning those structures, sites and areas deemed worthy of preservation, and may encourage and advise property owners in the protection, enhancement, perpetuation and use of landmarks, historic sites and other officially recognized property of historic interest.

(5) Consider methods other than those provided for in this article for encouraging and achieving historic preservation, and make appropriate recommendations to the city council and other bodies and agencies, both public and private.

(6) Establish such policies, rules and regulations as it deems necessary to administer its duties as provided in this article.

(Comp. Ords. 1982, § 7.600.2612)

Sec. 42-67. Yard variances.

Due to peculiar conditions of design and construction in historic neighborhoods where structures were often built close to the lot lines, it is in the public interest to retain a neighborhood's historic appearance by making variances to normal yard requirements. Where it is deemed that such variances will not adversely affect neighboring properties, the commission may recommend to the zoning board of appeals that such variance to standard yard requirements be made.

(Comp. Ords. 1982, § 7.600.2613)

Secs. 42-68—42-90. Reserved.

DIVISION 3. LANDMARKS AND LANDMARK SITES

Sec. 42-91. Designation.

(a) Any owner of property within the city may request the designation of a landmark or a landmark site, submitting to the commission an application for such designation on a form furnished by the commission.

(b) After such investigation by the commission as it deems necessary but in no case later than 45 days after the receipt of the application, unless an extension of time is agreed to by both the applicant and the commission, the application for designation shall be forwarded to the city council with a written recommendation for approval or disapproval. Such recommendation may limit itself to the proposed landmark or landmark site as described in the application or may include modification and approval as modified. The city council may then designate the landmark or landmark site upon the completion of the procedure stated in this subsection.

(c) The owner of property who has requested the designation of a site as a landmark or a landmark site may elect to make such designation binding on his successors in title. If the owner does not elect to make the designation binding any subsequent owner, he may petition the historic preservation commission for removal of the property from designation and automatically be granted such release.

(Comp. Ords. 1982, § 7.600.2604)

Secs. 42-92—42-110. Reserved.

DIVISION 4. HISTORIC DISTRICTS[37]

[37]Cross reference(s)—Zoning, ch. 98.

Sec. 42-111. Establishment.

(a) The city may establish by ordinance historic districts.

(b) Before such establishment of a historic district, the historic district study committee shall conduct studies and research and make a report on the historical significance of the buildings, structures, features, sites, objects and surroundings in the proposed historic district; and the report shall contain recommendations concerning the area to be included in the proposed historic district. Copies of the report shall be transmitted for review and recommendations to the city planning commission, to the state historical commission, and to the state historical advisory council.

(c) No more than 60 days after the transmittal of the report set forth in subsection (b) of this section, the committee shall hold a public hearing after due notice, which shall include a written notice to the owners of all properties to be included in such districts. The committee shall submit a final report with its recommendations and those of the city planning commission and a draft of a proposed ordinance to the city council.

(d) The following historic districts are established:

West Chicago Boulevard-Union Street Historic District. Bounded on the north by the rear property line of the properties fronting on the north side of West Chicago Boulevard, between North Pearl Street and 707 West Chicago Boulevard (parcel of land in N¼, section 33). Bounded on the south by the rear property lines of the properties fronting on the south side of West Chicago between and including 206 West Chicago Boulevard (lot 2, block 8, Hewitt's Addition), through and including 710 West Chicago Boulevard (part of lot 3, Assessor's Plat No. 4) and bounded on the east by the rear property lines of the properties fronting on the east side of Union Street between and including 216 South Union Street (lot 8, block 10, Hewitt's Addition) and the north line of Evans Creek. Bounded on the west by the rear property lines of the properties fronting on the west side of Union Street between and including 215 South Union Street (lot 8, block 13, Hoeg's Addition), and the north side of Evans Creek. Also including properties bounded on the north by the rear property lines of properties fronting on the north side of West Logan Street between and including 305 West Logan Street (lot 13, block 3, Hewitt's Addition), through and including 313 West Logan Street (lot 11, block 3, Hewitt's Addition). Also, properties bounded on the south by the rear property lines of properties fronting on the south side of West Logan Street between 310 West Logan Street (lot 3, block 4, Hewitt's Addition), through and including 314 West Logan Street (lot 4, block 4, Hewitt's Addition). Also including 402 West Kilbuck Street (lot 17, Assessor's Plat No. 2) and 404 West Kilbuck Street (lot 16 except the south 48 feet, Assessor's Plat No. 2) and 305 West Kilbuck Street (lot 9, block 10, Assessor's Plat of Henry L. Hewitt's Addition, formerly the West Branch School) and 311 West Shawnee Street (lot 16, Assessor's Plat No. 1).

319 South Evans Street District. Lot 87, Assessor's Plat No. 2, City of Tecumseh, known as land and premises at 319 South Evans Street, Tecumseh, Michigan.

Downtown District. Bounded on the north by the rear property lines of properties fronting on the north side of West and East Chicago Boulevard, between North Ottawa Street and including 125 West Chicago Boulevard (lot 18, block 6, Hewitt's Addition). Bounded on the south by the rear property lines of properties fronting on the south side of West and East Chicago Boulevard, between South Ottawa Street and including 128 West Chicago Boulevard (lot 9, block 7, Hewitt's Addition). Also including properties bounded on the west by the rear property lines of properties fronting on the west side of South Evans Street, between and including 107 South Evans Street (lot 29, block 7, Hewitt's Addition), through and including 125 South Evans Street (lot 23, block 7, Hewitt's Addition).

(Comp. Ords. 1982, § 7.600.2605)

Secs. 42-112—42-130. Reserved.

DIVISION 5. ALTERATION, CONSTRUCTION, MOVEMENT OR DEMOLITION[38]

Sec. 42-131. Procedure for the review of plans of landmarks and landmark sites.

(a) Application for a building permit to construct, alter, repair, move or demolish a landmark shall be made to the building inspector. Plans shall be submitted showing the structure in question and also showing its relation to adjacent structures.

(b) Upon filing of such application, the building inspector shall immediately notify the historic preservation commission of the receipt of such application and shall transmit it together with accompanying plans and other information to the commission. The historic preservation commission shall meet within 15 days after notification by the building inspector of the filing, unless mutually agreed upon by the applicant and commission, and shall review the plans according to the duties and powers specified in this section. In reviewing the plans, the commission may confer with the applicant for the building permit.

(c) The commission shall approve or disapprove such plans and if approved shall issue a certificate of approval, which is to be signed by the chairperson, attached to the application for a building permit and immediately transmitted to the building inspector. The chairperson shall also stamp all prints submitted to the commission signifying its approval. If the commission disapproves of such plans, it shall state its reasons for doing so and shall transmit a record of such action and reasons in writing, to the city council, the applicant and the building inspector. The commission may advise what it thinks is proper if it disapproves of the plans submitted. The applicant, if he so desires, may make modifications to his plans and shall have the right to resubmit his application at any time after a disapproval of plans.

(d) The failure of the historic preservation commission to approve or disapprove of such plans within 30 days from the date of application for the building permit, unless otherwise mutually agreed upon by the applicant and the commission, shall be deemed to constitute approval; and the building inspector shall proceed to process the application without regard to a certificate of approval.

(e) Upon receipt by the city council of record of disapproved plans pursuant to subsection (c) of this section, the city council shall, within 35 days, and upon due notice of hearing given to the applicant, hear and decide whether to issue the applicant a certificate of approval or to affirm the record of disapproved plans.

(f) After a certificate of approval has been issued by the historic preservation commission or the city council and the building permit granted to the applicant, the building inspector from time to time shall inspect the construction, alteration or repair approved by such certificate and shall take such action as necessary to force compliance with the approved plans.

(Comp. Ords. 1982, § 7.600.2607)

Sec. 42-132. Procedure for the review of plans for structures within historic districts.

(a) Applications for a building permit for the alteration of a structure, 50 years or older, within the historic district shall be made to the building inspector. The building inspector will notify the historic preservation

[38]Cross reference(s)—Buildings and building regulations, ch. 14.

commission and shall transmit it together with accompanying plans and other information to the commission.

(b) The commission shall meet with the owner of the property within ten days of notification by the building inspector. The purpose of the meeting is to advise the property owner as to the guidelines for "Exterior Rehabilitation of Historic Structures," as published by the National Advisory Council on Historic Preservation. The commission shall have no authority to either approve or disapprove such plans but only to advise the owner of the structure.

(Comp. Ords. 1982, § 7.600.2608)

Sec. 42-133. Demolition or moving of landmarks.

The demolition or moving of a landmark shall be discouraged, and a certificate of approval shall be issued only by the city council upon receipt of record of review with recommendations by the commission. The city council shall not issue nor shall the commission recommend issuance of a certificate of approval for demolition except when deemed a hazard to public health or safety by a responsible public agency, but the city council may issue or the commission may recommend issuance of such a certificate for moving a structure. The city council may issue or the commission may recommend issuance of a certificate of approval for demolition or for moving a structure, but the city council and the commission shall be guided by the following conditions in exercising their judgment with respect to such a certificate:

(1) The building inspector deems such structure to be a hazard to public safety or health and repairs are impossible.

(2) Such structure is a deterrent to a major improvement program which will be of substantial benefit to the city.

(3) Retention of such structure would cause undue financial hardship to the owner, which would be defined as a situation where more funds than are reasonable would be required to retain the structure.

(4) The retention of such structure would not be in the interest of the city as a whole. In cases where approval for the demolition is granted, for reasons other than public health or safety, such certificate shall not become effective until six months after the date of such issuance in order to provide a period of time within which it may be possible to relieve a hardship or to cause the property to be transferred to another owner who will retain the structure.

(Comp. Ords. 1982, § 7.600.2609)

Secs. 42-134—42-150. Reserved.

DIVISION 6. GIFTS AND GRANTS

Sec. 42-151. Acceptance.

The city council may accept grants from the state or federal government for historic restoration purposes, may accept public or private gifts for historic purposes, and may appoint the historic preservation commission to administer on its behalf grants and gifts for the purposes provided in this article. The city treasurer shall be custodian of funds of the historic preservation commission, and expenditures shall be approved by the city council.

(Comp. Ords. 1982, § 7.600.2610)

Chapter 46 LAND DIVISIONS AND OTHER SUBDIVISIONS OF LAND[39]

ARTICLE I. IN GENERAL

Secs. 46-1—46-30. Reserved.

ARTICLE II. PLATS

Sec. 46-31. Schedule of fees.

When a final plat is submitted to the city clerk, the proprietor shall deposit with the plat fees set from time to time to the city, the county drain commission for engineering review services, the county drain commission for engineering review services, and the county clerk.

(Comp. Ords. 1982, § 7.400.01)

Sec. 46-32. Applicable legislation; violations.

The definitions, terms, procedures and penalties of the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq.) are incorporated by reference; and, unless specified to the contrary elsewhere in the recorded official acts, the city council shall be the standard by which future plats are considered and processed by this city. Violation shall be deemed a misdemeanor.

(Comp. Ords. 1982, § 7.400.02)

Secs. 46-33—46-60. Reserved.

ARTICLE III. SUBDIVISION AND SITE CONDOMINIUMS[40]

DIVISION 1. GENERALLY

[39]Cross reference(s)—Any ordinance dedicating, accepting or vacating any plat or subdivision saved from repeal, § 1-11(12); buildings and building regulations, ch. 14; community development, ch. 22; environment, ch. 34; historical preservation, ch. 42; streets, sidewalks and other public places, ch. 70; utilities, ch. 82; vegetation, ch. 86; waterways, ch. 94; zoning, ch. 98; subdivision open space plan, 98-341 et seq.

[40]Cross reference(s)—Zoning, ch. 98.

Sec. 46-61. Short title.

This article shall be known and may be designated as the "City of Tecumseh Subdivision and Site Condominium Regulations Ordinance."

(Comp. Ords. 1982, § 7.407.100a)

Sec. 46-62. Purpose.

The purpose of this article is to:

(1) Regulate and control the subdivision of land and site condominiums within the corporate limits of the city in order to promote the public health, safety, comfort, convenience and general welfare of the inhabitants of the city, consistent with the master plan and zoning ordinance;

(2) Secure adequate traffic circulation through coordinated street systems so as to lessen congestion on the streets and highways;

(3) Ensure adequate provision for water, drainage and sanitary sewer facilities, and other health requirements;

(4) Achieve the maximum utility and livability on individual lots; and

(5) Provide logical procedures for the achievement of these purposes.

(Comp. Ords. 1982, § 7.407.101)

Sec. 46-63. 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:

Alley means a dedicated public way affording a secondary means of access to abutting property and not intended for general traffic circulation.

Block means that property abutting one side of a street and lying between the two nearest intersecting streets or between the nearest such street and railroad right-of-way, unsubdivided acreage, river or live stream, or between any of the foregoing and any other barrier to the continuity of the development.

Commission or *planning commission* means the city planning commission.

Condominium act means Public Act No. 59 of 1978 (MCL 559.101 et seq.).

Condominium subdivision (site condominium) means the same as the term "subdivision" as used in chapter 98 and this article.

Condominium subdivision plan means the site, survey and utility plans; floor plans; and sections, as appropriate, showing the existing and proposed structures and improvements, including their location on the land.

Condominium unit means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed.

Consolidating master deed means the final amended master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible, land or convertible space, which final amended master deed fully describes the condominium project as completed.

Contractible condominium means a condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provisions in the condominium documents and in accordance with this article and the condominium act.

Conversion condominium means a condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.

Convertible area means a unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to express provision in the condominium documents and in accordance with this article and the condominium act.

Easement means a specific area of land over which a liberty, privilege or advantage is granted by the owner to the public, a corporation, or some particular person or part of the public for specific uses and purposes, and which shall be designated a public or private easement, depending on the nature of the user.

Engineer means the staff engineer or the consulting engineer of the city.

Expandable condominium means a condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this article and the condominium act.

Improvements means grading and lawns, grading, street surfacing, curbs and gutters, sidewalks, crosswalks, water mains, fire hydrants, sanitary sewers, storm sewers, culverts, bridges, and other additions, to the natural state of land which increases its value, utility or habitability.

Land division act means the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq.).

Lot means a parcel of land separated from other parcels on a preliminary or recorded plat for the purpose of sale, lease or separate use.

Lot in condominium subdivisions means the same as a condominium unit.

Major streets or thoroughfare plan means the part of the master plan which sets forth the location, alignment and dimensions of existing and proposed streets and thoroughfares.

Master deed means the condominium document recording the condominium project as approved by the city to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

Master plan means the comprehensive land use plan for the city, including graphic and written proposals indicating the general locations recommended for the streets, parks, schools, public buildings, zoning districts, and all physical developments of the city, including any unit or part of such plan separately adopted, and any amendment to such plan or parts of the plan adopted by the planning commission.

Parcel or *tract* means a continuous area or acreage of land which can be described as provided for in the land division act.

Planner means the staff planner or consulting planner of the city.

Plat means a map or chart of a subdivision of land.

(1) *Preliminary plat* means a map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration, prepared in conformance with the land division act.

(2) *Final plat* means a map of all or part of a subdivision providing substantial conformance to the preliminary plat of the subdivision control act and this article and suitable for recording by the county register of deeds.

Proprietor means a natural person, firm, association, partnership, corporation or combination of any of them, which may hold any ownership interest in land, whether recorded or not.

Public reservation means a portion of a subdivision which is set aside for public use and made available for public use and acquisition.

Public utility means any person, city department, board or commission duly authorized to furnish, and furnishing under governmental regulations to the public, gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

Public walkway means a right-of-way dedicated for the purpose of a pedestrian access through residential areas, and located so as to connect to two or more streets, or a street and a public land parcel.

Street means any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing state, county or municipal roadway; or a street or way shown in a plat approved pursuant to law or approved by official action; or a street or way on a plat duly filed and recorded in the office of the county register of deeds. A street includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and lawns.

(1) *Major thoroughfare* means an arterial street of great continuity which is intended to serve as a large-volume trafficway for both the immediate city area and the region beyond, and may be designated in the city's major thoroughfare plan as a major thoroughfare, parkway, expressway or equivalent term to identify those streets comprising the basic structure of the street plan.

(2) *Collector street* means a street used primarily to carry traffic from minor streets to major thoroughfares.

(3) *Minor street* means a street of limited continuity used primarily for access to abutting residential properties.

(4) *Marginal-access street* means a minor street paralleling and adjacent to a major thoroughfare which provides access to abutting properties and protection from through traffic.

(5) *Boulevard street* means a street developed to two two-lane, one-way pavements, separated by a median.

(6) *Turnaround* means a short boulevard street permanently terminated by a vehicular turnaround.

(7) *Cul-de-sac street* means a minor street of short length, having one end open to traffic and being permanently terminated at the other end by a vehicular turnaround.

(8) *Loop street* means a minor street of short length with two openings to traffic, beginning from the same street, and projecting parallel to each other and connecting at their termination by a loop.

Subdivision means the partitioning or dividing of a parcel or tract of land by the proprietor or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development.

Zoning ordinance means the city zoning ordinance, chapter 98.

(Comp. Ords. 1982, § 7.407.200a; Ord. No. 4-00, 9-5-2000)

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

Sec. 46-64. Interpretation.

The provisions of this article shall be held to be the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of the city. This article is not intended to repeal, abrogate,

annul or in any manner interfere with existing regulations or laws of the city nor to conflict with any statutes of the state or the county; except that this article shall prevail in cases where this article impose a greater restriction than is provided by existing statutes, laws or regulations.

(Comp. Ords. 1982, § 7.407.700)

Sec. 46-65. Fees.

Engineering fees, inspection fees, water and sewer connection charges and other applicable development charges may be provided for by resolution of the city council.

(Comp. Ords. 1982, § 7.407.800)

Sec. 46-66. Variance for hardship.

The city council may authorize a variance from this article when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the city council shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, the city council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the city council finds that:

(1) There are special circumstances or conditions affecting the property such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of his land.

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

(3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

(Comp. Ords. 1982, § 7.407.900)

Sec. 46-67. Repeal of prior ordinances.

The subdivision regulations ordinance adopted by the city and known as Ordinance No. 7403 and all amendments to such ordinance are repealed insofar as they conflict with this article.

(Comp. Ords. 1982, § 7.407.1000)

Secs. 46-68—46-90. Reserved.

DIVISION 2. CONDOMINIUM SUBDIVISIONS (SITE CONDOMINIUMS)[41]

[41]Cross reference(s)—Zoning, ch. 98.

State law reference(s)—Condominium act, MCL 559.101 et seq.

Sec. 46-91. Condominium subdivision approval.

Pursuant to authority conferred by section 141 of the condominium act, all condominium subdivision plans shall be reviewed and approved by the planning commission. In determining whether to approve a condominium subdivision plan, the planning commission shall consult with the city attorney, engineer and planner regarding the adequacy of the master deed, deed restrictions, utility systems and streets, subdivision layout and design and compliance with all requirements of the condominium act and this article.

(Comp. Ords. 1982, § 7.407.300a)

Sec. 46-92. Condominium plan requirements.

A condominium plan requires:

(1) The name, address and telephone number of:

   a. All persons with an ownership interest in the land on which the condominium project will be located, together with a description of the nature of each entity's interest (for example, fee owner optionee, or land contract vendee).

   b. All engineers, attorneys, architects or registered land surveyors associated with the project.

   c. The developer or proprietor of the condominium project.

(2) The legal description of the land on which the condominium project will be developed together with appropriate tax identification numbers.

(3) The acreage content of the land on which the condominium project will be developed.

(4) The purpose of the project (for example, residential, commercial, industrial, etc.).

(5) Number of condominium units to be developed on the subject parcel.

(6) A survey plan of the condominium subdivision.

(7) A wetlands and tree survey plan when appropriate.

(8) The size, location, area vertical boundaries and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The condominium subdivision plan shall include the nature, location and size of common elements.

(9) A utility plan showing all sanitary sewer, water, and storm sewer lines and easements granted to the city for installation, repair and maintenance of all utilities.

(10) A street construction, paving and maintenance plan for all streets within the proposed condominium subdivision.

(11) A storm drainage and stormwater management plan, including all lines, swales, drains, basins, and other facilities.

(Comp. Ords. 1982, § 7.407.301)

Sec. 46-93. Easement for utilities.

The condominium subdivision plan shall include all necessary easements granted to the city for the purposes of constructing, operating, inspecting, maintaining, repairing, altering, replacing and/or removing pipelines, mains, conduits and other installations of a similar character for the purpose of proving public utilities, including

conveyance of sewage, water and stormwater runoff across, through and under the property subject to the easement, and excavating and refilling ditches and trenches necessary for the location of the structure.

(Comp. Ords. 1982, § 7.407.302)

Cross reference(s)—Utilities, ch. 82.

Sec. 46-94. Private streets.

If a condominium subdivision is proposed to have private streets, they shall be developed to the minimum design, construction, inspection approval, and maintenance requirements of this article.

(Comp. Ords. 1982, § 7.407.303)

Cross reference(s)—Streets, sidewalks and other public places, ch. 70.

Sec. 46-95. Condominium subdivision design and approval.

All condominium subdivision plans must conform to the plan preparation requirements; review and approval procedures; and design, layout and improvements standards of this article. A deposit in the form of cash, certified check or irrevocable bank letter of credit acceptable to the city shall be made prior to final approval with the city to guarantee the installation and completion of any required streets, grading, final earth stabilization, telephone, electricity, natural gas, storm water detention, sanitary sewer, water supply, open space improvements, and drainage facilities, within a length of time agreed upon from the date of final approval of the condominium subdivision plan by the planning commission.

(Comp. Ords. 1982, § 7.407.304)

Sec. 46-96. Preliminary approval by the planning commission.

The planning commission shall consider whether to grant preliminary approval of the site plan for the proposed condominium project based on the standards and requirements set forth in this article. The planning commission shall preliminarily approve, preliminarily approve subject to conditions, or deny the proposed condominium project and site plan.

(Comp. Ords. 1982, § 7.407.305)

Sec. 46-97. Effect of preliminary approval or denial.

(a) A denial shall mean that the proposed project and site plan does not meet the requirements of this article. Any denial shall specify the reasons for the denial and those requirements of this article that are not met.

(b) A preliminary approval shall mean that the condominium project and site plan meet the requirements of this article. Subject to any conditions imposed by the planning commission as part of this motion, preliminary approval assures the applicant that his project and site plan will receive final approval if:

    (1) All state, federal, local and county approvals are obtained;

    (2) No negative comments are received from any governmental agency or public utility; and

    (3) All federal, state and local laws and ordinances are met.

(Comp. Ords. 1982, § 7.407.306)

Sec. 46-98. State and county approval.

(a) All site condominium projects shall require the review and approval of the following agencies prior to final site plan approval:

(1) The county road commission if any part of the project includes or abuts a county road or, if any part of the project includes or abuts a state highway or includes streets or roads that connect with or lie within the right-of-way of a state highway, the state department of transportation;

(2) The county drain commission; and

(3) The Michigan Department of Environmental Quality (MDEQ) State Department's of Public Health (MSDPH), which shall approve the extensions of the water supply system, wastewater disposal system, wetlands and inland lakes and streams with appropriate county health department reviews as required.

(b) In addition to the specific required approvals, all site condominiums project site plans shall be submitted to the state department of natural resources, the county plat board, each of the public utilities serving the site, and any other state agency designated by the planning commission, for informational purposes. The planning commission shall consider any comments made by these agencies prior to final site plan approval.

(Comp. Ords. 1982, § 7.407.307)

Sec. 46-99. Final approval.

Final approval shall be granted by the planning commission upon the receipt of all the following:

(1) A revised, dated site plan incorporating all of the changes, if any, required for preliminary approval.

(2) Approved site plans showing all required state and county approvals.

(3) All requirements pursuant to section 46-96.

(Comp. Ords. 1982, § 7.407.308)

Sec. 46-100. Master deed, restrictive covenants, as-built survey, and mylar copy.

(a) The condominium project developer or proprietor shall furnish the city with the following:

(1) One copy of the recorded master deed, one copy of all restrictive covenants; two copies of an as-built survey; and

(2) One copy of the site plan on a mylar sheet of at least 13 by 16 inches with an image not to exceed 10½ by 14 inches.

(b) The as-built survey shall be reviewed by the engineer for compliance with city ordinances.

(Comp. Ords. 1982, § 7.407.309)

Secs. 46-101—46-120. Reserved.

DIVISION 3. SUBDIVISIONS[42]

Sec. 46-121. Subdivision procedure.

The preparation of a subdivision for platting shall be preceded by a preliminary plat investigation, and then follow with the preliminary plat and the final plat, all in accordance with the land division act and the procedures outlined in this division.

(Comp. Ords. 1982, § 7.407.400)

Sec. 46-122. Pre-preliminary plat investigation.

Prior to the preparation of a preliminary plat, it is suggested that the proprietor meet informally with the city departments concerned to investigate the procedures and standards of the city with reference to this division and with the proposals of the master plan as they affect the area in which the proposed subdivision is located. The proprietor should concern himself with the following factors:

(1) The proprietor should secure a copy of the zoning ordinance, subdivision and site condominium regulations, engineering specifications, and other similar ordinances or controls relative to the subdivision and improvement of land so as to make himself aware of the requirements of the city.

(2) The area for the proposed subdivision should be properly zoned for the intended use.

(3) An investigation of adequacy of existing schools and the adequacy of public open spaces, including parks and playgrounds to serve the proposed subdivision, should be made by the proprietor.

(4) The relationship of the proposed subdivision with respect to major thoroughfares and plans for widening of thoroughfares should be investigated by the proprietor.

(5) Standards for sewage disposal, water supply and drainage of the city should be investigated by the proprietor.

(Comp. Ords. 1982, § 7.407.400a)

Sec. 46-123. Preliminary plat; phases.

The preparation of a preliminary plat shall be carried out through two phases: tentative and final preliminary plat approval.

(Comp. Ords. 1982, § 7.407.401)

[42]Cross reference(s)—Solid waste, ch. 62; streets, sidewalks and other public places, ch. 70; utilities, ch. 82; waterways, ch. 94; zoning, ch. 98.

Sec. 46-124. Tentative approval of preliminary plat.

(a) *Filing.*

(1) The proprietor shall submit 15 copies of the preliminary plat and other data concerning the proposed subdivision, together with a copy of proof of ownership to the city clerk at least 14 days before a meeting of the planning commission. The clerk shall forward such data to the planning commission secretary and shall request that the preliminary plat be placed on the next agenda of the planning commission.

(2) The school district having jurisdiction in the area concerned shall be informed and made aware of the proposed preliminary plat by the proprietor. The proprietor shall submit evidence in the form of a letter that a copy of the preliminary plat has been delivered to the appropriate school district for its information.

(3) The preliminary plat shall be prepared in accordance with section 111 of the land division act and in accordance with the requirements of this article. The planning commission shall act on the preliminary plat within 60 days after the first meeting of the planning commission after the proposed preliminary plat has been deposited with the clerk.

(4) The clerk shall check the proposed plat and other data for completeness of the application. Should any of the data required in the land division act or in this article be omitted from the proposed plat, the clerk shall be directed to inform the proprietor of the data required and suggest that the application not be filed until the required data is received.

(5) The proprietor shall deposit the sum required to cover costs of reviewing all engineering plans and layout, such deposit to be made at the time the preliminary plat is submitted to the clerk.

(b) *Identification and description.* The following data shall be provided on the preliminary plat:

(1) Proposed name of subdivision.

(2) Location by section, town and range, or by other legal description.

(3) Names and addresses of the proprietor, owner, planner, landscape architect, designer, engineer or surveyor who designed the subdivision layout. The proprietor shall also indicate his interest in the land.

(4) Date, north point and scale of plat one inch equals 100 feet as a minimum acceptable scale.

(c) *Existing conditions.* The following data shall be provided on the preliminary plat:

(1) An overall location map at a scale of not less than one inch equals 1,000 feet showing the relationship of the subdivision to its surroundings such as section lines and/or major streets or collector streets.

(2) Boundary lines of proposed subdivision, section lines within or adjacent to the tract, and overall property dimensions.

(3) Property lines of contiguous, adjacent tracts of subdivided and unsubdivided land up to one-fourth mile, shown in relation to the tract being proposed for subdivision, including those located across abutting roads.

(4) Location, widths and names of existing or prior platted streets and private streets, all existing buildings, public areas and public easements within and 100 feet adjacent to the tract being proposed for subdivision, including those located immediately across abutting roads.

(5) Location of existing sewers, water mains, storm drains and other underground facilities within and 100 feet adjacent to the tract being proposed for subdivision.

(6) A map showing the location of all existing drainage courses, floodplains, lakes, streams and wetlands within 500 feet of the development, as well as within it. This map must be prepared by a recognized professional expert after on-site study and must include, in addition to the above:

a. The location of any areas to be preserved as open or recreation space, why each area is being preserved (e.g., soil conditions, wetlands, natural drainage courses, woodlands, steep slopes, etc.). Also, who will own and maintain these areas.

b. Location of other natural resources and natural features to be preserved or destroyed in the proposed development, including all bodies of water, streams, wetlands, woodlands, slopes over 20 percent and trees of six inches in caliper or greater, wildlife and valuable vegetation.

c. Topography drawn to contours with an interval of at least one foot elevation. Topography shall be based on United States Geological Survey Datum. Benchmarks for the work shall be indicated on the drawing.

(d) *Proposed conditions.* The following data shall be indicated on the preliminary plat drawing:

(1) Layout of streets indicating proposed street names, right-of-way widths, and connections with adjoining platted streets, also the widths and location of alleys, existing easements and public walkways.

(2) Layout, number and dimensions of lots, including the front building setback lines, showing dimensions.

(3) Indication of parcels of land intended to be dedicated or set aside for public use and/or for the use of property owners in the subdivision.

(4) An indication of the status of the petitioner's ownership and existing and proposed use of any parcels identified as excepted on the preliminary plat. If the proprietor has an interest or owns any parcel so identified as excepted, the preliminary plat shall indicate how this property could be developed in accordance with the requirements of the existing zoning district in which it is located.

(5) State of intended use of the proposed plat such as residential single-family, two-family, and multiple-family housing, commercial, industrial, recreational or agricultural, churches, other nonpublic uses exclusive of single-family dwellings and any site proposed for parks, playgrounds, schools or other public uses.

(6) Top of foundation elevation of the structure from the top of the nearest casting of a manhole. The structure shall not be more than ten inches above the existing ground grade of the lot prior to any excavation unless approved by the engineer or city representative.

(e) *Review by planning commission.* Before the planning commission acts on the preliminary plat, the following shall occur:

(1) One copy each of the preliminary plat shall be transmitted to the engineer and/or the planner for his technical review and recommendation.

(2) The engineer and/or planner shall check the proposed plat for completeness. Should any of the data required in the land division act or this division be omitted, the engineer and/or planner shall inform the planning commission of the data required, and that the application will be delayed until the required data is received.

(3) The engineer and/or planner within 30 days of receipt of the preliminary plat shall notify the planning commission of his recommendations for either approval, delay or rejection of the preliminary plat.

(4) Upon receipt of the recommendations of the engineer and/or planner, the secretary shall place the preliminary plat on the next regular planning commission agenda, at which meeting the proprietor will

be scheduled to appear. The planning commission shall act on the preliminary plat unless the proprietor agrees to an extension in writing at this time.

(5) The commission shall review the preliminary plat for compliance with the following:

a. Applicable ordinances and regulations.

b. Availability and adequacy of utilities.

c. Availability of school and recreation facilities.

d. Comprehensive master plan.

(6) a. The commission shall recommend conditional approval, disapproval, tabling or approval of the preliminary plat.

b. Should the approval be a conditional approval, the preliminary plat shall not be forwarded to the city council until such conditions have been satisfied by the proprietor.

c. Should the commission disapprove the preliminary plat, it shall record the reasons in the minutes of the meeting. The proprietor shall be notified of the action of the commission in writing. A copy of this action of the commission in writing shall also be submitted to the city council accompanied by the seven remaining copies of the preliminary plat.

d. Should the commission find that all conditions have been met, it shall give tentative approval to the preliminary plat. The secretary shall make a notation to that effect on each copy of the preliminary plat and distribute copies as follows:

1. Retain one copy with comments, which shall become a matter of permanent record in the planning commission files.

2. Forward one copy to the school board of the district having jurisdiction in the area concerned.

3. Forward seven copies to the city council via the city clerk with recommendations for approval attached.

State law reference(s)—Municipal planning commission, MCL 125.43 et seq.

(f) *Review by city council.*

(1) The city council will not review a preliminary plat before compliance with subsection (e) of this section, and then shall consider the preliminary plat and shall take action on the plat within 90 days of the date of accepting for initial filing with the clerk.

(2) Should the city council give tentative approval of the preliminary plat, it shall be deemed to confer upon the proprietor the right to proceed with the preparation of a final preliminary plat.

(3) The tentative approval of the preliminary plat by the city council is effective for a period of one year. Should the preliminary plat in whole or in part not be submitted for final approval within this time limit, the preliminary plat must again be submitted to the planning commission for recommendation and approval to the city council. The one-year period may be extended if applied for by the proprietor to the planning commission for recommendation to grant approval by the city council.

(Comp. Ords. 1982, § 7.407.401)

Sec. 46-125. Final approval of preliminary plat.

The procedure for the preparation and review of a preliminary plat for final approval requires approval as follows:

(1) *Filing.*

a. The preliminary plat shall comply with the provisions of the land division act.

b. The preliminary plat for final approval shall conform substantially to the preliminary plat for tentative approval as approved, and it may constitute only that portion of the approved preliminary plat which the proprietor proposes to record and develop at the time provided such portion conforms to this article. The preliminary plat for final approval shall show the actual geometrics and dimensions of the streets and shall show exact lot dimensions, which shall not be changed on the final plat.

c. Fifteen copies of the preliminary plat for final approval of the proposed subdivision, together with written application in triplicate, shall be submitted to the clerk at least 14 days prior to the regular commission meeting (which meeting shall be considered as the date of filing).

d. The clerk shall check the proposed plat for completeness. Should any of the data required in the land division act, or sections 46-123 through 46-125, be omitted, the clerk shall be directed to inform the proprietor of the data required and that the application will be delayed until the required data is received.

e. The clerk shall transmit a copy of the valid and complete preliminary plat to the engineer for technical review and recommendation.

(2) *Planning commission review; preliminary plat final approval.*

a. The clerk shall place the preliminary plat on the next regular planning commission agenda, at which meeting the proprietor will be scheduled to appear. The planning commission shall act on the preliminary plat within 60 days after the date of filing unless the proprietor agrees to an extension, in writing, or the time required for approval by the city council and the planning commission.

b. It shall be the duty of the clerk to send a notice by registered or certified mail to the owners of land immediately adjoining the property to be platted of the presentment of the preliminary plat and the time and place of the meeting of the commission to consider the preliminary plat, such notice to be sent not less than two weeks before the date fixed for the meeting.

c. The preliminary plat for final approval shall be reviewed by the engineer as to conformity with the approved tentative preliminary plat and plans for utilities and other improvements.

d. The engineer shall notify the commission of his recommendation for either approval or rejection of the preliminary plat.

e. The preliminary plat for final approval documents shall be reviewed by the commission as to conformity with the approved tentative preliminary plat and compliance with the requirements of this article.

f. Should the commission find that the preliminary plat for final approval is in satisfactory conformance with the tentative preliminary plat and with the requirements of this article, it shall approve plat and notify the city council of this action in its official minutes and forward the approval, together with all accompanying data, to the city council for their review.

g. Should the commission find that the preliminary plat for final approval does not conform satisfactorily to the previously approved tentative preliminary plat or with the requirements of this division, and that it is not acceptable, they shall record the reason in their official minutes and forward the plat, together with all accompanying data to the city council and recommend that the city council disapprove the preliminary plat until the objections causing disapproval have been changed to meet the approval of the commission.

(3) *City council; preliminary plat final approval.*

a. The city council will not review a preliminary plat for final approval until it has received the review and recommendations of the commission. Following the receipt of such recommendations, the city council shall consider the preliminary plat at such meeting that the matter is placed on the regularly scheduled agenda. The city council shall take action on the preliminary plat within 60 days of the date of the initial filing of the plat with the clerk, as required in subsection (2)a. of this section.

b. Should the city council approve the preliminary plat, they shall record their approval on the plat and return one copy to the proprietor.

c. Final approval of the preliminary plat shall not constitute final approval of the plat.

d. Final approval of the preliminary plat by the city council shall be effective for a period of 12 months. Should the preliminary plat, in whole or in part, not be submitted for final plat approval within the time limit, the preliminary plat must again be submitted to the commission and the city council for approval unless an extension is applied for by the proprietor, and such request is granted in writing by the city council.

(Comp. Ords. 1982, § 7.407.402)

Sec. 46-126. Subdivision open space plan.

(a) The requirements of this section apply, in addition to all other requirements of this article, where the preliminary plat is filed for approval under the subdivision open space plan of the zoning ordinance.

(b) Consideration by the planning commission and the city council of a proposed subdivision open space plan shall reflect the following basic principles:

(1) Chapter 98, Article V, Division 4 provides an optional method of subdividing property, and approval of any subdivision open space plan is subject to the discretion of the city.

(2) Particular attention shall be given to the effect of a subdivision open space plan upon the immediate area, where the character of that area has been established by previous development. Major attention shall be given by the planning commission and the city council to the benefits to be derived by the residents of the proposed subdivision and the city because of the subdivision open space plan, with minor consideration to be given to the benefits to be derived by the proprietor.

(3) The following objectives set forth in section 98-341 et seq. shall govern the approval or disapproval of the proposed subdivision open space plan:

a. To provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, hills and similar natural assets.

b. To encourage developers to use a more creative approach in the development of residential areas.

c. To encourage a more efficient, aesthetic and desirable use of the open area while recognizing a reduction in development costs and by allowing the developer to bypass natural obstacles on the site.

d. To encourage the provision of open space within reasonable distance of all lot development of the subdivision and to further encourage the development of recreational facilities.

(c) The application for approval of a subdivision open space plan shall contain the following in addition to the information required by other sections of this division.

(1) A complete description of the land proposed to be dedicated to the common use of lot owners (open land) shall be provided, including the following as a minimum:

a. Legal description of open land.

b. Topographical survey of open land.

c. Type of soil in open land.

d. Description of natural features on open land (stands of trees or other vegetation, streams or other bodies of water, etc.).

(2) The proposed plan of development of the open land shall be contained in the application and shall include the following as a minimum:

a. How legal title is to be held.

b. How the property shall be regulated.

c. Provisions for the payment of taxes.

d. Persons or corporations to be responsible for maintenance.

e. How maintenance is to be guaranteed.

f. How maintenance and development are to be financed.

g. Proposed uses of open land.

h. What improvements are to be constructed by the developer.

i. Other relevant facts related to the proposed uses of open land.

(3) The application shall contain a statement of the benefits to be realized by the residents of the proposed subdivision and the city by approval of the proposed subdivision open space plan with particular reference to the objectives stated in section 98-341.

(d) Before any action is taken upon any subdivision open space plan, copies of the preliminary plat application and supporting data shall be submitted by the clerk to the planner/engineer, and to the attorney for review and recommendation.

(1) The planner/engineer shall review the proposed subdivision open space plan from the materials furnished and from visits to the site or such other information as he may deem necessary and render his opinion with respect to the following:

a. The suitability of the proposed open land for purposes proposed.

b. The need for the proposed uses in the general area.

c. The location and layout of the open spaces with relation to the lots within the subdivision.

d. The effect upon neighboring areas which would result from the subdivision open space plan and the appropriateness of the development of the lot sizes proposed under the subdivision open space plan in the particular area involved.

e. Any other factor related to the development and proper design of the proposed subdivision.

(2) The attorney shall review the proposed subdivision open space plan and render his opinion with respect to the following:

a. The proposed manner of holding title to the open land.

b. The proposed manner of payment of taxes.

c. The proposed method of regulating the use of the open land.

d. The proposed method of maintenance of property and financing.

(e) If the planning commission is satisfied that the proposed subdivision open space plan meets the letter and spirit of the zoning ordinance and should be approved, it shall recommend such approval to the city council with the conditions upon which such approval should be based. Thereafter, the city council shall take action upon such application in accordance with section 46-123.

(f) If the planning commission is not satisfied that the proposed subdivision open space plan meets the letter and spirit of the zoning ordinance or finds that the approval of the subdivision open space plan will be detrimental to existing development in the general area and should not be approved, it shall communicate such disapproval to the city council with the reasons for disapproval. The proprietor shall be entitled to a hearing upon the proposal before the city council upon written request filed with the clerk.

(g) If the city council gives preliminary approval to the proposed subdivision open space plan, it shall instruct the attorney to prepare a contract setting forth the conditions upon which such approval is based, which contract, after approval by the city council, shall be entered into between the city and the proprietor prior to the approval of any final plat based upon the approved preliminary plat.

(h) At the time of filing application for approval of any proposed subdivision open space plan, a review and inspection fee as may be required by the city shall be paid to the city, such sum to cover the costs of the review required under this division.

(Comp. Ords. 1982, § 7.407.403)

Sec. 46-127. Final plat.

The procedure for preparation and review of a final plat shall be as follows:

(1) *Preparation.*

a. The final plat shall comply with the provisions of the land division act.

b. The final plat shall conform substantially to the preliminary plat as approved, and it may constitute only that portion of the approved preliminary plat which the proprietor proposes to record and develop at the time provided such portion conforms to this article.

c. The proprietor shall submit as evidence of title, an abstract of title certified to date with the written opinion of an attorney at law, or at the option of the proprietor a policy of title insurance for examination in order to ascertain as to whether or not the proper parties have signed the plat.

(2) *Final plat review.*

a. Five copies (or copies as provided for in rules of procedure of the state department of treasury) on an approved polyester film and three paper prints of the final plat shall be filed by the proprietor with the clerk, and the proprietor shall deposit such sums of money as the city council may require in this article or by other ordinances.

b. The engineer shall review the profile drawings for the proposed street centerline, sanitary sewer, water lines and storm sewer. Approval shall be given in writing to the city council prior to final acceptance. The profile drawings shall be drawn to a scale of not less than one inch equals 40 feet horizontally and one inch equals four feet vertically.

c. The engineer shall notify the city council of his recommendation for either approval or rejection of the final plat.

d. The city council shall review all recommendations and take action on the final plat within 60 days of its date of filing.

e. Upon the approval of the final plat by the city council, the subsequent approvals shall follow the procedure set forth in the land division act. The three prints of the final plat shall be forwarded one to the clerk, one to the planning commission and one to the building department. The five polyester film copies shall be forwarded to the clerk of the county plat board.

(Comp. Ords. 1982, § 7.407.404)

Secs. 46-128—46-150. Reserved.

DIVISION 4. DESIGN STANDARDS

Sec. 46-151. Generally.

The subdivision design standards set forth under this division are development guides for the assistance of the proprietor. All final plans must be reviewed and approved by the city council.

(Comp. Ords. 1982, § 7.407.500)

Sec. 46-152. Streets.

Streets shall conform to at least all minimum requirements of the general specifications and typical cross sections as set forth in this division and other conditions set forth by the city council.

(1) *Location and arrangement.*

a. The proposed subdivision shall conform to the various elements of the master plan and shall be considered in relation to the existing and planned major thoroughfares and secondary streets, and such part shall be platted in the location and the width indicated on such plan.

b. The street layout shall provide for continuation of secondary streets in the adjoining subdivisions or of the proper projection of streets when adjoining property is not subdivided or conform to a plan for a neighborhood unit drawn up and adopted by the planning commission.

c. The street layout shall include minor streets so laid out that their use by through traffic shall be discouraged.

d. Should a proposed subdivision border on or contain an existing or proposed major thoroughfare, the planning commission may require marginal-access streets, reverse frontage with an approved screen planting contained in a nonaccess reservation along the rear property line having a minimum width of 15 feet, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation and reduction of traffic hazards.

e. Should a proposed subdivision border on or contain an expressway or other limited-access highway right-of-way, the planning commission may require the location of a street approximately parallel to and on each side of such right-of-way at a distance suitable for the development of an appropriate use of the intervening land as for parks in residential districts. Such distances shall be determined with due consideration of the minimum distance required for approach grades to future grade separation.

f. Half streets shall be prohibited, except where absolutely essential to the reasonable development of the subdivision in conformity with the other requirements of this article, and where the planning commission finds it will be practicable to require the dedication of the other half when the adjoining property is developed. Wherever there exists adjacent to the tract to be subdivided a dedicated or platted and recorded half street, the other half shall be platted.

(2) *Right-of-way widths.* Street right-of-way widths shall conform to the Michigan Department of Transportation (MDOT) Standards and City Specifications.

Street Type				*Right-of-Way*
a.	Major thoroughfares			In conformance with the major thoroughfare plan of the city per city and MDOT Standards and Specifications as adopted from time-to-time.
b.	Secondary streets			
c.	Industrial service streets			
d.	Multiple-family residential streets where platted			
e.	Minor (single-family residential) streets			
f.	Marginal-access streets			
g.	Turnaround (loop) streets			
h.	Alley			
i.	Cul-de-sac streets:			
	1.	Turnarounds:		
		i.	Industrial	
		ii.	Residential	

2. Maximum length for residential cul-de-sac streets shall generally be 500 feet. Maximum length for industrial and other cul-de-sac streets may exceed 500 feet subject to the approval of the planning commission.

(Comp. Ords. 1982, § 7.407.500a)

Sec. 46-153. Blocks.

Blocks within subdivisions shall conform to the following standards:

(1) *Sizes.*

a. Maximum length for blocks shall not exceed 1,400 feet in length except where, in the opinion of the planning commission, conditions may justify a greater distance.

b. Widths of blocks shall be determined by the condition of the layout and shall be suited to the intended layout.

(2) *Public walkways.*

a. Location of public walkways or crosswalks may be required by the planning commission to obtain satisfactory pedestrian circulation within the subdivision where blocks exceed 1,000 feet in length.

b. Widths of public walkways shall be at least 12 feet and shall be in the nature of an easement for this purpose, and such walkways shall have a five-foot-high chain link fence on the residential lot sides.

c. The surface of the walkways shall be developed in concrete. Planting pockets shall be provided in public walkways for tree and shrub planting. The planting plan and surface treatment shall meet the approval of the planning commission.

(3) *Easements.*

a. Location of utility line easements shall be provided along the rear or side lot lines as necessary for utility lines. Easements shall give access to every lot, park or public grounds. Such easements shall be a total of not less than 12 feet wide, six feet from each parcel.

b. Recommendations on the proposed layout of telephone and electric company easements should be sought from all of the utility companies serving the area.

c. Easements needed for storm drainage purposes shall be determined by the city engineer and shall meet the requirements of the city engineer.

d. Aerial easements three feet in width shall be provided where needed along side lot lines so as to provide for streetlight dropouts for the provision of street lighting. A notation shall be made on the final plat indicating: "The side lot lines between lots (indicate lot numbers) are subject to streetlight dropout rights granted to the power company."

(4) *Trees.* Plans shall be submitted showing location, type and size of street trees. Trees shall be planted and maintained in accord with article III, chapter 86.

(Comp. Ords. 1982, § 7.407.501)

Sec. 46-154. Lots.

Lots within subdivisions shall conform to the following standards:

(1) *Sizes and shapes.*

a. The lot size, width, depth and shape in any subdivision proposed for residential use shall be appropriate for the location and the type of development contemplated.

b. Lot areas and widths shall conform to at least the minimum requirements of the zoning ordinance for the district in which the subdivision is proposed.

c. Building setback lines shall conform to at least the minimum requirements of the zoning ordinance.

d. Corner lots in residential districts having a side-to-side relationship with lots across a common separating street shall have exterior side yards which conform to at least the greater of the two minimum side yards required by the zoning ordinance for the district in which the subdivision is proposed; except that in cases where the exterior side yard of a corner lot is essentially a continuation of the front yard of the lot immediately to its rear, the side yard shall not be less than the required front yard of the zoning district.

e. Excessive lot depth in relation to width shall be avoided. A depth-to-width ratio of 3 to 1 shall normally be considered a maximum.

f. Lots intended for purposes other than residential use shall be specifically designed for such purposes and shall have adequate provision for off-street parking, off-street loading and other requirements in accordance with the zoning ordinance.

(2) *Arrangement.*

a. Every lot shall front or abut on a street.

b. Side lot lines shall be at right angles or radial to the street lines, or as nearly as possible thereto.

c. Residential lots abutting major thoroughfares or secondary streets, where marginal-access streets are not desirable or possible to attain, shall be platted with reverse-frontage lots with an approved screen planting contained in a nonaccess reservation along the rear property line having a minimum width of 15 feet, or such other treatment as may be adequate for protection of residential properties, or with side lot lines parallel to the major traffic streets, or shall be platted with extra depth to permit generous distances between building and such trafficway.

d. Lots shall have a front-to-front relationship across all streets where possible except as provided for under section 46-151. Any deviation shall require the review and approval of the planning commission.

(Comp. Ords. 1982, § 7.407.502)

Sec. 46-155. Floodplain.

Any areas of land within the proposed subdivision which lie either wholly or in part within the floodplain of a river, stream, creek or lake, or any other areas which are subject to flooding or inundation by stormwater or have inadequate drainage shall not be platted for any use as may increase danger to health, life or property. The proprietor may show by way of accurately engineered plans that a change to the topography in the proposed subdivision will eliminate flooding in the area in question and shall clearly demonstrate that any such planned topographical change will not unduly aggravate the flood hazard beyond the limits of the proposed subdivision. If the city council determines that a flood problem does exist, it shall reject all or that part of the proposed subdivision lying within the floodplain.

(Comp. Ords. 1982, § 7.407.503)

Sec. 46-156. Natural features.

The natural features and character of lands must be preserved wherever possible. Due regard must be shown for all natural features such as large trees, natural groves, watercourses, wetlands and similar community assets that will add attractiveness and value to the property if preserved. The preservation of drainage and natural stream channels must be considered by the proprietor; and the dedication and provision of adequate barriers, where appropriate, shall be required.

(Comp. Ords. 1982, § 7.407.504)

Secs. 46-157—46-180. Reserved.

DIVISION 5. IMPROVEMENTS

Sec. 46-181. Generally.

(a) The improvements set forth under this division are to be considered as the minimum acceptable standard. All those improvements for which standards are not specifically set forth shall have standards set by resolution of the city council. All improvements must meet the approval of the city council.

(b) The proprietors shall be required to deposit with the city clerk cash, letter of credit, certified check or other arrangement satisfactory to the city council to ensure construction of all improvements. The amount of deposit shall be set by the city council based on an estimate by the engineer. The deposit shall guarantee the completion of the required improvements within a period of time specified by the city council from the date of the approval of the final plat. The city council shall rebate to the proprietors as the work progresses amounts of any cash deposits equal to the ratio of the work completed to the entire project.

(c) Prior to the acceptance by the city of improvements, a one-year maintenance bond in an amount set by the city council shall be posted by the proprietor.

(Comp. Ords. 1982, § 7.407.600)

Sec. 46-182. Streets and utilities.

(a) *Required.* Street and utility improvements shall be provided by the proprietor in accordance with the standards and requirements established in this section and/or any other such standards and requirements which may from time to time be established by the engineer or by the city council.

(b) *Street pavement width standards.* Pavement width standards are as follows:

Street Type		Pavement Width Measured From Face of Curb to Face of Curb
(1)	Major thoroughfares	In conformance with the standards and specifications established by the engineer or the city council. This width is generally established as 44 feet.
(2)	Secondary streets	36 feet
(3)	Industrial streets	35 feet
(4)	Multiple-family residential streets when dedicated	35 feet
(5)	Multiple-family residential streets when private	27 feet
(6)	Minor residential streets	27 feet
(7)	Marginal-access streets	20 feet
(8)	Turnaround (loop) streets	Not less than 80 feet in diameter at terminating loop—27-foot-wide pavement
(9)	Alley	20 feet
(10)	Cul-de-sac streets turnarounds:	

	a.	Industrial	In conformance with the standards and specifications established by the engineer.
	b.	Residential	In conformance with the standards and specifications established by the engineer.

(c) *Street cross section standards.*

(1) *Major thoroughfares.* Cross sections of major thoroughfares shall be in accordance with the master plan of thoroughfares and as determined by the engineer and the planning commission.

(2) *Secondary streets.* Cross sections of secondary streets shall be in accordance with the master plan of thoroughfares and as determined by the city engineer and the planning commission, with an 86-foot right-of-way. A four-foot concrete sidewalk located one foot from the property line on each side of the roadway shall be provided.

(3) *Minor streets.* Minor streets require a 60-foot right-of-way. A four-foot concrete sidewalk located one foot from the property line on each side of the roadway shall be provided.

(4) *Marginal-access streets.* Marginal-access streets require a 34-foot right-of-way. A four-foot concrete sidewalk located one foot from the property line on the private property side of the roadway shall be provided.

(d) *Pavement design and placement.* Pavement and design and placement shall be in conformance with MDOT and city standards and regulations as adopted. The final wearing course for streets will be installed one year from the acceptance of the base course by the engineer or street superintendent. Funds for the final wearing course shall be in the form of a letter of credit or be deposited in an escrow account to cover the improvement.

(e) *Gradients.* Grading and centerline gradients shall be per plans and profiles approved by the engineer.

(f) *Street grades.* For adequate drainage, the minimum street grade shall not be less than 0.4 percent. The maximum street grade shall be six percent, except that the planning commission may make an exception to this standard on the recommendation of the engineer.

(g) *Alignment.*

(1) Vertical curves shall be adequate to provide the minimum vertical visibility as required under subsection (g)(3) of this section.

(2) Minimum horizontal curbs—the radii of centerline curvature shall be:

a.	Major thoroughfare	475 feet radius
b.	Secondary streets	300 feet radius

A minimum 50-foot tangent shall be introduced between reverse curves on minor streets, 100 feet on secondary streets and 300 feet on major thoroughfares.

(3) Visibility requirements are as follows:

a. Minimum vertical visibility (measured from 4½-foot eye level to 18-inch object) shall be:

1. On major thoroughfares, 500 feet.

2. On secondary thoroughfares, 300 feet.

3. On minor streets, 200 feet.

4. On minor streets less than 500 feet in length, 100 feet.

b. Minimum horizontal visibility shall be:

1. On major thoroughfares, measured on centerline, 300 feet.

2. On secondary streets, measured on centerline, 200 feet.

3. On minor streets, measured on centerline, 100 feet.

(4) Streets shall be laid out so as to intersect as nearly as possible to 90 degrees.

(5) Street jogs with centerline offsets of less than 125 feet shall be avoided.

(6) Curved streets intersecting with major thoroughfares or secondary streets shall do so with a tangent section of centerline 50 feet in length measured from the right-of-way line of the major thoroughfare or secondary street.

(h) *Storm drainage system.*

(1) Storm drainage systems, together with other drainage improvements, shall be per plans approved by the city engineer.

(2) Storm sewers shall not be less than 12-inch diameter and laid at such a grade that the flow will exceed 2.5 feet per second when flowing full. Design criteria shall be based on a ten-year storm rate. Generally, all storm sewers shall be located 12 feet north or west of the property line.

(3) Stormwater shall run no more than 300 feet before being picked up by a catchbasin. If stormwater is carried around an intersection radius, limit of pickup shall be 300 feet if grade is 0.60 percent or less; if greater than 0.60 percent, intercepting basins shall be installed.

(4) Adequate provision shall be made for proper drainage of stormwater runoff from residential rear yards. Unless each yard is drained from rear to front, there shall be one rear yard catchbasin every 240 feet or less along the rear easement line. Rear yards shall slope at a minimum grade of 1.0 percent to the proper stormwater catchbasin. Rear yard catchbasins shall be connected to the stormwater system with a pipe of not less than 12 inches in diameter.

(5) Where county drains are involved, a letter or document of approval from the county drain commissioner must be submitted by the proprietor.

(6) All storm sewers under pavement shall be concrete.

(i) *Sewage disposal.*

(1) The sewer system shall be located within street right-of-way per plans approved by the engineer. Sanitary sewers shall be of not less than eight-inch diameter and tested in accordance with ASTM procedure. Exfiltration tests shall not exceed 750 gallons per inch diameter per mile per day. All sanitary sewers shall be laid at a grade to exceed a flow of two feet per second when flowing full. Minimum sanitary sewer depth in all new work shall be 7½ feet below the center of the closest road. Generally, all sanitary sewers shall be located on the centerline on minor streets.

(2) All house leads shall be a minimum of four-inch diameter as specified by the utilities director or his designee to the property line. All leads in new subdivisions shall be constructed to the property line before the streets are built.

(3) Minimum depth of leads at property line shall be seven feet. In cases where the lead is not brought to the property line and the sewer is more than ten feet in depth, risers with stoppers shall be installed to a point 7½ feet below centerline street grade.

(4) House leads shall be constructed of materials specified by the utilities director or his designee. Roof drains shall not be connected to sanitary sewers, and the drains around buildings shall not be connected to sanitary sewers if groundwater is present. No stormwater or groundwater drainage shall be allowed to enter the sanitary sewer system.

(j) *Water supply.*

(1) Water distribution system shall be per plans approved by the engineer and in conformance with the regulations of the state department of health relating to municipal water supplies and a letter or document of approval from the state department of health must be submitted by the proprietor.

(2) Water mains shall provide adequate capacity for fire demand. Six-inch lines may be used when headed on both ends by an eight-inch or larger main and in lengths of less than 1,200 feet. Dead ends shall be held to a minimum. Hydrants shall be installed at the end of all dead end lines. Fire hydrants shall be spaced a maximum of 600 feet apart or as specified by the utilities director or his designee. Depth of cover over water main shall be five-foot minimum. Generally, all water mains shall be located 12 feet south or east of the property line.

(3) In general, gate valves on cross-connecting mains shall be located so that no single break shall require that more than 1,200 feet be out of service; on feeders, gates shall be spaced not more than 1,200 feet apart. Gates shall be so arranged that any section can be isolated by closing not more than four gates.

(4) All water mains shall be constructed of materials as specified by the utilities director or his designee laid in accordance with current city standards concerning details and specifications.

(k) *Trees and lawns.*

(1) Existing trees near street rights-of-way shall be preserved by the proprietor.

(2) Street trees shall be provided, at least one per lot or not more than one tree for each 50 feet, placed between the sidewalk and curb or between the curb and the property line where no sidewalks are provided.

(3) The following species of trees shall be permitted:

a. Norway Maple.

b. London Plane.

c. Pin Oak.

d. Honey Locust.

e. Cork Tree.

f. Sugar Maple.

g. Little Leaf Linden.

h. Modesta Ash.

i. Idaho Locust.

j. Moraine Locust.

k. Hop Horn Beam.

l. Paul Scarlet Hawthorn.

m. Such other species as may be approved by the city.

(4) Trees and lawns as required under subsection (2) shall be planted to completion within two months and no later than November 30, after a rough inspection is approved, if the approval is given during April 1—September 30 period. If the approval is given during the October 1—March 31 period, the trees and lawns shall be completed no later than the ensuing May 31.

(l) *Requirements for underground wiring.* The proprietor shall make arrangements for all distribution lines for telephone and electric service and cable TV service to be placed underground entirely throughout a subdivided area, and such conduits or cables shall be placed within private easements provided to such service companies by the developer or within dedicated public ways except where, in the opinion of the planning commission, conditions exist which justify other means of distribution of service, these requirements may be altered to provide for such conditions. Those telephone and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground facilities. All telephone and electrical facilities shall be constructed in accordance with standards of construction approved by the state public service commission. All drainage and underground utility installations which traverse privately owned property shall be protected by easements granted by the proprietor.

(m) *Partitioning of land.* All land divisions and subdivisions of land shall conform to the land division act, MCL 560.101 et seq., and be approved by the city council. The petitioner shall complete the following before the application is presented to the council for review:

(1) File an application by the property owner of record with the city assessor.

(2) Submit a survey prepared by a professional surveyor licensed by the state.

(3) Payment of the fee established by the city council from time to time.

(4) Receive approval from the city assessor, zoning administrator, and other departments as required.

(Comp. Ords. 1982, § 7.407.600a; Ord. No. 4-00, 9-5-2000)

Cross reference(s)—Streets, sidewalks and other public places, ch. 70; utilities, ch. 82.

Chapter 50 OFFENSES AND MISCELLANEOUS PROVISIONS[43]

ARTICLE I. IN GENERAL

Sec. 50-1. Disorderly person.

(a) Any person shall be deemed a disorderly person who shall or who shall aid and abet another to:

(1) Conduct himself in a noisy, boisterous, insulting or disorderly manner.

(2) Be a vagrant or beggar.

(3) Be a prostitute, or solicit for immoral purposes, or commit an indecent or immoral act.

(4) Be a masher, window peeper or prowler.

[43]Charter reference(s)—General municipal powers, § 2.2.

Cross reference(s)—Alcoholic beverages or controlled substances in parks, § 54-6; traffic and vehicles, ch. 78.

(5) Be found loitering in a place where prostitution is practiced, or allowed, or be found loitering in any other place where illegal businesses or occupations are conducted.

(6) Keep, let or permit the use of any place or vehicle for the purpose of prostitution or any other immoral purposes.

(7) Take indecent liberties with the person of another.

(8) Accost another for immoral purposes.

(9) Assault, jostle, roughly crowd or annoy another or others.

(10) Drive or ride a vehicle along any public way so as to molest or interfere with the person of another.

(11) Refuse or neglect to support his family when such person is of sufficient ability to support such family.

(12) Be found with any stolen property.

(13) By word or conduct, commit such acts as may cause civil commotion or cause or be likely to cause injury to public or private property, or to life or person of another.

(14) Be found loitering about the streets or other public place with no lawful means of support, or without being able to give satisfactory account of himself.

(15) Throw or cause to be thrown any missile, likely to cause bodily injury or property damage.

(16) Throw or place any glass bottle or jar, or broken glass on any street, alley, sidewalk, public parking lot or public beach, or any property not his own.

(17) Enter an area designated for use by the opposite sex, except children under the age of eight years and authorized cleaning or maintenance.

(b) Any person shall be deemed a disorderly person who shall or who shall aid and abet another to:

(1) Fire, discharge, display or possess any fireworks except of the type and under the conditions permitted by chapter 39 of the Penal Code of the state, Public Act No. 328 of 1931 (MCL 750.243a et seq.).

(2) Swim or bathe in any public place without wearing proper apparel.

(3) Utter indecent, immoral or obscene language in any public place in the presence or hearing of any woman or child.

(4) Make any immoral exhibition or indecent exposure of his person in a public place.

(5) Engage in a fight in a public place.

(6) Conduct himself on any street or sidewalk, or in any park or public building, or in any other public place so as to obstruct the free and uninterrupted passage of the public.

(7) Obstruct the free and uninterrupted passage of the public on any street, roadway, sidewalk or alleyway, for any purpose, by:

a. Collecting in groups;

b. Playing any game; or

c. Erecting, placing or maintaining any barrier or object; except such barrier or object may be erected, placed or maintained when necessary for the safety of passersby in connection with the building, erection, modification or demolition of any building or by prior written consent of the chief of police.

(8) Disturb the public peace and quiet by loud, boisterous or vulgar conduct.

(9) Permit or suffer any place occupied or controlled by him to be a resort of noisy, boisterous or disorderly persons.

(10) Obstruct, resist, hinder or oppose any member of the police force, or any peace officer in the discharge of his duties as such.

(11) 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 the agent or servant of either; or remain upon the land or premises of another without lawful authority after being notified to depart by the owner or occupant or the agent or servant of either.

(12) Willfully enter upon the lands or premises of any person in the nighttime without authority or permission of the owner of such premises.

(13) Be present in a public place endangering directly the safety of another person or of property or acting in a manner that causes a public disturbance while intoxicated or under the influence of any drug or narcotic such that his ability to walk, talk or see is significantly impaired. This subsection shall not be construed to apply to a person whose faculties have been impaired by medication prescribed by a physician and who is accompanied by another individual whose ability to walk, talk and see is not significantly impaired.

(c) The term "public place," as used in this section, shall mean any street, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place which is open to the public view, or to which the public has access.

(d) Any person found guilty of violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 3.309.00)

State law reference(s)—Disorderly person, MCL 750.167(1); indecent language; obstruction of public officers, MCL 750.479; throwing a stone or missile at a train or automobile, MCL 750.394; throwing glass or sharp substance on a bench, highway, walk or public property, MCL 750.493a; fireworks, MCL 28.451 et seq.; obstructions and encroachments on public highways, MCL 247.171 et seq.; trespass, MCL 750.546 et seq.

Sec. 50-2. Presumption of responsibility.

(a) The occupant of any premises upon which a violation of any ordinance is apparent, the owner of any object or material placed or remaining anywhere in violation of an ordinance, and the occupant of any premises served by any excavation or structure illegally made or erected shall be deemed prima facie responsible for the violation so evidenced and subject to the penalty provided for such violation.

(b) The fact that an automobile which is illegally parked is registered in the name of a person shall be considered prima facie proof that such person was in control of the automobile at the time of such parking.

(Comp. Ords. 1982, § 3.305.00)

Secs. 50-3—50-30. Reserved.

ARTICLE II. OFFENSES AGAINST THE PERSON

Sec. 50-31. Assault and battery.

Any person found guilty of unlawfully jostling, assaulting or fighting with any other person shall be deemed guilty of a misdemeanor.

(Comp. Ords. 1982, § 3.302.00)

State law reference(s)—Assaults, MCL 750.81 et seq.; person jostling and crowding people deemed a disorderly person, MCL 750.167(I)(l).

Sec. 50-32. Use of reasonable force in disciplining children.

It shall not be a crime for a parent, guardian, any person authorized by the parent or guardian, or any person otherwise recognized by law as in loco parentis to use reasonable force to discipline a child. It shall be the prosecution's burden to prove that the force used was not reasonable discipline.

Secs. 50-33—50-60. Reserved.

ARTICLE III. OFFENSES AGAINST PROPERTY

DIVISION 1. GENERALLY

Secs. 50-61—50-80. Reserved.

DIVISION 2. PUBLIC PROPERTY

Sec. 50-81. Molestation of city property.

It shall be unlawful to climb upon, molest, handle or transport any property of the city without authorization of the person lawfully having custody of such property.

(Comp. Ords. 1982, § 3.304.00)

State law reference(s)—Malicious mischief generally, MCL 750.377 et seq.

Sec. 50-82. Prohibitions.

It is unlawful to destroy, damage or remove any tree, shrub, wildflower or other vegetation, or to destroy, damage, deface or remove any city, school or publicly owned property in any city or school or recreation area.

(Comp. Ords. 1982, § 3.600a.00)

State law reference(s)—Malicious mischief generally, MCL 750.377 et seq.; injury or destruction of trees on public property, MCL 19.142; intentionally damaging a school bus, MCL 750.377c.

Sec. 50-83. Penalty for violation of article.

Any person who violates any provision of this article is guilty of a misdemeanor.

(Comp. Ords. 1982, § 3.601.00)

Sec. 50-84. Reimbursement.

In addition to the penalties provided in this article for violating its provisions, any person convicted of an act of vandalism shall reimburse the city or school district, as the case may be, for up to three times the amount of the damage as determined by the court.

(Comp. Ords. 1982, § 3.602.00)

Sec. 50-85. Judgment for damages.

In every case of conviction for offenses under this article, the court before whom such conviction is obtained shall enter judgment in favor of the city or school district and against the defendant for liquidated damages in a sum as provided in section 50-84. The city or school district shall, with the assistance of the city attorney, collect the award by execution or otherwise. If two or more defendants are convicted of the vandalism, the judgment for damages shall be entered against them jointly. If the defendant is a minor (under 18), the judgment shall be entered against his parents.

(Comp. Ords. 1982, § 3.603.00)

Sec. 50-86. Money collected for damages.

Upon collection, the sum collected for damages shall be credited to the general fund of the city or school district involved.

(Comp. Ords. 1982, § 3.604.00)

Secs. 50-87—50-110. Reserved.

DIVISION 3. LITTERING[44]

Sec. 50-111. 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:

Litter means all rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris or other foreign substances of every kind and description.

[44]Cross reference(s)—Solid waste, ch. 62.

State law reference(s)—Littering, MCL 328.8901 et seq.

(Comp. Ords. 1982, § 4.522.00)

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

Sec. 50-112. Prohibited.

No person shall throw or deposit litter upon any street or other public places within the city or upon private property.

(Comp. Ords. 1982, § 4.522.00)

Sec. 50-113. Nuisance.

It is declared to be a public nuisance for any person to violate the provisions of this division. Any person found guilty of violating any of the provisions of this division shall be guilty of a misdemeanor and shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 4.522.00)

Secs. 50-114—50-130. Reserved.

DIVISION 4. BLIGHT

Sec. 50-131. Blighted premises.

It is determined that the following uses, structures and activities are causes of blight or blighting factors which, if allowed to exist in a residential district in the city, will tend to result in blighted and undesirable neighborhoods. No person shall maintain or permit to be maintained in any residential district any of the causes of blight or blighting factors upon any property owned, leased, rented or occupied by such person.

(1) The storage upon any property of building materials unless there is in force a valid building permit issued by the city for construction upon the property and the materials are intended for use in connection with such construction. Building materials shall include but shall not be limited to lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws or any other materials used in constructing any structure.

(2) The storage or accumulation of junk, trash, rubbish or refuse of any kind, except domestic refuse stored in such a manner as not to create a nuisance for a period not to exceed ten days. The term "junk" shall include parts of machinery or motor vehicles, unused stoves or other appliances stored in the open; remnants of wood, metal or any other material; or other castoff material of any kind whether or not they could be put to any reasonable use.

(3) The existence of any partially completed structure unless such structure is in the course of construction in accordance with a valid and subsisting building permit issued by the city and unless such construction is completed within a reasonable time.

(Comp. Ords. 1982, § 4.521.00; Ord. No. 4-06, 5-15-2006)

Sec. 50-132. Enforcement of division.

The city manager or his designee shall enforce the provisions of this division and on a violation shall notify in writing the owner, if possible, and the occupant of any property to remove or eliminate such causes of blight or blighting factors from such property within 15 days after date of such notice. Additional time to remove the causes of blight or blighting factors may be granted by the city manager or his designee where bona fide efforts to remove or eliminate such causes of blight or blighting factors are in progress. Failure to comply with such notice provided to the owner and/or occupant by the removal of the causes of blight or blighting factors within the time allowed shall constitute a violation of this division.

(Comp. Ords. 1982, § 4.521.00)

Sec. 50-133. Nuisance; penalty.

It is a public nuisance for any person to violate the provisions of this division. Any person found guilty of violating any of the provisions of this division shall be guilty of a misdemeanor and shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 4.521.00)

Secs. 50-134—50-160. Reserved.

ARTICLE IV. OFFENSES AGAINST THE PEACE

Sec. 50-161. Crowds and riots.

(a) No person shall make or assist in making any improper noise or disturbance, quarrel or riot by which the peace and order of the city are disturbed; nor shall any persons collect or stand in crowds or remain loitering on the public ways or other places so far as to interfere with free and uninterrupted passage of other persons.

(b) No person shall address the public, either personally or by mechanical means, either by word, music or other means, upon any public way or place except in such places designated by the council, or upon written permission from the mayor or chief of police.

(c) No person shall disrupt or aid in disrupting in any manner any service of worship or any other group assembled for lawful purposes.

(d) No person shall ring any bell, blow any horn, operate any other noisemaking device, or by mouth or voice make sounds and noises causing annoyance to others or be likely to annoy or disturb others.

(Comp. Ords. 1982, § 3.306.00)

Sec. 50-162. Disturbing the peace.

Any person who shall make, aid, countenance or assist in making or creating any riot, disturbing the peace of the citizens or be guilty of any disorderly behavior or conduct in the streets or other public places in the city, and all persons who shall collect in bodies or crowds in the city for unlawful purposes, to the annoyance or disturbance of the citizens or travelers, shall be adjudged guilty of a misdemeanor.

(Comp. Ords. 1982, § 3.301a.00)

State law reference(s)—Incitement to riot, MCL 752.542; committing riot, MCL 752.541; unlawful assembly, MCL 752.543; disturbing religious worship, MCL 752.525, 750.169; disturbing public places, MCL 750.170.

Sec. 50-163. Motor vehicle sound systems.

No person operating or in control of a parked or moving motor vehicle (including motorcycles and mopeds) shall operate or permit the operation of an electronically amplified sound systems in or about the vehicle so as to produce sound that is clearly audible at a distance of 50 feet from the vehicle between the hours of 7:00 a.m. and 11:00 p.m., or clearly already audible at a distance of 25 feet from the vehicle between the hours of 11:00 p.m. and 7:00 a.m.

(Ord. No. 4-01, 6-4-2001)

Secs. 50-164—50-190. Reserved.

ARTICLE V. OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS

Sec. 50-191. Interference with city officials or employees; aid escape.

No person shall resist any police officer or city official or employee exercising his duty, or fail or refuse to obey any lawful command of any police officer or city official or employee or in any way interfere with or hinder or prevent any police officer or city official or employee from discharging his duty, or in any manner escape or attempt to escape from the custody of an officer or assist or aid any person in custody to escape or attempt to escape from custody, or rescue or attempt to rescue any person when in such custody.

(Comp. Ords. 1982, § 3.303.00)

State law reference(s)—Obstruction of public officers, MCL 750.479; disobedience of a police signal, MCL 750.479a; escapes, rescues, jail and prison breaking, MCL 750.183 et seq.

Secs. 50-192—50-220. Reserved.

ARTICLE VI. OFFENSES AGAINST PUBLIC MORALS

DIVISION 1. GENERALLY

Secs. 50-221—50-240. Reserved.

DIVISION 2. OBSCENITY

Sec. 50-241. Indecent exposure.

No person shall exhibit himself in any place of entertainment or in any public place nude or indecently clad; no person shall indulge in any indecent, immoral or suggestive conduct in such places; no person shall designedly make any open or indecent exposure of his person or of the person of another.

(Comp. Ords. 1982, § 3.307.00)

State law reference(s)—Indecent exposure, MCL 750.335a; person engaged in indecent or obscene conduct deemed a disorderly person, MCL 750.167(I)(f).

Sec. 50-242. Indecent language.

No person shall use indecent, immoral, profane or blasphemous language in any public way or place, or in such a way as to subject the public to such language.

(Comp. Ords. 1982, § 3.308.00)

State law reference(s)—Indecent language, MCL 750.103, 750.337.

Sec. 50-243. Obscene literature, devices and shows.

(a) No person shall print, publish, show, sell or offer for sale, exhibit, or otherwise dispose of any printed matter, pictures or devices containing indecent or obscene language or pictures, which by the context or purpose tends to corrupt public morals; nor shall any person have in his possession any such article.

(b) No person shall show or cause to be shown any show or pictures, whether a personal performance or by mechanical means, which is immoral, obscene or suggestive or which tends to corrupt the public morals.

(Comp. Ords. 1982, § 3.980a.00)

State law reference(s)—Obscene material generally, MCL 752.361 et seq.

Secs. 50-244—50-260. Reserved.

DIVISION 3. DRUG PARAPHERNALIA[45]

Sec. 50-261. Definitions.

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

Drug paraphernalia means any equipment, product or material of any kind or nature whatsoever which is 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 as defined by the controlled substance act (MCL 333.7101 et seq.).

[45]State law reference(s)—Drug paraphernalia, MCL 333.7451 et seq.

(Comp. Ords. 1982, § 3.312.01)

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

Sec. 50-262. Purpose.

This division is enacted to preserve the health, safety and welfare of the people of the city by rendering unlawful the manufacture, sale, use, delivery, possession or distribution of, or the attempt to manufacture, sell, use, deliver, possess or distribute drug paraphernalia.

(Comp. Ords. 1982, § 3.312.02)

Sec. 50-263. Possession of drug paraphernalia.

It is unlawful for any person to use or to possess with intent to use drug paraphernalia.

(Comp. Ords. 1982, § 3.312.03)

Sec. 50-264. Manufacture, sale or delivery of drug paraphernalia.

It is unlawful for any person to sell, deliver, possess with intent to deliver or sell, or manufacture with intent to deliver or sell drug paraphernalia.

(Comp. Ords. 1982, § 3.312.04)

Sec. 50-265. Advertisement of drug paraphernalia.

It is unlawful for any person to place in any newspaper, magazine, handbill or other publication distributed in the city any advertisement the purpose of which, in whole or in part, is to promote the sale of any object designed or intended for use as drug paraphernalia.

(Comp. Ords. 1982, § 3.312.05)

Sec. 50-266. Exemptions.

This division shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropodists, veterinarians, law enforcement agencies, pharmacists and embalmers in the lawful course of business or professional activity, nor to persons suffering from any medical condition which requires administering prescribed medication.

(Comp. Ords. 1982, § 3.312.06)

Sec. 50-267. Penalty.

Any person convicted of a violation of any provision of this division shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 3.312.07)

Secs. 50-268—50-290. Reserved.

DIVISION 4. GAMBLING[46]

Sec. 50-291. Prohibited.

(a) No person or his agent or employee shall directly or indirectly take, receive or accept money or valuable things with the agreement, understanding or allegation that money or any valuable thing will be paid or delivered to any such person where such payment or delivery is contingent upon the result of a race, contest, game or the happening of an event not known to the parties to be certain.

(b) No person shall keep any device used for the purposes mentioned in subsection (a) of this section.

(c) No person shall use, own or let any place or property and shall knowingly suffer any act forbidden under subsection (a) of this section.

(d) No person shall assist, solicit or advertise for, or occupy any place wherein acts forbidden under subsection (a) of this section are conducted.

(e) In addition to other penalties provided in this division, the police department may seize and destroy devices mentioned in subsection (b) of this section.

(f) This section does not apply to gambling activities licensed by the state.

(Comp. Ords. 1982, § 3.981a.00)

State law reference(s)—Keeping or maintaining a gaming room or apparatus, MCL 750.303; destruction of gaming articles, MCL 750.308 et seq.

Secs. 50-292—50-320. Reserved.

ARTICLE VII. OFFENSES AGAINST PUBLIC SAFETY

DIVISION 1. GENERALLY

Sec. 50-321. Fireworks.

(a) 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.

[46]State law reference(s)—Gambling generally, MCL 750.301 et seq.; McCauley-Traxler-McNeely Lottery Act, state lottery, MCL 432.1 et seq.; Michigan Gaming Control and Revenue Act, MCL 432.201 et seq.

(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, 40 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 sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

(8) *"NFPA"* means the National Fire Protection Association headquartered at 1 Batterymarch Park, Quincy, Massachusetts.

(9) *"NPFA 1123"* means the "Code for Fireworks Display," 2010 edition, developed by NFPA.

(10) *"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) It shall be unlawful for any person to ignite discharge or use consumer fireworks at any time except on the day preceding, the day of, or the day after a national holiday. No person shall ignite, discharge or use consumer fireworks between the hours of 1:00 a.m. and 8:00 a.m. of the day preceding, the day of, or the day after a national holiday consistent with Section 7(2) of Public Act 256 of 2011.

(c) It shall be unlawful for any person to use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks, or special effects manufactured for outdoor pest control or agricultural purposes, or for public or private display within the city, village, or township by municipalities, fair associations, amusement parks, or other organizations or individuals approved by the city, village, or township authority, if the applicable provisions of this act are complied with, without first obtaining a permit from the city.

(1) A 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

(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 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. 4-12, 6-4-2012; Ord. No. 1-14, 7-21-2014)

Secs. 50-322—50-340. Reserved.

DIVISION 2. FIREARMS AND DANGEROUS WEAPONS[47]

Sec. 50-341. Shooting or discharge prohibited; exceptions.

No person shall shoot or discharge any firearm, air rifle, air pistol, spring gun, bow and arrow, crossbow, slingshot, or any other dangerous weapon or instrument in the city except as provided in this division.

(Comp. Ords. 1982, § 3.310.00(1))

Sec. 50-342. Exceptions.

(a) The provisions of this division shall not apply to any peace officer of the state, county or any municipality who is regularly employed or paid by the state, county or municipality nor to any auxiliary police officer, auxiliary sheriff's deputy or military personnel acting within the scope of his authority, nor to any person serving as a dog warden or animal control officer with the authority to enforce pertinent state or local laws and ordinances.

[47]State law reference(s)—Firearms and weapons, MCL 750.22 et seq.; firearms, MCL 28.421 et seq.; city's authority to prevent discharge of firearms, MCL 123.1104.

(b) The provisions of this division shall not apply to a person or the agent of that person engaged in the extermination of animal pests on the property of that person provided a permit has first been obtained from the chief of police or a person under his command.

(c) The provisions of this division shall not apply to a person acting in the defense of a person as permitted by law.

(Comp. Ords. 1982, § 3.310.00(1)(a)—(c))

Sec. 50-343. Penalty.

Any person found guilty of violating any of the provisions of this division shall be guilty of a misdemeanor and shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 3.310.00)

Secs. 50-344—50-370. Reserved.

ARTICLE VIII. ALCOHOL AND DRUGS[48]

DIVISION 1. GENERALLY

Secs. 50-371—50-390. Reserved.

DIVISION 2. OFFENSES CONCERNING UNDERAGE PERSONS[49]

Sec. 50-391. 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:

Alcoholic beverage means 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 the Michigan Liquor Control Code of 1998, Public Act No. 58 of 1998 (MCL 436.1101 et seq.).

Control means any form of regulation or dominion, including a possessory or management right or duty.

Drug means a controlled substance as defined by the Public Acts of the state. Currently, such controlled substances are defined by article 7 of Public Act No. 318 of 1978 (MCL 333.7101 et seq.).

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[48]Editor's note(s)—Ord. No. 04-18, § 1, adopted December 3, 2018, changed the name of article VIII from offenses concerning underage persons to alcohol and drugs.

State law reference(s)—Contributing to the delinquency of a minor, MCL 750.145.

[49]Editor's note(s)—Ord. No. 04-18, § 2, adopted December 3, 2018, changed the name of division 2 from alcohol and drugs to offenses concerning underage persons.

Licensee means a person who has been granted authority by the state liquor control commission to manufacture and sell, or sell, or warehouse alcoholic liquor.

Minor means a person not legally permitted by reason of age to possess alcoholic beverages pursuant to section 109 of the state liquor control code of 1998 (MCL 436.1109).

(Comp. Ords. 1982, § 3.311.01)

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

Sec. 50-392. Exceptions.

The provisions of this division shall not apply to a person related to a minor as a parent or guardian, or to a person placed in the position of a parent by a parent or guardian of the minor, or to legally protected religious observances, educational activities or medical treatments.

(Comp. Ords. 1982, § 3.311.02)

Sec. 50-393. Selling or furnishing alcoholic liquor to person less than 21 years of age; failure to make diligent inquiry; misdemeanor; signs; consumption of alcoholic liquor as cause of death or injury; felony; enforcement against licensee; consent of parent or guardian in undercover operation; defense in action for violation; report; definitions.

(a) Alcoholic liquor shall not be sold or furnished to a minor. A person who knowingly sells or furnishes alcoholic liquor to a minor, or who fails to make diligent inquiry as to whether the person is a minor, is guilty of a misdemeanor.

(b) If a violation occurs in an establishment that is licensed by the state liquor control commission for consumption of alcoholic liquor on the licensed premises, a person who is a licensee or the clerk, agent, or employee of a licensee shall not be charged with a violation of subsection (a) of this section or section 801(2) of Public Act No. 58 of 1998 (MCL 436.1801) unless the licensee or the clerk, agent or employee of the licensee knew or should have reasonably known with the exercise of due diligence that a person less than 21 years of age possessed or consumed alcoholic liquor on the licensed premises and the licensee or clerk, agent or employee of the licensee failed to take immediate corrective action.

(c) A licensee shall not be charged with a violation of subsection (a) of this section unless enforcement action under section 50-394 is taken against the minor who purchased or attempted to purchase, consumed or attempted to consume, or possessed or attempted to possess alcoholic liquor and, if applicable, enforcement action is taken under this section against the person 21 years of age or older who sold or furnished the alcoholic liquor to the minor. However, this subsection does not apply under any of the following circumstances:

    (1) The person against whom enforcement action is taken under section 50-394 or the person 21 years of age or older who sold or furnished alcoholic liquor to the minor is not alive or is not present in this state at the time the licensee is charged.

    (2) The violation of subsection (a) of this section is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(3) The violation of subsection (a) of this section is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action. However, any initial or contemporaneous purchase or receipt of alcoholic liquor by the minor shall have been under the direction of the state police, the commission, or the local police agency and shall have been part of the undercover operation.

(d) If a minor participates in an undercover operation in which the minor is to purchase or receive alcoholic liquor under the supervision of a law enforcement agency, his parents or legal guardian shall consent to the participation if that person is less than 18 years of age.

(e) In an action for the violation of this section, proof that the defendant or the defendant's agent or employee demanded and was shown, before furnishing alcoholic liquor to a minor, a motor vehicle operator's or chauffeur's license or a registration certificate issued by the federal selective service, or other bona fide documentary evidence of the age and identity of that person, shall be a defense to an action brought under this section.

(f) As used in this section:

(1) The term "corrective action" means action taken by a licensee or a clerk, agent or employee of a licensee designed to prevent a minor from further possessing or consuming alcoholic liquor on the licensed premises. Corrective action includes but is not limited to contacting a law enforcement agency and ejecting the minor and any other person suspected of aiding and abetting the minor.

(2) The term "diligent inquiry" means a diligent good-faith effort to determine the age of a person, which includes at least an examination of an official state operator's or chauffeur's license, an official state personal identification card, or any other bona fide picture identification which establishes the identity and age of the person.

(Comp. Ords. 1982, § 3.311.03)

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

State law reference(s)—Similar provisions, MCL 436.1701.

Sec. 50-394. Purchase, consumption, or possession of alcoholic liquor by minor; attempt; violation; fines; sanctions; furnishing fraudulent identification to minor; chemical breath analysis; notice to parent, custodian, or guardian; construction of section; exceptions; definitions.

(a) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor except as provided in this section. A minor who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions:

(1) For the first violation, a fine of not more than $100.00.

(2) For a violation of this subsection following a prior violation of this subsection or section 33b(1) of former Public Act No. 8 of 1933 (Ex. Sess.) (MCL 436.1 et seq.), a fine of not more than $200.00.

(3) For a violation of this subsection following two or more prior violations of this subsection or section 33b(1) of former Public Act No. 8 of 1933 (Ex. Sess.) (MCL 436.1 et seq.), a fine of not more than $500.00.

(b) A person who furnishes fraudulent identification to a minor, or notwithstanding subsection (a) of this section, a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(c) A police officer who has reasonable cause to believe a minor has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis. A police officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor. A minor who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a municipal civil infraction and may be ordered to pay a civil fine of not more than $100.00.

(d) The city police department, upon determining that a person less than 18 years of age who is not emancipated pursuant to Public Act No. 293 of 1968 (MCL 722.1 et seq.) allegedly consumed, possessed, purchased or attempted to consume, possess or purchase alcoholic liquor in violation of subsection (a) of this section, shall notify a parent, custodian or guardian of the person as to the nature of the violation if the name of a parent, guardian or custodian is reasonably ascertainable by the city police department. The notice required by this subsection shall be made not later than 48 hours after the city police department determines that the person who allegedly violated subsection (a) 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 (a) of this section, his parents or legal guardian shall be notified immediately as provided in this subsection.

(e) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his employment if employed by a person licensed by the state liquor commission or by an agent of the commission if the alcoholic liquor is not possessed for his personal consumption.

(f) The consumption of alcoholic liquor 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.

(g) 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.

(h) Subsection (a) 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 alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(2) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the commission or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor 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.

(i) The state police, the commission or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection (a) of this section, Public Act No. 58 of 1998 (MCL 436.1801), or section 50-393(2).

(j) As used in this section, "work location" means, as applicable, either the specific place of employment, or the territory regularly visited by the person in pursuance of the person's occupation, or both.

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

State law reference(s)—Similar provisions, MCL 436.1703.

Sec. 50-395. Permitting consumption or use of drugs.

A person who has the ownership, possession or control of any premises in the city and who permits the consumption or use of drugs in any form by any minor on the premises is guilty of a misdemeanor.

(Comp. Ords. 1982, § 3.311.03)

State law reference(s)—Delivery or distribution of a controlled substance to a minor, MCL 333.7410.

Sec. 50-396. Storage or display of alcoholic beverages or drugs.

A person who has the ownership, possession or control of any premises in the city and who stores or displays or allows to be stored or displayed alcoholic beverages or drugs in any form on the premises shall take reasonable steps to prevent any minor on the premises from obtaining possession of such alcoholic beverages or drugs for any purpose whatsoever; and any such person who fails to take such reasonable steps shall be guilty of a misdemeanor.

(Comp. Ords. 1982, § 3.311.04)

Sec. 50-397. Penalty.

Unless otherwise provided, the penalties for violation of this division shall be as follows:

(1) For the first violation, a fine not exceeding $300.00 or imprisonment in the county jail for a term not to exceed 30 days or by both such fine and imprisonment, and required attendance at a court-approved substance abuse program at the expense of the defendant.

(2) For subsequent violations, a fine not exceeding $500.00 or imprisonment in the county jail for a term not to exceed 90 days or by both such fine and imprisonment, and required attendance at a court-approved substance abuse program at the expense of the defendant.

(Comp. Ords. 1982, § 3.311.05)

DIVISION 3. MARIJUANA[50]

Sec. 50-398. Prohibition.

Pursuant to the Michigan Regulation and Taxation of Marihuana Act, Section 6.1, the City of Tecumseh elects to prohibit marihuana establishments within its boundaries.

(Ord. No. 04-18, § 5, 12-3-2018)

[50]Editor's note(s)—Ord. No. 04-18, § 3, adopted December 3, 2018, renumbered the former division 3, Curfew, as article IX.

Secs. 50-399—50-420. Reserved.

ARTICLE IX. CURFEW[51]

Sec. 50-421. Required.

It shall be unlawful for any parent, guardian or other person having the legal care and custody of any minor under the age of 18 years to allow or permit any such child, ward or other person under such age, while in his legal custody, to loiter or remain, unaccompanied, upon any of the streets, alleys or other public places in the city within the time prohibited in section 50-422 unless there exists a reasonable necessity.

(Comp. Ords. 1982, § 3.500a.00)

Sec. 50-422. Prohibited actions.

(a) No child under the age of 12 years shall loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 10:00 p.m. and 6:00 a.m. unless the minor is accompanied by a parent or guardian, or some adult delegated by the parent or guardian to accompany the child.

(b) No child under the age of 18 years shall loiter, idle or congregate in or on any public street, highway, alley or park between the hours of 12:00 midnight and 6:00 a.m., immediately following, except where the minor is accompanied by a parent or guardian, or an adult delegated by the parent or guardian to accompany the minor, or where the minor is upon an errand or other legitimate business with the prior permission of the child's parent or guardian or while in the performance of or going to or coming home from the child's lawful employment.

Sec. 50-423. Arrest of violator.

(a) Each member of the police force, while on duty, is authorized to arrest without warrant any person within his presence violating any of the provisions of section 50-422 and detain such person for a reasonable time until complaint can be made and warrant issued and served.

(b) No child or minor person arrested under the provisions of this division shall be placed in confinement until the parent or guardian of such child shall have been notified and the parent's wishes or the wishes of such guardian or legal custodian ascertained and the parents, guardians or legal custodian shall refuse to be held responsible for the observance of this division by the minor person.

(Comp. Ords. 1982, § 3.502.00)

Sec. 50-424. Fine.

Any person, either minors under the age of 18 years or the parents, guardian or legal custodian of any such minor, violating any of the provisions of this division shall upon conviction be punished by a fine not exceeding

[51]Editor's note(s)—See editor's note at article VIII, division 3.

State law reference(s)—Curfew for minors, MCL 722.751 et seq.

$50.00 or by imprisonment for a term not to exceed 30 days or by both such fine and imprisonment at the discretion of the court.

(Comp. Ords. 1982, § 3.504.00)

Secs. 50-425—50-460. Reserved.

ARTICLE X. OFFENSES CONCERNING SCHOOL PROPERTY AND GROUNDS[52]

Sec. 50-461. Damaging school property.

No person shall damage, destroy or deface any public, private or parochial school building, or any building occupied by any public, private or parochial school or grounds, outbuildings, fences, trees or other appurtenances or fixtures belonging to such buildings in the city.

(Comp. Ords. 1982, § 3.998.01)

State law reference(s)—Malicious mischief generally, MCL 750.377 et seq.

Sec. 50-462. Disturbing the peace.

No person shall willfully or maliciously make or assist in making any noise, disturbance or improper diversion, by which the peace, quietude or good order of any public, private or parochial school in the city is disturbed.

(Comp. Ords. 1982, § 3.998.02)

State law reference(s)—Disturbing public places, MCL 750.170.

Sec. 50-463. Indecent language; conduct.

No person shall use profane, indecent or immoral language or indulge in indecent or immoral conduct in any building or on any property adjacent to any building in the city occupied as a public, private or parochial school.

(Comp. Ords. 1982, § 3.998.03)

State law reference(s)—Indecent language, MCL 750.103, 750.337.

Sec. 50-464. Order to leave.

Any person found to be creating a disturbance in any private, public or parochial school or on the surrounding schoolgrounds in this city shall leave immediately when so directed by the principal or by any other person designated by the principal.

(Comp. Ords. 1982, § 3.998.04)

[52]Editor's note(s)—Ord. No. 04-18, § 6, adopted December 3, 2018, renumbered the former article IX as article X.

Sec. 50-465. Loitering.

No person who is not a regularly enrolled student, or parent or guardian of a regularly enrolled student, or teacher or other employee shall enter and remain in any school building or on any surrounding schoolgrounds, whether public, private or parochial, in the city for any reason whatever unless such person has received permission from the principal, or other person designated by the principal, to be in any such public, private or parochial school building or on such schoolgrounds.

(Comp. Ords. 1982, § 3.998.05)

Sec. 50-466. Penalty.

Any person found guilty of violating any of the provisions of this article shall be guilty of a misdemeanor and shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 3.998.06)

Chapter 54 PARKS AND CEMETERIES[53]

ARTICLE I. IN GENERAL

Sec. 54-1. Policy.

It shall be the policy of the city to provide city parks and cemeteries for the general public to use in a reasonable and orderly manner but in order to protect city parks (parks which are defined as any property owned by the city which is used for recreational purposes, or public property used by the city for recreational purposes), city park equipment and people using city parks, it shall be unlawful for any person to do any act forbidden in this chapter, or to fail to perform any act required in this chapter while any provision of this chapter by its term or by necessary implications shall be applicable to such person.

(Comp. Ords. 1982, § 3.997A.01)

Sec. 54-2. Park hours.

Except as otherwise posted or for city sponsored events, all city owned parks and cemeteries are open seven days a week from sunrise to sunset.

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[53]Charter reference(s)—Municipal Powers, acquisition land for public use, § 2.3(a).

Cross reference(s)—Environment, ch. 34; streets, sidewalks and other public places, ch. 70; vegetation, ch. 86; waterways, ch. 94.

State law reference(s)—Power of city to acquire and maintain parks, boulevards and cemeteries, Mich. Const. 1963, art. VII, § 23; authority of city to operate a system of public recreation, MCL 123.51 et seq.; acquisition and home improvement of parks, MCL 141.321 et seq.; playground equipment safety act, MCL 408.681 et seq.; cemeteries, MCL 128.31 et seq.

(Comp. Ords. 1982, § 3.997A.02; Ord. No. 08-21, § 1, 8-2-2021)

Sec. 54-3. Reserved.

Editor's note(s)—Ord. No. 08-21, § 2, adopted August 2, 2021, repealed § 54-3, which pertained to Satterthwaite Park and Tecumseh Park and derived from Comp. Ords. 1982, § 3.997A.03.

Sec. 54-4. Permits required.

Any person desiring to use any city park or cemetery at a time other than that provided for in section 54-2 shall file an application with the parks and recreation director on forms to be furnished by the director and shall not use the park until the permit is granted. The granting of any special permits shall be at the sole discretion of the city, and a permit may be granted for only proper reasons, and the city shall be the sole judge of such reasons.

(Comp. Ords. 1982, § 3.997A.04)

Sec. 54-5. Prohibited uses and acts.

No person shall:

(1) *Structures; equipment.* Willfully mark, deface, disfigure, injure, tamper with, break, displace or remove any buildings, cables, benches, tables, fireplaces, grills, light poles, fountains, tennis nets, trees, playground equipment, public utilities or parts, or appurtenances, signs, notices or placards, whether temporary or permanent, monuments, flagpoles, stakes, posts, fences or other boundary markers, or other structures or equipment, facilities or city park property, or appurtenances whatsoever, either real or personal.

State law reference(s)—Malicious mischief generally, MCL 750.377 et seq.; maliciously injuring or destroying boundary markers, guideposts, signs and the like, MCL 750.383.

(2) *Firearms, bow and arrows, fireworks and devices.* Carry or discharge firearms of any description or slingshots; shoot arrows; discharge fireworks, firecrackers, rockets or any other types of fireworks or things containing any substance of any explosive nature, except in conformity with section 50-321 et seq. of this Code of Ordinances.

State law reference(s)—City's authority to prevent discharge of firearms, MCL 123.1104.

(3) *Peace; disorderly conduct.* Do or perform any unlawful act, make or excite any disturbance or contention in any city park. No person shall use any indecent, immoral, obscene, vulgar or insulting language at any time.

(4) *Camping in parks.* Camp, whether in a vehicle, trailer, tent or other manner, in any city park at any time, except by permit of the parks and recreation director.

(5) *Throwing stones and missiles.* Throw or cast any stones or other missiles within any city park.

(6) *Dumping articles in park.* Deposit any rubbish, garbage or refuse matter, break glass or bottles in or upon any part of the park other than such refuse accumulated from organized and acceptable activities within the park; and such refuse must be deposited in receptacles provided for that purpose.

(Comp. Ords. 1982, § 3.997A.05; Ord. No. 4-12, 6-4-2012)

State law reference(s)—Littering, MCL 324.8901 et seq.; throwing glass or sharp substance on a beach, highway, walk or public property, MCL 750.493a.

Sec. 54-6. Alcoholic beverages or controlled substances.

(a) No person shall bring into, use, consume or sell alcoholic beverages or controlled substances in any city park.

(b) No intoxicated person, or person under the influence of a controlled substance shall enter, be or remain in any city park. Any such person so found may be ejected.

(Comp. Ords. 1982, § 3.997A.06)

Cross reference(s)—Offenses and miscellaneous provisions, ch. 50.

Sec. 54-7. Use.

No parade, procession, exercise, event or activity of a nonrecreational nature calculated to attract or which does in fact attract more than 20 persons shall be permitted within any city park unless sponsored by or scheduled by the parks and recreation director or unless a permit has been issued in writing by the director. Any person who shall sponsor, engage in, participate in or attend any such parade, procession, exercise, event or activity of a nonrecreational nature shall be deemed to be in violation of this chapter.

(Comp. Ords. 1982, § 3.997A.07)

State law reference(s)—Unlawful assembly, MCL 752.543.

Sec. 54-8. Police and park employees.

No person shall resist any police officers or city employee exercising his duty within any city park, or fail or refuse to obey any lawful command of any such police officers or park employees or in any way interfere with or hinder or prevent any such police officers or park employees from discharging their duty, or in any manner assist or give aid to any person in custody to escape or to attempt to escape from custody, or rescue or attempt to rescue any person when in such custody.

(Comp. Ords. 1982, § 3.997A.08)

State law reference(s)—Obstruction of public officers, MCL 750.479; disobedience of a police signal, MCL 750.479a; escapes, rescues, jail and prison breaking, MCL 750.183 et seq.

Sec. 54-9. Ejection from park.

Any person found violating any provision of this chapter may either be arrested or ejected from any city park.

(Comp. Ords. 1982, § 3.997A.09)

Sec. 54-10. Penalties.

Any person charged with violating any provision of this chapter shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 3.997A.10)

Secs. 54-11—54-40. Reserved.

ARTICLE II. CEMETERIES[54]

Sec. 54-41. Definitions.

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

Burial space means a lot, grave or gravesite, or portion of a lot, grave or gravesite in any cemetery designated and maintained for the interment of a human body and for no other purpose.

Cemetery means Brookside Cemetery as heretofore established and any other public cemetery owned, managed or controlled by the city.

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

(Comp. Ords. 1982, § 8.031.00)

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

Sec. 54-42. Management, supervision and care.

The cemeteries which have been or may be established by the city and maintained either within or without its limits shall be under the management, supervision and care of the city manager or his designee. The planting of trees, vines, or shrubs is prohibited unless approved by the cemetery superintendent and will become property of the City of Tecumseh. The cemetery has the right to prune, trim, or remove any plantings as needed. Special requests for this type of work shall be made at the cemetery office. The cemetery superintendent shall, if necessary, cause such cemeteries to be laid out in lots, drives and walks, the lots to be numbered, drives and walks to be named, and plats to be made. The city council, by resolution, shall fix the price of a burial space and other necessary services. Price of burial space and of other necessary services are readopted and affirmed.

(Comp. Ords. 1982, § 8.032.00; Ord. No. 3-07, 2-19-2007)

Sec. 54-43. Rules and regulations.

The city manager with the approval of the city council shall, from time to time, make rules and regulations for the burial of the dead, care, improvement and protection of the grounds, mausoleums, monuments and appurtenances of the cemeteries and orderly conduct of persons visiting the cemeteries, as may be deemed necessary. The rules and regulations in respect to cemeteries shall be strictly enforced. The city clerk shall cause to be kept a register of all interments made in any city cemetery, in which shall appear the names of the deceased, the date and place of interment, and such other information as may be required.

(Comp. Ords. 1982, § 8.033.00; Ord. No. 1-09, 3-2-2009)

[54]State law reference(s)—Municipal control and perpetual maintenance of cemetery lots, MCL 128.1 et seq.

Sec. 54-44. Sale of lots and columbarium niches.

All deeds for lots or receipts for the rights to burial space shall be executed on behalf of the city by the mayor and 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 or receipt for the burial space. Such deed or receipt 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.

(Comp. Ords. 1982, § 8.034.00)

Sec. 54-45. Lot owner's burial rights.

The owner of any burial space in any city cemetery shall have the right of burial of the human 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 unless special permission by the owner is filed in writing at the cemetery office, with the consent of the city manager or his designee endorsed thereon. No transfer of deeds is allowed. However, a lot owner or heir of an owner's estate may decide to grant "right of burial" to whomever they wish in writing at the cemetery office, with the consent of the city manager or his designee endorsed thereon. Any person owning any burial rights and not having used any part of the lot wishing to give up such rights, may transfer the lot to the city and will be paid the amount of the original purchase price less administrative fees.

Burial rights shall be considered forfeited if a burial space remains vacant for 50 years or more from the date of their sale and shall automatically revert back to the city upon the occurrence of the following events:

(1) Publication in the local paper of all burial spaces being considered for forfeiture, including location number and last known surname of the family with burial rights to the space;

(2) Notice sent by written form to the last owner of record informing them of the expiration of the 50-year period and that all rights with respect to said space(s) will be forfeited to the city if written affirmation of their desire to retain such burial rights is not received by the clerk within 60 days of mailing such notice;

(3) No written affirmation of desire to retain burial space(s) is received by the clerk from the last known owner of record's heirs or legal representative within 60 days of mailing forfeiture notice.

(Comp. Ords. 1982, § 8.035.00; Ord. No. 3-07, 2-19-2007; Ord. No. 01-18, 5-7-2018; Ord. No. 10-21, § 1, 9-7-2021)

Sec. 54-46. Lot records.

The city cemetery superintendent shall keep proper records in which the deeds or receipts to all burial spaces shall be recorded at length. In connection with all such records, the city cemetery superintendent shall also keep a general index noting the name of the parties to every such instrument of transfer.

(Comp. Ords. 1982, § 8.036.00; Ord. No. 10-21, § 1, 9-7-2021)

Sec. 54-47. Labor charges.

The city manager or his designee 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 resolution of the city council. All such fees shall be paid to the city clerk or the agent of the city clerk. No person other than an employee of the city, acting under the direction of the city manager or his designee, shall dig upon or open any grave, nor shall any

person grade or fill in a burial space or otherwise do any work in connection with such work, unless such work is done under supervision of the city employee in charge of such cemetery.

(Comp. Ords. 1982, § 8.037.00)

Sec. 54-48. Trespass.

No person shall trespass on any lot or burial space within the 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 city manager or his designee shall make such additional rules and regulations not inconsistent with the terms of this article, subject to the approval of the city council, as may be deemed necessary for the operation and control of city cemeteries.

(Comp. Ords. 1982, § 8.038.00)

State law reference(s)—Malicious destruction or injury to tombs, memorials or things placed or designed for a memorial of the dead, MCL 750.387.

Sec. 54-49. Cemetery hours.

The cemetery grounds shall be open each day, including Sundays and holidays, or as otherwise posted. The cemetery shall be closed to the public from dusk until 5:00 a.m.

(Ord. No. 1-09, 3-2-2009)

Editor's note(s)—Ord. No. 1-09, adopted March 2, 2009, added §§ 54-49—54-51. In order to avoid conflicts in section numbering the editor has renumbered these sections as §§ 54-49—54-51.

Sec. 54-50. Pets in the cemetery.

Pets, with the exception of leader dogs for the blind or dogs handled by law enforcement officers, are prohibited from the cemetery at all times.

(Ord. No. 1-09, 3-2-2009)

Sec. 54-51. Penalties.

Any person charged with violating any provision of this chapter shall be guilty of a civil infraction and punished as provided in section 1-7(f).

(Ord. No. 1-09, 3-2-2009)

Chapter 58 SECONDHAND GOODS[55]

[55]Charter reference(s)—License, § 2.3(q).

Cross reference(s)—Businesses, ch. 18.

State law reference(s)—Licensing of secondhand goods and junk dealers, MCL 445.401 et seq., 445.471 et seq.; pawnbrokers, licensing, MCL 446.201 et seq., 445.471 et seq.

ARTICLE I. IN GENERAL

Secs. 58-1—58-30. Reserved.

ARTICLE II. GARAGE SALES

DIVISION 1. GENERALLY

Sec. 58-31. Short title.

This article, for brevity, may be cited, pleaded and referred to and may be amended by the short title of "Garage Sales Ordinance of the City of Tecumseh, Michigan."

(Comp. Ords. 1982, § 3.982.08)

Sec. 58-32. 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:

Garage sale, attic sale or *lawn sale* means any sale of tangible personal property not otherwise regulated in the city and not falling within the exceptions of this article, advertised in such manner that the public at large is or can be made aware of such sale.

Goods means any goods, warehouse merchandise or other property capable of being the object of a sale regulated under this article.

(Comp. Ords. 1982, § 3.982.01)

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

Sec. 58-33. Penalties.

Any person violating any of the provisions of this article shall upon conviction be punished as provided in section 1-7.

(Comp. Ords. 1982, § 3.982.07)

Secs. 58-34—58-50. Reserved.

DIVISION 2. LICENSE[56]

Sec. 58-51. Required.

A license issued by city hall shall be obtained by any person before selling or offering to sell any goods at a sale to be advertised or held out by any means to be one of the type of sales enumerated in section 58-32 and falling within the exceptions of section 58-55.

(Comp. Ords. 1982, § 3.982.02; Ord. No. 09-21, § 1, 9-7-2021)

Sec. 58-52. Application.

An application for a license for any of the sales regulated under this article shall be made through city hall either in person or online. The application shall contain the following information:

(1) Name of the person conducting the sale.

(2) Location at which the sale is to be conducted.

(3) Dates during which the sale is to be conducted within the time limits prescribed in this division.

(4) Dates and locations of any past sale conducted by the applicant within the calendar year.

(Comp. Ords. 1982, § 3.982.03; Ord. No. 09-21, § 1, 9-7-2021)

Sec. 58-53. Fees.

License fees in an amount set from time to time shall be paid to the city at the time of application. The first and second license fees for each particular location during any calendar year beginning January 1 shall be set at an amount intended to cover the city cost of processing. Each successive license fee thereafter shall be set at a higher amount to discourage recurring sales and cover the cost of monitoring by code enforcement staff. The city may charge a violation fee, to be set from time to time, to those residents in violation of this ordinance. Unpaid license and violation fees will be added to the summer tax roll.

(Comp. Ords. 1982, § 3.982.04; Ord. No. 09-21, § 1, 9-7-2021)

Sec. 58-54. Conditions of license.

(a) No person shall conduct, advertise or promote any sale regulated by this article without a license issued as prescribed in this division.

(b) No signs advertising a sale regulated by this division shall be placed on public property or within the public right-of-way or any utility pole or on private property, except that one sign advertising the sale may be placed on the property of the owner. The sign shall not exceed six square feet in size.

[56]Charter reference(s)—Municipal powers, licenses, § 2.3(q).

(c) No license shall be issued authorizing any such sale to be conducted for a period longer than five consecutive days.

(d) Proof of the license authorizing such sale must be provided upon request of ordinance enforcement.

(Comp. Ords. 1982, § 3.982.05; Ord. No. 4-07, 3-5-2007; Ord. No. 09-21, § 1, 9-7-2021)

Sec. 58-55. Persons and sales excepted.

The following are excepted from the provisions of this article:

(1) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Any person selling or advertising for sale items of personal property which are not displayed in a residentially zoned district.

(4) Any publisher of a newspaper, magazine or other publication or other communication medium who publishes or broadcasts in good faith without knowledge of its false, deceptive or misleading character or without knowledge that the provisions of this article have not been complied with.

(5) Any sale regulated under any other provisions of the ordinances of the city.

(6) Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by the zoning regulations of the city or under protection of the presently nonconforming section of such ordinance, or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited in the ordinances of the city.

(7) Any bona fide charitable, religious, educational, cultural or governmental institution or organization; however, the burden of establishing the exemption under this subsection shall be on the organization or institution claiming such exemption.

(8) An auction by a lawfully qualified auctioneer.

(Comp. Ords. 1982, § 3.982.06)

Chapter 62 SOLID WASTE[57]

ARTICLE I. IN GENERAL

Sec. 62-1. Definitions.

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

[57]Charter reference(s)—General municipal powers, § 2.2.

Cross reference(s)—Buildings and building regulations, ch. 14; environment, ch. 34; subdivisions, § 46-121 et seq.; littering as an offense, § 50-111 et seq.; utilities, ch. 82.

Business establishment means an establishment or entity that is not under a city contract with a commercial collector for the collection of solid waste at dwelling units.

Dwelling unit means a building or portion of a building designed for occupancy by one family or two families or three families, living independently of each other, for residential purposes.

Garbage and refuse mean any non-hazardous solid waste as defined in Michigan Public Act 451 of 1994, Part 115 (MCL 324.11501—324.11506).

Multiple dwelling means a building or portion of a building designed exclusively for occupancy by four or more families, living independently of each other.

Recyclable material means separated materials including high grade paper, newspaper, corrugated paper, glass, metal, plastic (#1, 2, 4, 5 and 7), aluminum, tin and steel cans, and other materials that city determines may be recycled.

Residential refuse means all garbage generated by a producer at a residential dwelling unit, in all cases to exclude any materials accumulated from a business establishment or hazardous waste, unacceptable waste or yard waste; including specific classifications further defined below:

(1) *Bulk items* means large and/or heavy disposable items including, but not limited to, major appliances, carpets, mattresses, and other oversize materials whose large size and/or excessive weight precludes or complicates their handling by normal collection. All appliances must have had CFCs and/or mercury switches removed by a certified technician.

(2) *Food waste* means rejected food wastes including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that results from the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetable matter.

(3) *Rubbish* means all paper, cardboard, waste pulp and other products used for packaging or wrapping, rags, crockery and glass, demolished building materials, ashes, cinders, floor sweepings, and mineral or metallic substances.

(4) *Household rubbish* means discarded household materials, including used and discarded clothing, used and discarded shoes and boots, wastepaper, broken crockery and glassware, bottles, cans, and such other articles as would normally accumulate at a dwelling unit.

Yard waste means grass clippings, weeds, leaves, plants, tree branches, roots, and other vegetative matter resulting from landscaping maintenance.

(Comp. Ords. 1982, § 4.822.00; Ord. No. 11-21, § 1, 10-18-2021)

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

Sec. 62-2. Rules and regulations.

The city manager or his designee is authorized, subject to the approval of the council, to make reasonable and necessary rules and regulations consistent with the provisions of this chapter pertaining to the collection and disposal of garbage, refuse, rubbish, recyclable materials and yard waste.

(Comp. Ords. 1982, § 4.829.00; Ord. No. 11-21, § 1, 10-18-2021)

Sec. 62-3. Penalty.

Any person who shall fail to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 4.831.00)

Secs. 62-4—62-30. Reserved.

ARTICLE II. DISPOSAL

DIVISION 1. GENERALLY

Sec. 62-31. Methods.

(a) Garbage, refuse, rubbish, recyclable materials and yard waste shall be disposed of by the following methods:

(1) Commercial collection or owner/occupant removal for disposal in a lawful manner.

(2) A food waste disposal unit connected with an integral part of the sewer system of the building and capable of reducing all garbage deposited in the system to comply with all pertinent state, county and local health and plumbing statutes, codes and rules and regulations; however, this method of disposal involving use of the sewer system of the city shall not be used by commercial garbage or refuse collectors.

(3) A composting unit for food waste and yard waste that is designed to minimize nuisances such as odors and is in compliance with pertinent state statutes and local ordinances.

(b) Nothing in this section shall prohibit the disposal of garbage, refuse, rubbish, recyclable materials or yard waste in accordance with the rules and regulations authorized under this article or in any other lawful manner.

(Comp. Ords. 1982, § 4.823.00; Ord. No. 11-21, § 1, 10-18-2021)

Secs. 62-32—62-50. Reserved.

DIVISION 2. COLLECTION

Sec. 62-51. Containers for collected solid waste.

(a) It shall be the duty of the occupant of every dwelling unit or business establishment and the duty of the owner of every multiple dwelling where garbage or rubbish is produced to provide and maintain a container in which the occupant shall deposit or cause to be deposited garbage or rubbish for collection. In the case of rubbish that is too large in size or too great in weight to be deposited in an approved container ("bulk items"), the rubbish may be disposed of for collection as is otherwise provided in this article.

(b) The city shall contract with a commercial collector for collection and disposal of residential refuse from dwelling units as defined in section 62-1.

(c) An approved residential refuse container shall be one of the following:

(1) A sturdy disposable plastic bag or other disposable container permitted by the rules and regulations authorized under this article.

(2) A hard plastic, wheeled refuse cart supplied by the city's contracted commercial collector.

(d) Recyclable materials shall be deposited in a recycle bin or other approved container provided by the commercial collector.

(e) Yard waste shall be deposited or cause to be deposited in a biodegradable paper yard waste bag or an approved container owned by the occupant or rented from the commercial collector, all to be clearly marked "yard waste."

(f) When garbage or rubbish is collected at a multiple dwelling or business establishment by a commercial collector, not under city contract for dwelling units; the shape, size and weight of the container shall be regulated by the collector.

(g) All residential refuse, recyclable material and yard waste containers shall be kept in a sanitary condition, free from grease and decomposed material. Such containers and other residential refuse shall be placed at the curbside of the dwelling unit no sooner than 4:00 p.m. on the day before the scheduled collection day for that dwelling unit, and removed from the curbside no later than 8:00 a.m. on the day following the scheduled collection day. All containers shall be stored in a building, fenced enclosure, or at the rear of the dwelling unit, so as to not be readily visible from the public rights-of-way.

(h) Garbage and rubbish shall not be placed on public property by a business establishment, except in dumpster co-location enclosures approved by the city.

(i) Nothing in this section shall prohibit the disposal of garbage or rubbish in accordance with the rules and regulations authorized under this article or in any other lawful manner.

(Comp. Ords. 1982, § 4.824.00; Ord. No. 11-21, § 1, 10-18-2021)

Sec. 62-52. Hours of collection.

Collections of rubbish or garbage by commercial disposal firms shall be made between the hours of 7:00 a.m. and 5:00 p.m. at dwelling units. Business establishment collections shall be made between the hours of 3:00 a.m. and 10:30 a.m. In exceptional cases, the city manager or his designee may extend the time of collection.

(Comp. Ords. 1982, § 4.825.00)

Sec. 62-53. Stopping, standing or parking of collection vehicles.

No vehicle used for the collection of solid waste shall stop, stand or park for more than 15 minutes at any one place; and during such periods, the load shall be securely covered and the vehicle shall not be located nearer than 50 feet to a dwelling unit, multiple-dwelling unit or business establishment.

(Comp. Ords. 1982, § 4.826.00; Ord. No. 11-21, § 1, 10-18-2021)

Cross reference(s)—Parking, § 78-111 et seq.

Secs. 62-54—62-70. Reserved.

DIVISION 3. LITTERING AND RUBBISH BURNING[58]

[58]Cross reference(s)—Fire prevention and protection, ch. 38.

State law reference(s)—Littering, MCL 324.8901 et seq.; depositing of refuse on premises of another without permission, MCL 750.552a.

Sec. 62-71. Methods.

(a) Except as otherwise provided in this article, no person shall in any manner dump, abandon, place, deposit, throw or scatter any garbage or rubbish in or upon any public or private property, including but not limited to streets, alleys, sidewalks, ditches, drains and gutters.

(b) No person shall burn or attempt to burn, or allow such burning on any premises, under his control, garbage openly or in a receptacle other than in a closed-type incinerator properly vented and capable of reducing such materials to ashes without causing an objectionable odor in the neighborhood.

(c) On the new construction of every dwelling unit, multiple-dwelling unit and building used as a business establishment, where required pursuant to the following, a garbage disposal unit shall be installed and connected to the sewer system during construction, which garbage disposal unit and all connections shall be of sufficient size to grind and dispose of all garbage and food wastes produced in such dwelling unit, multiple-dwelling unit and building used as a business establishment where required pursuant to this subsection.

(Comp. Ords. 1982, § 4.827.00)

Chapter 66 SPECIAL ASSESSMENTS[59]

Sec. 66-1. Power to make special assessments.

The city council shall have the power to assess and reassess the cost, or any portion of the cost, of any public improvement to a special district as provided in chapter 11 of the Charter, in accordance with the provisions established by the Charter and the procedures set forth in this chapter.

(Comp. Ords. 1982, § 6.001.00)

Sec. 66-2. Content of resolution.

When the city council shall determine to make any public improvement and defray the whole or any part of the costs and expenses of the improvement by special assessment, it shall so declare by resolution, stating the improvement, and what part or proportion of the expenses shall be paid by special assessments, and what part, if any, from the general funds of the city, and shall designate the district or land and premises upon which the special assessment shall be levied. The council may, in its discretion, divide any improvement into parts or sections and

[59]Charter reference(s)—Special assessments, § 11.1 et seq.

Cross reference(s)—Any ordinance promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness saved from repeal, § 1-11(4); any ordinance authorizing or approving any contract, deed or agreement saved from repeal, § 1-11(5); any ordinance making or approving any appropriation or budget saved from repeal, § 1-11(7); any ordinance levying or imposing any special assessment saved from repeal, § 1-11(10); any ordinance levying, imposing or otherwise relating to taxes or fees in lieu of taxes not codified in this Code saved from repeal, § 1-11(13); administration, ch. 2; finance, § 2-361 et seq.; community development, ch. 22; streets, sidewalks and other public places, ch. 70.

State law reference(s)—Special assessment notices and hearings, MCL 211.741 et seq.

provide for the separate construction of such parts or sections, and may establish a special assessment district for each part or section, and may issue bonds against such separate districts.

(Comp. Ords. 1982, § 6.002.00)

Sec. 66-3. Cost estimates and notice of hearing.

Before ordering any public improvement, any part of the expense of which is to be defrayed by special assessment, the city council shall cause estimates of the expenses to be made and also maps and plans, when practicable, of the work and of the locality to be improved and deposit the expenses with the clerk for public examination; and they shall cause a notice of the proposed improvement and the district to be assessed to be given to each owner of an interest in property assessed whose name appears on the last local tax assessment records by first class mail addressed to such owner at the address shown on the tax records at least two weeks before the date of such hearing; and they shall give notice and of the proposed improvement or work and of the district to be assessed by publication once at least two weeks prior to such hearing in a newspaper of general circulation in the city to be designated by the council and of the time and place when the council will meet and consider any objections.

(Comp. Ords. 1982, § 6.003.00)

Sec. 66-4. Content of cost.

The cost and expenses of any improvement which may be defrayed by special assessment shall include the costs of surveys, plans, assessments, cost of construction, and all other costs incurred in making the improvement.

(Comp. Ords. 1982, § 6.004.00)

Sec. 66-5. Special assessment procedure.

When any special assessment is to be made pro rata upon the lots and premises in any special district according to frontage or benefits, the council shall by resolution to authorize the city manager or his designee to direct the city assessor to prepare a special assessment role and spread valuation, stating the amount to be assessed and whether according to frontage or benefits, and describe or designate the lots and premises or locality constituting the district to be assessed.

(Comp. Ords. 1982, § 6.005.00)

Sec. 66-6. Preparation of assessment roll.

Upon receiving such orders and direction prescribed in section 66-5, the city manager or his designee shall make out an assessment roll, entering and describing all the lots, premises and parcels of land to be assessed, with the name of the persons, if known, chargeable with the assessments, and shall levy on and against such property the amounts to be assessed in the manner directed by the council and provisions of this chapter applicable to the assessment. In all cases where the ownership of any description is unknown to the city manager or his designee, he shall, in lieu of the name of the owner, insert the word "unknown"; and if by mistake, or otherwise, any person shall be improperly designated as the owner of any lot or parcel of land or premises, or if the property shall be assessed without the name of the owner or the name of any person other than the owner, such assessment shall not, for any cause, be vitiated but shall, in all respects, be as valid upon and against such lot, parcel of land, or premises as though assessed in the name of the property owner; and when the assessment shall have been confirmed, it shall be a lien on such lot, parcel of land or premises and collected as provided by the Charter.

(Comp. Ords. 1982, § 6.006.00)

Sec. 66-7. Certification of assessment roll.

If an assessment is required to be according to frontage, the city assessor shall assess to each lot or parcel of land such relative portion of the whole amount to be levied as the length or front of such premises abutting upon the improvement bears to the whole frontage of all lots to be assessed, unless on account of the shape or size of any lot an assessment for a different number of feet would be more equitable. If the assessment is directed to be according to benefits, he shall assess upon each lot relative proportion of the whole sum to be levied as shall be proportionate to the estimated benefit resulting to such lot from the improvement. When he shall report to the council, such report shall be signed by the city assessor and may be in the form of a certificate endorsed on the assessment roll as follows:

State of Michigan	)	
	)	ss.
City of Tecumseh	)	

To the Council of the City of Tecumseh:

I hereby certify and report that the foregoing is a special assessment made by me pursuant to a resolution of the council of said city adopted (give date) for the purpose of paying that part of the cost which the council decided should be borne and paid by special assessment for the (insert here object of the assessment);
that in making such an assessment, I have, as near as may be, according to my best judgment, conformed in all things to the directions contained in the resolution of the council hereinbefore referred to, and the Charter of the city relating to such assessment.

	Dated and Signed City Assessor

(Comp. Ords. 1982, § 6.007.00)

Sec. 66-8. Notice of special assessment.

When any special assessment roll shall be reported by the city assessor to the council, it shall be filed in the office of the clerk and numbered consecutively. Before confirming the assessment roll, the council shall set a date for the review of roll and shall cause a notice to be given to each owner of or party in interest in the property to be assessed whose name appears upon the last local tax assessment records by first class mail and addressed to such owner of or party in interest in the property to be assessed at the address shown on the tax records at least ten days prior to the date set for such review in a newspaper of general circulation in the city to be designated by the council, which notice shall set forth the fact of the filing of the assessment roll with the city clerk, the time when the council will meet to review the assessment roll, and a description of the lots, premises and parcels of land assessed. Any owner or party in interest or his agent may appear in person at the hearing to protest the special assessment or shall be permitted to file his appearance or protest by letter, in which case his personal appearance shall not be required. The notice of the meeting to review such special assessment roll and to hear protests to such special assessments shall be in substantially the following form:

Meeting to review special assessment roll No. _____ and to hear protests to the special assessments assessed against special assessment district No. _____ in the City of Tecumseh, Michigan:

Please take notice that the council will meet at _____ (insert address) on _____, the day of _____, 20___, at _____ p.m. for the purpose of reviewing special assessment roll No. _____ and of hearing any and all protests to the special assessments as assessed in roll No. _____ made in the matter of constructing the following described improvements:

(insert specified description of particular improvement).

The assessment roll is on file in the office of the city clerk for public examination. The special assessments contained in the roll have been assessed according to law against the parcels of land constituting special assessment district No. _____, which district is described as follows:

(insert description of special assessment district).

Take further notice that appearance and protest at this hearing is required in order to appeal the amount of the special assessment to the state tax tribunal if an appeal should be desired. A property owner or party in interest, or his agent, may appear in person at the hearing to protest the special assessment or may file his appearance or protest by letter delivered to the city clerk by _____, _____.m. on _____, 20___, in which case his personal appearance shall not be required. The property owner or any person having an interest in the property subject to the proposed special assessments may file a written appeal of the special assessment with the state tax tribunal within 30 days after confirmation of the special assessment roll if that special assessment was protested at this hearing.

Dated, City of Tecumseh, Michigan, this _____ day of _____, 20___.

	City Clerk

(Comp. Ords. 1982, § 6.008.00)

State law reference(s)—Notice of hearing in special assessment proceedings, MCL 211.741.

Sec. 66-9. Review of special assessments.

At the time and place appointed for the purpose stated in this chapter, the council and city manager or his designeeshall meet and there, or at some adjourned meeting, review the assessments and hear any objection to any assessment which may be made by any person deeming himself aggrieved; and the council shall correct the assessment, if necessary, and confirm it as reported or as corrected; or they may refer the assessment back to the city manager or his designee for revision, or annul it and direct a new assessment, in which case the same proceeding shall be had as in respect to the previous assessment. When a special assessment shall be confirmed, the city clerk shall make an endorsement upon the roll, showing the date of confirmation.

(Comp. Ords. 1982, § 6.009.00)

Sec. 66-10. Confirmation final.

When any special assessment roll shall be confirmed by the council, it shall be final and conclusive.

(Comp. Ords. 1982, § 6.010.00)

Sec. 66-11. Protest and appeal of special assessment.

An appearance and protest at the hearing on the confirmation of the special assessment roll is required in order to appeal the amount of the special assessment to the state tax tribunal. A property owner or party in interest, or his agent, may appear in person at the hearing on the confirmation of the special assessment roll to protest the special assessment or may file his appearance or protest by letter delivered to the city clerk on the date of hearing on the confirmation of the special assessment roll, in which case his personal appearance shall not be required. The property owner or any person having an interest in the property subject to the special assessment may file a written appeal of the special assessment with the state tax tribunal within 30 days after confirmation of the special assessment roll if that special assessment was protested at the hearing on the confirmation of the special assessment roll.

(Comp. Ords. 1982, § 6.011.00)

Sec. 66-12. Payment by installments.

At the same meeting at which the special assessment roll is confirmed by the council, the council shall by resolution determine the number of annual installments, if any, into which all assessments levied in such assessment roll shall be divided for collection, not exceeding ten in number, at such time of year as the council shall determine, with annual interest at a rate not exceeding the greater of six percent per annum, or such rate of interest which is not greater than one percent in excess of the rate of interest borne by the obligations issued by the city in anticipation of the collection of such special assessments, provided no interest shall be charged until 60 days after the date of the invoice; if the last date for payment without interest, or when the last day of any month falls on Saturday, Sunday or a legal holiday, or a day when the treasurer's office is officially closed, such payment may be made without interest or without additional interest, as the case may be, on the next business day. The whole assessment may be paid to the city treasurer at any time after confirmation in full without interest until 60 days after the date of the invoice, and then may be paid in full with accrued interest.

(Comp. Ords. 1982, § 6.012.00)

Sec. 66-13. Land divided after assessment.

Should any lots or lands be divided after a special assessment has been confirmed and divided into installments, and before the collection of all installments, the council may require the city assessor to apportion the uncollected amounts upon the several parts of lots and lands so divided. The report of such apportionment, when confirmed, shall be conclusive upon all the parties; and all assessments thereafter made upon such lots and lands shall be according to such division.

(Comp. Ords. 1982, § 6.013.00)

Sec. 66-14. Report to city treasurer.

Whenever any special assessment shall be confirmed and be payable, the council may direct the clerk to report to the city treasurer a description of such lots and premises as are contained in the roll with the amount of the assessment levied upon each and the name of the owner or occupant against whom the assessment was made, and direct the city treasurer to levy the several sums so assessed respectively. On installment payments, a reminder letter will be sent March 1 with the amount of the installment, plus interest computed to April 1, which is the due date.

(Comp. Ords. 1982, § 6.014.00)

Sec. 66-15. Collection from assessment roll.

Whenever any special assessment roll shall be confirmed, the council, instead of requiring the assessments to be reported to the city treasurer as provided in section 66-14, may direct the assessments to be collected directly from the special assessment roll, together with any interest which may become due; and thereupon the clerk shall attach his warrant to the special assessment roll, commanding the treasurer to collect the amount of money assessed against each lot, premises or parcel of land described in the roll, together with any interest which may become due, at such times and in such manner as prescribed by law and by resolution of the council. The warrant shall further require the city treasurer, on the first Monday of May following the date when such assessment or any installments have become due, to submit to the council a sworn statement setting forth a description of the lots, premises and parcels of land, including accrued interest computed to July 1 of such year.

(Comp. Ords. 1982, § 6.015.00)

Sec. 66-16. Collection by treasurer.

Upon receiving a special assessment roll and warrant, the treasurer shall proceed to collect the amount assessed. If any person shall neglect or refuse to pay his assessment upon demand, the treasurer shall prepare a list for council with those names and amounts on it, including interest if any, to be placed on the summer tax bill for collection. If the amount is $350.00 or less, the total amount plus interest, if any, will be placed on the list, otherwise, one-third of the balance due, plus interest, if any, will be placed on list.

(Comp. Ords. 1982, § 6.016.00)

Sec. 66-17. Report of delinquent assessments.

The treasurer shall report delinquent assessments or installments as required in the warrant of the clerk. The council shall then certify the report to the city treasurer, who shall place the amount on the summer tax bill and have the city assessor place the levied amount on the tax roll to be collected with the other taxes on the tax roll, and shall continue to be a lien upon the premises assessed until paid, and when collected shall be paid into the city treasury. Unpaid special assessments reassessed upon the city tax roll shall be returned to the county treasurer for collection at the same time and in the same manner as city taxes.

(Comp. Ords. 1982, § 6.017.00)

Sec. 66-18. Delay due to contest.

Should any of the proceedings authorized to be taken under the provisions of this chapter be delayed by reason of any suit or action to contest its validity, such proceedings shall be taken as soon as such delay has ended.

(Comp. Ords. 1982, § 6.018.00)

Chapter 70 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES[60]

[60]Cross reference(s)—Any ordinance dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street, sidewalk or alley saved from repeal, § 1-11(11); buildings and building regulations, ch. 14; transient merchants and solicitors, § 18-51 et seq.; community development, ch.

22; environment, ch. 34; open burning on street, § 38-32; land divisions and other subdivisions of land, ch. 46; private streets in subdivisions, § 46-94; subdivisions, § 46-121 et seq.; streets and utilities improvements in subdivisions, § 46-182; parks and cemeteries, ch. 54; special assessments, ch. 66; telecommunications, ch. 74; traffic and vehicles, ch. 78; off-street parking regulations, § 78-112; utilities, ch. 82; opening streets for water supply system, § 82-114; vegetation, ch. 86; vehicles for hire, ch. 90; waterways, ch. 94; zoning, ch. 98.

State law reference(s)—City control of highways, Mich. Const. 1963, art. VII, § 29.

ARTICLE I. IN GENERAL

Secs. 70-1—70-30. Reserved.

ARTICLE II. SIDEWALKS[61]

DIVISION 1. GENERALLY

Sec. 70-31. Duty of city manager in connection with city sidewalks.

The city manager or his designee shall determine the necessity for the construction, reconstruction or repair of any sidewalk in any street or alley in the city and shall declare the intention of the city to make such improvement.

(Comp. Ords. 1982, § 4.950a.00)

Sec. 70-32. Notice.

The city clerk shall notify the owners of property adjoining the sidewalk which it is proposed to construct, reconstruct or repair of the intention of the city to make such improvement and charge the cost against the abutting property owner. This notice shall also state that the property owner may cause the work to be done in conformity with the plans and specifications on file in the city hall at his own expense, provided this work is completed within 60 days after the date of such notice. Notice shall be given either by personal service of such notice or by publishing the notice in a newspaper circulating in the city.

(Comp. Ords. 1982, § 4.951.00)

Sec. 70-33. Penalty.

Any person who shall fail to comply with any of the provisions of this article shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 4.961.00)

Secs. 70-34—70-50. Reserved.

[61]Charter reference(s)—Municipal powers, requirement of an owner of real property to maintain sidewalks, § 2.3(t); municipal powers, requirement of real property owner to keep sidewalk clear of ice, snow and obstructions, § 2.3(v).

DIVISION 2. CONSTRUCTION AND REPAIR

Sec. 70-51. Sidewalks and driveway approaches; plans and specifications.

All sidewalks and driveway approaches shall be constructed in conformity with the plans on file in the city hall and in accordance with the standard specifications of the city.

(Comp. Ords. 1982, § 4.952.00)

State law reference(s)—Driveways, MCL 247.321 et seq..

Sec. 70-52. Permit for sidewalks, driveway approaches required.

No sidewalks or driveway approaches shall be constructed in the city without a permit being obtained from the building inspector. The building inspector shall be authorized to issue such permits upon payment of a fee to the city treasurer equal to the building inspection fees, which shall be established by resolution of the city council, and shall cover the cost of inspection and the supervision resulting from enforcement of this article. This permit shall be secured by the owner of the property abutting the sidewalk or driveway approach or his agent; and under the terms of this permit, the owner shall agree to construct the sidewalk or driveway approach in conformity with the grade established by the city and according to specifications attached to such permit. The owner of the property abutting the sidewalk or driveway approach covered by such a permit shall be responsible for the condition of the sidewalk. Any replacement or repairs of the sidewalk or driveway approach shall be at the expense of the property owner or his successor in title.

(Comp. Ords. 1982, § 4.953.00)

Sec. 70-53. Material used.

All sidewalks shall be of cement, prepared and laid in accordance with plans, specifications and regulations prescribed by the city; however, on land abutting on any paved or unpaved street, where such land shall have been built of marshland, swamps or dumps rendering the stability of cement uncertain, upon approval of the city manager or his designee authorizing the work, a first plank sidewalk may be constructed for such reason. Every sidewalk builder shall stamp upon each cement sidewalk built by him, once in every 100 lineal feet, his name and the year in which such sidewalk was built.

(Comp. Ords. 1982, § 4.958.00)

Sec. 70-54. Permit to owner to build.

The city manager or his designee is authorized to grant a permit to any property owner to construct a sidewalk in front of or adjacent to any real estate owned by him or driveway approach conditioned that such owner is skillful and competent to construct the sidewalk or driveway approach in the manner provided in section 70-52.

(Comp. Ords. 1982, § 4.959.00)

Sec. 70-55. Revocation of permit.

The city manager or his designee may revoke any permit issued under the terms of this division or the rules, regulations, plans and specifications furnished by the city for the construction or repair of any sidewalks or driveway approaches.

(Comp. Ords. 1982, § 4.960.00)

Chapter 74 TELECOMMUNICATIONS AND VIEDO SERVICES[62]

ARTICLE I. IN GENERAL

Secs. 74-1—74-30. Reserved.

ARTICLE II. CABLE TELEVISION RATES[63]

Sec. 74-31. Definitions.

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

Act means the Communications Act of 1934, as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, PL 102-385), and as may be amended from time to time.

Associated equipment means all equipment and services subject to regulation pursuant to 47 CFR 76.923.

Basic cable service means basic service as defined in the FCC rules, and any other cable television service which is subject to rate regulation by the city pursuant to the act and the FCC rules.

FCC means the Federal Communications Commission.

FCC rules means all rules of the FCC promulgated from time to time pursuant to the act.

Increase in rates means an increase in rates or a decrease in programming or customer service.

All other words and phrases used in this article shall have the same meaning as defined in the act and FCC rules.

(Comp. Ords. 1982, § 4.000.01)

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

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[62]Cross reference(s)—Businesses, ch. 18; streets, sidewalks and other public places, ch. 70; utilities, ch. 82; zoning, ch. 98; franchises, app. A.

State law reference(s)—Michigan Telecommunications Act, MCL 484.2101 et seq.

[63]Cross reference(s)—Franchises, app. A.

Sec. 74-32. Purpose; interpretation.

The purpose of this article is to adopt regulations consistent with the act and the FCC rules with respect to basic cable service rate regulation and prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the city. This article shall be implemented and interpreted consistent with the act and FCC rules.

(Comp. Ords. 1982, § 4.000.02)

Sec. 74-33. Rate regulations promulgated by FCC.

In connection with the regulation of rates for basic cable service and associated equipment, the city shall follow all FCC rules.

(Comp. Ords. 1982, § 4.000.03)

Sec. 74-34. Filing; additional information; burden of proof.

(a) A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates in accordance with the act and the FCC rules. The cable operator shall include as part of its submission such information as is necessary to show that its schedule of rates or its proposed increase in rates complies with the act and the FCC rules. The cable operator shall file ten copies of the schedule or proposed increase with the city clerk. For purposes of this article, the filing of the cable operator shall be deemed to have been made when at least ten copies have been received by the city clerk. The city council may, by resolution or otherwise, adopt rules and regulations prescribing the information, data and calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.

(b) In addition to information and data required by rules and regulations of the city pursuant to subsection (a) of this section, a cable operator shall provide all information requested by the city manager or his designee in connection with the city's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. The city manager or his designee may establish deadlines for submission of the requested information and the cable operator shall comply with such deadlines.

(c) A cable operator has the burden of proving that its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates complies with the act and the FCC rules, including, without limitation, 47 USC 543 and 47 CFR 76.922 and 76.923.

(Comp. Ords. 1982, § 4.000.04)

Sec. 74-35. Proprietary information.

(a) If this article, any rules or regulations adopted by the city pursuant to section 74-34(a), or any request for information pursuant to section 74-34(b) requires the production of proprietary information, the cable operator shall produce the information. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the city determines that the preponderance of the evidence shows that nondisclosure is consistent with the provisions of the Freedom of Information Act, 5 USC 552. The city shall place in a public file for inspection any decision that results in information being withheld. If the cable operator requests

confidentiality and the request is denied, where the cable operator is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or the cable operator may seek review within five working days of the denial in any appropriate forum. Release of the information will be stayed pending review.

(b) Any interested party may file a request to inspect material withheld as proprietary with the city. The city shall weigh the policy considerations favoring nondisclosure against the reasons cited for permitting inspection in light of the facts of the particular case. It will then promptly notify the requesting entity and the cable operator that submitted the information as to the disposition of the request. It may grant, deny or condition a request. The requesting party or the cable operator may seek review of the decision by filing any appeal with any appropriate forum. Disclosure will be stayed pending resolution of any appeal.

(c) The procedures set forth in this section shall be construed as analogous to and consistent with the rules of the FCC regarding requests for confidentiality, including, without limitation, 47 CFR 0.459.

(Comp. Ords. 1982, § 4.000.05)

Sec. 74-36. Public notice; initial review of rates.

Upon the filing of ten copies of the schedule of rates or the proposed increase in rates pursuant to section 74-34(a), the city clerk shall publish a public notice in a newspaper of general circulation in the city which shall state that the filing has been received by the city clerk and (except those parts which may be withheld as proprietary) is available for public inspection and copying; and interested parties are encouraged to submit written comments on the filing to the city clerk not later than seven days after the public notice is published. The city clerk shall give notice to the cable operator of the date, time and place of the meeting at which the city council shall first consider the schedule of rates or the proposed increase. This notice shall be mailed by first class mail at least three days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the city council, the city clerk shall mail a copy of the report by first class mail to the cable operator at least three days before the meeting at which the city council shall first consider the schedule of rates or the proposed increase.

(Comp. Ords. 1982, § 4.000.06)

Sec. 74-37. Tolling order.

After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after 30 days from the date of filing under section 74-34(a) unless the city council (or other properly authorized body or official) tolls the 30-day deadline pursuant to 47 CFR 76.933 by issuing a brief written order, by resolution or otherwise, within 30 days of the date of filing. The city council may toll the 30-day deadline for an additional 90 days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showings.

(Comp. Ords. 1982, § 4.000.07)

Sec. 74-38. Public notice; hearing on basic cable service rates following tolling of 30-day deadline.

If a written order has been issued pursuant to section 74-37 and 47 CFR 76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the city any additional information required or requested pursuant to section 74-34. In addition, the city council shall hold a public hearing to consider the comments of interested parties within the

additional 90-day or 150-day period, as the case may be. The city clerk shall publish a public notice of the public hearing in a newspaper of general circulation within the city which shall state the date, time and place at which the hearing shall be held; interested parties may appear in person, by agent, or by letter at such hearing to submit comments on or objections to the existing rates or the proposed increase in rates; and copies of the schedule of rates or the proposed increase in rates and related information (except those parts which may be withheld as proprietary) are available for inspection or copying from the office of the clerk. The public notice shall be published not less than 15 days before the hearing. In addition, the city clerk shall mail by first class mail a copy of the public notice to the cable operator not less than 15 days before the hearing.

(Comp. Ords. 1982, § 4.000.08)

Sec. 74-39. Staff or consultant report; written response.

Following the public hearing, the city manager or his designee shall cause a report to be prepared for the city council which shall (based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information) include a recommendation for the decision of the city council pursuant to section 74-40. The city clerk shall mail a copy of the report to the cable operator by first class mail not less than 20 days before the city council acts under section 74-40. The cable operator may file a written response to the report with the city clerk. If at least ten copies of the response are filed by the cable operator with the city clerk within ten days after the report is mailed to the cable operator, the city clerk shall forward it to the city council.

(Comp. Ords. 1982, § 4.000.09)

Sec. 74-40. Rate decisions and orders.

The city council shall issue a written order, by resolution or otherwise, which in whole or in part approves the existing rates for basic cable service and associated equipment or a proposed increase in such rates, denies the existing rates or proposed increase, orders a rate reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund, or orders other appropriate relief, in accordance with the FCC rules. If the city council issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 CFR 76.933. The order specified in this section shall be issued within 90 days of the tolling order under section 74-37 in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under section 74-37 in all cases involving a cost-of-service showing.

(Comp. Ords. 1982, § 4.000.10)

Sec. 74-41. Refunds; notice.

The city council may order a refund to subscribers as provided in 47 CFR 76.942. Before the city council orders any refund to subscribers, the city clerk shall give at least seven days written notice to the cable operator by first class mail of the date, time and place at which the city council shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent or by letter at such time for the purpose of submitting comments to the city council.

(Comp. Ords. 1982, § 4.000.11)

Sec. 74-42. Written decisions; public notice.

Any order of the city council pursuant to section 74-40 or section 74-41 shall be in writing, shall be effective upon adoption by the city council, and shall be deemed released to the public upon adoption. The clerk shall publish a public notice or any such written order in a newspaper of general circulation within the city which shall summarize the written decision and state that copies of the text of the written decision are available for inspection or copying from the office of the clerk. In addition, the city clerk shall mail a copy of the text of the written decision to the cable operator by first class mail.

(Comp. Ords. 1982, § 4.000.12)

Sec. 74-43. Rules and regulations.

In addition to rules promulgated pursuant to section 74-34, the city council may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings (including, without limitation, the conduct of hearings), consistent with the act and the FCC rules.

(Comp. Ords. 1982, § 4.000.13)

Sec. 74-44. Failure to give notice.

The failure of the city clerk to give the notices or to mail copies of reports as required by this article shall not invalidate the decisions or proceedings of the city council.

(Comp. Ords. 1982, § 4.000.14)

Sec. 74-45. Additional hearings.

In addition to the requirements of this article, the city council may hold additional public hearings upon such reasonable notice as the city council, in its sole discretion, shall prescribe.

(Comp. Ords. 1982, § 4.000.15)

Sec. 74-46. Additional powers.

The city shall possess all powers conferred by the act, the FCC rules, the cable operator's franchise, and all other applicable law. The powers exercised pursuant to the act, the FCC rules, and this article shall be in addition to powers conferred by law or otherwise. The city may take any action not prohibited by the act and the FCC rules to protect the public interest in connection with basic cable service rate regulation.

(Comp. Ords. 1982, § 4.000.16)

Sec. 74-47. Failure to comply; remedies.

The city may pursue any and all legal and equitable remedies against the cable operator (including, without limitation, all remedies provided under a cable operator's franchise with the city) for failure to comply with the act, the FCC rules, any orders or determinations of the city pursuant to this article, any requirements of this article, or any rules or regulations promulgated under this article. Subject to applicable law, failure to comply with the act, the FCC rules, any orders or determinations of the city pursuant to this article, any requirements of this article, or

any rules and regulations promulgated under this article shall also be sufficient grounds for revocation or denial of renewal of a cable operator's franchise.

(Comp. Ords. 1982, § 4.000.17)

Secs. 74-48—74-80. Reserved.

ARTICLE III. TELECOMMUNICATIONS PROVIDERS RIGHT-OF-WAY MANAGEMENT[64]

Sec. 74-81. 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. 3-10, § 1, 2-15-2010)

Sec. 74-82. Conflict.

Nothing in this article shall be construed in such a manner as to conflict with the Act or other applicable law.

(Ord. No. 3-10, § 2, 2-15-2010)

Sec. 74-83. Terms defined.

(a) 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 Tecumseh.

City council means the City Council of the City of Tecumseh or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the city council.

City manager means the city manager 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.

[64]Editor's note(s)—Ord. No. 3-10, adopted Feb. 15, 2010, repealed former Art. III, Divs. 1—4, in its entirety and enacted new provisions as herein set out. Former Art. III pertained to similar subject matter and derived from the Compiled Ordinances of 1982 and Ord. No. 5-99, §§ 1—16, adopted 9-20-1999; Ord. No. 4-02, §§ 1—21, 12-2-2002.

(b) 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, 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.

Telecommunications 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 telecommunications 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. Telecommunications provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of Part I of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. § 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this ordinance 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.

(1) A person providing broadband internet transport access service.

(Ord. No. 3-10, § 3, 2-15-2010)

Sec. 74-84. 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 a copy of the application with the city manager. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.

(c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contains trade secret, proprietary, or confidential information, which

is exempt from the Freedom of Information Act, 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 manager may request an applicant to submit such additional information which the city manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the city manager. If the city and the applicant cannot agree on the requirement of additional information requested by the city, the city or the applicant shall notify the MPSC as provided in 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 ordinance. 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. 3-10, § 4, 2-15-2010)

Sec. 74-85. Issuance of permit.

(a) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the city manager. Pursuant to Section 15(3) of the Act, the city manager shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under subsection 74-84(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 manager shall notify the MPSC when the city manager has granted or denied a permit application, including information regarding the date on which the application was filed and the date on which a permit was granted or denied. The city manager shall not unreasonably deny an application for a permit.

(b) *Form of permit.* If an application for permit is approved, the city manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.

(c) *Conditions.* Pursuant to Section 15(4) of the Act, the city manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(d) *Bond requirement.* Pursuant to Section 15(3) of the Act, and without limitation on subsection (c) above, the city manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. No. 3-10, § 5, 2-15-2010)

Sec. 74-86. 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 the city's ordinances, as such may be from time to time amended, for construction within the public rights-of-way. No fee shall be charged for such permit. To the extent the fee requirements of any city ordinance or resolution are in conflict with this section 74-86, those fee requirements are hereby repealed.

(Ord. No. 3-10, § 6, 2-15-2010)

Sec. 74-87. 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. 3-10, § 7, 2-15-2010)

Sec. 74-88. 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 as determined by the MPSC under Section 6(8) of the Act.

(Ord. No. 3-10, § 8, 2-15-2010)

Sec. 74-89. Repair of damage.

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installation of 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. 3-10, § 9, 2-15-2010)

Sec. 74-90. Establishment and payment of maintenance fee.

In addition to the non-refundable application fee paid to the city, as required by subsection 74-84(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. 3-10, § 10, 2-15-2010)

Sec. 74-91. 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 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 telecommunications 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 the ordinance from which this article derives, in compliance with the requirement of Section 13(4) of the Act.

(Ord. No. 3-10, § 11, 2-15-2010)

Sec. 74-92. 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 74-91 above shall be void from the date the modification was made.

(Ord. No. 3-10, § 12, 2-15-2010)

Sec. 74-93. Use of funds.

Pursuant to Section 10(4) of the Act, all amounts received by the city from the authority shall be used by the city solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the city from the authority shall be deposited into the major street fund and/or the local street fund maintained by the city under Act No. 51 of the Public Acts of 1951, or into such other fund or account as may be prescribed by the authority.

(Ord. No. 3-10, § 13, 2-15-2010)

Sec. 74-94. Annual report.

Pursuant to Section 10(5) of the Act, the city manager shall file an annual report with the authority regarding the use and disposition of funds annually distributed by the authority.

(Ord. No. 3-10, § 14, 2-15-2010)

Sec. 74-95. 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 the 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. 3-10, § 15, 2-15-2010)

Sec. 74-96. 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. 3-10, § 16, 2-15-2010)

Sec. 74-97. 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 74-84(c) of this article, to the extent permitted by law;

(2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with subsection 74-4(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 subsection 74-84(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 subection 74-85(a) of this article;

(5) Notifying the MPSC when the city has granted or denied a permit application, in accordance with subsection 74-85(a) of this article;

(6) Not unreasonably denying an application for a permit, in accordance with subsection 74-85(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 subsection 74-85(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 subsection 74-85(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 subsection 74-85(d) of this article;

(10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with section 74-86 of this article;

(11) Providing each telecommunications provider affected by the city's right-of-way fees with a copy of the ordinance from which this article derives, in accordance with section 74-91 of this article;

(12) Submitting an annual report to the authority, in accordance with section 74-94 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 74-95 of this article.

(Ord. No. 3-10, § 17, 2-15-2010)

Sec. 74-98. 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 telecommunications 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. 3-10, § 18, 2-15-2010)

Sec. 74-99. Severability.

The various parts, sentences, paragraphs, sections, and clauses of this article are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this article is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this article.

(Ord. No. 3-10, § 19, 2-15-2010)

Sec. 74-100. Authorized city officials.

The city manager or his or her designee is hereby designated as the authorized city official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the municipal ordinance violations bureau) for violations under this ordinance as provided by the City Code and ordinances.

(Ord. No. 3-10, § 20, 2-15-2010)

Sec. 74-101. Municipal civil infraction.

A person who violates any provision of this article or the terms or conditions of a permit is responsible for a violation of the City Code. Nothing in this section 74-101 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. 3-10, § 21, 2-15-2010)

Sec. 74-102. Repealer.

(a) All ordinances and portions of ordinances inconsistent with this article are hereby repealed.

(b) City Code Chapter 74, former Article III is hereby repealed.

(Ord. No. 3-10, § 22, 2-15-2010)

Sec. 74-103. Effective date.

This article shall take effect on February 28, 2010.

(Ord. No. 3-10, § 23, 2-15-2010)

Secs. 74-104—17-120. Reserved.

ARTICLE IV. VIDEO SERVICE PROVIDERS RIGHT-OF-WAY MANAGEMENT

Sec. 74-121. Purpose.

(a) Under the Uniform Video Services Local Franchise Act, video service providers may obtain a franchise to provide video services in the municipality using a standardized, uniform form of franchise agreement established by the MPSC. This form includes the right to use the public right-of-way to provide such service but does not contain right-of-way management and related provisions.

(b) Telecommunications providers who obtain a standardized, uniform form of franchise agreement generally will have previously obtained fromthe municipality a permit under the Metro Act to construct and maintain their telecommunications facilities in the public right-of-way. Such Metro Act Permits set forth the terms and conditions for such right-of-way usage, standard forms of such permits were agreed to in a collaborative process between municipalities and providers that was initiated by the MPSC, and such standard forms have since been approved by the legislature and the MPSC.

(c) Because telecommunications providers typically provide video services over combined video and telecommunications facilities, such Metro Act Permits generally provide adequate public right-of-way related protections for the municipality and the public when such providers are providing video services.

(d) Other video service providers, in particular new providers or existing cable operators, may not have a Metro Act Permit issued by the municipality.

(e) The Uniform Video Services Local Franchise Act and the standardized, uniform franchise agreement require video service providers with such an agreement to comply with all valid and enforceable local regulations regarding the use and occupation of the public right-of-way in the delivery of video services, including the police powers of the franchising entity, and makes such right-of-way usage subject to the laws of the State of Michigan and the police powers of the franchising entity.

(f) The Uniform Video Services Local Franchise Act and the standardized, uniform franchise agreement state that franchising entities shall provide video service providers with open, comparable, nondiscriminatory and competitively neutral access to the public right-of-way, and may not discriminate against a video service provider for the authorization or placement of a video service or communications network in the public right-of-way.

(g) The Michigan Constitution reserves reasonable control of their highways, streets, alleys and public places to local units of government, which may exercise such authority through the use of the police powers.

(h) The purpose of this article is to promote and protect the public health, safety and welfare and exercise reasonable control over the public right-of-way by regulating the use and occupation of such rights-of-way by video service providers who lack a Metro Act permit from the municipality. This article does so by setting forth terms and conditions for such usage and occupation from the forms of Metro Act permit approved by the MPSC and approved by the legislature in Section 6(1) of the Metro Act, thus providing open, comparable, nondiscriminatory, and competitively neutral access to the public right-of-way and not discriminating against a video service provider for the authorization or placement of a video service or communications network in public right-of-way.

(Ord. No. 4-10, §§ 1.0—1.8, 2-15-2010)

Sec. 74-122. Consistent interpretation.

This article shall be interpreted and applied so as to be consistent with the Metro Act and corresponding provisions of the forms of Metro Act permit approved by the MPSC, including applicable MPSC, Metro Authority and court decisions and determinations relating to same.

(Ord. No. 4-10, § 2.0, 2-15-2010)

Sec. 74-123. Definitions.

The following definitions apply to this article, including sections 74-121 and 74-122 above.

Act means the Uniform Video Services Local Franchise Act, being Act 480 of the Public Acts of 2006, MCL 484.3301 and following, as amended from time to time.

Cable operator shall have the same meaning as in the Act.

Claims shall have the meaning set forth in subsection 7-127(a).

Facilities means the lines, equipment and other facilities of a permittee which use or occupy the public right-of-way in the delivery of video services in municipality.

Franchise agreement means the franchise agreement entered into or possessed by a video service provider with the municipality as required by Section 3(1) of the Act, if it is the standardized, uniform form of franchise agreement established by the MPSC.

Manager means the municipality's city manager or his or her designee.

Metro Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, being Act No. 48 of the Public Acts of 2002, MCL 484.3101 and following.

Metro Act permit means a permit to use the public right-of-way issued by the municipality under its ordinance implementing the Metro Act, after a provider's application for same to the municipality as set forth in such ordinance.

Metro authority shall have the same meaning as "authority" in the Metro Act.

MPSC means the Michigan Public Service Commission, and shall have the same meaning as the term "Commission" in the Act and the Metro Act.

Municipality means the City of Tecumseh.

Permittee means a video service provider without a currently valid Metro Act permit, but with either (a) a pre-existing agreement, or (b) a currently valid franchise agreement.

(1) Upon applying to the municipality for and then obtaining a Metro Act permit from the municipality a video service provider is not a permittee and is no longer required to comply with this article. A video service provider is also not a permittee and is not required to comply with this article if it and the municipality enter into a voluntary franchise agreement as described in subsection 74-131(b) of this article.

Person means an individual, corporation, association, partnership, governmental entity, or any other legal entity.

Pre-existing agreement means a cable television consent agreement predating the effective date of the Act, January 1, 2007, which has not expired or been terminated.

Public right-of-way shall have the same meaning as in the Act.

Street construction and *street resurfacing* shall have the meanings set forth in subsection 74-126(i) of this article.

Video service shall have the same meaning as in the Act.

Video service provider shall have the same meaning as in the Act, and shall include an "incumbent video provider" as referred to in Section 5(2) of the Act.

(Ord. No. 4-10, §§ 3.0—3.18, 2-15-2010)

Sec. 74-124. Applicability to permittees.

Compliance, insurance exception. All permittees shall comply with this article, except that a permittee need not comply with the insurance provisions of section 74-128 of this article if it is required by Section II. J of the standardized, uniform form of franchise agreement established by the MPSC (which in accordance with the Act states that incumbent video providers shall comply with the terms which provide insurance for right-of-way related activities that are contained in its last cable franchise or consent agreement from the franchising entity entered into before the effective date of the Act).

(Ord. No. 4-10, §§ 4.0, 4.1, 2-15-2010)

Sec. 74-125. Contacts, maps and plans.

(a) *Permittee contacts.* Permittee shall provide the manager with the names, addresses and the like for engineering and construction related information for permittee and its facilities as follows:

(1) The address, e-mail address, phone number and contact person (title or name) at permittee's local office (in or near the the municipality).

(2) If permittee's engineering drawings, as-built plans and related records for the facilities will not be located at the preceding local office, the location address, phone number and contact person (title or department) for them.

(3) The name, title, address, e-mail address and telephone numbers of permittee's engineering contact person(s) with responsibility for the design, plans and construction of the facilities.

(4) The address, phone number and contact person (title or department) at permittee's home office/regional office with responsibility for engineering and construction related aspects of the facilities.

(5) Permittee shall at all times provide manager with the phone number at which a live representative of permittee (not voice mail) can be reached 24 hours a day, seven days a week, in the event of a public emergency.

(6) Permittee shall notify the municipality in writing pursuant to the notice provisions of its franchise agreement or pre-existing agreement (whichever is then in effect) of any changes in the preceding information.

(b) *Route maps.* Within 90 days after the substantial completion of construction of new facilities in the municipality, permittee shall submit route maps showing the location of the facilities to municipality, in the same manner and subject to the same provisions as apply to telecommunications providers under Section 6(7) and 6(8) of the Metro Act, MCL 484.3106(7) and (8).

(c) *As-built records.* Permittee, without expense to the municipality, shall, upon 48 hours notice, give the municipality access to all "as-built" maps, records, plans and specifications showing the facilities or portions

thereof in the public right-of-way. Upon request by the municipality, permittee shall inform the municipality as soon as reasonably possible of any changes from previously supplied maps, records, or plans and shall mark up maps provided by the municipality so as to show the location of the facilities.

(Ord. No. 4-10, §§ 5.0—5.3, 2-15-2010)

Sec. 74-126. Use of public right-of-way.

(a) *Reserved.*

(b) *Overlashing.* Permittee shall not allow the wires or any other facilities of a third party to be overlashed to permittee's facilities without the municipality's prior written consent. The municipality's right to withhold written consent is subject to the authority of the MPSC under Section 361 of the Michigan Telecommunications Act, MCL § 484.2361.

(c) *No burden on public right-of-way.* Permittee, its contractors, subcontractors, and the facilities shall not unduly burden or interfere with the present or future use of any of the public right-of-way. Permittee's aerial cables and wires shall be suspended so as to not endanger or injure persons or property in or about the public right-of-way. If the municipality reasonably determines that any portion of the facilities constitutes an undue burden or interference, due to changed circumstances, permittee, at its sole expense, shall modify the facilities or take such other actions as the municipality may determine is in the public interest to remove or alleviate the burden, and permittee shall do so within a reasonable time period. The municipality shall attempt to require all occupants of a pole or conduit whose facilities are a burden to remove or alleviate the burden concurrently.

(d) *No priority.* This article does not establish any priority of use of the public right-of-way by permittee over any present or future permittees or parties having agreements with the municipality or franchises for such use. In the event of any dispute as to the priority of use of the public right-of-way, the first priority shall be to the public generally, the second priority to municipality, the third priority to the State of Michigan and its political subdivisions in the performance of their various functions, and thereafter as between other permit, agreement or franchise holders, as determined (except as otherwise provided by law) by the municipality in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.

(e) *Restoration of property.* Permittee, its contractors and subcontractors shall immediately (subject to seasonal work restrictions) restore, at permittee's sole expense, in a manner approved by the municipality, any portion of the public right-of-way that is in any way disturbed, damaged, or injured by the construction, installation, operation, maintenance or removal of the facilities to a reasonably equivalent (or, at permittee's option, better) condition as that which existed prior to the disturbance. In the event that permittee, its contractors or subcontractors fail to make such repair within a reasonable time, the municipality may make the repair and permittee shall pay the costs the municipality incurred for such repair.

(f) *Marking.* Permittee shall mark its facilities installed after the effective date of this article as follows: Aerial portions of the facilities shall be marked with a marker on permittee's lines on alternate poles which shall state permittee's name and provide a toll-free number to call for assistance. Direct buried underground portions of the facilities shall have (1) a conducting wire placed in the ground at least several inches above permittee's cable (if such cable is nonconductive); (2) at least several inches above that, a continuous colored tape with a statement to the effect that there is buried cable beneath; and (3) stakes or other appropriate above ground markers with permittee's name and a toll-free number indicating that there is buried cable below. Bored underground portions of the facilities shall have a conducting wire at the same depth as the cable and shall not be required to provide the continuous colored tape. Portions of the facilities located in conduit, including conduit of others used by permittee, shall be marked at its entrance into and exit from each manhole and handhole with permittee's name and a toll-free telephone number.

(g) *Tree trimming.* Permittee may trim trees upon and overhanging the public right-of-way so as to prevent the branches of such trees from coming into contact with the facilities, consistent with any standards adopted by the municipality. Permittee shall dispose of all trimmed materials. Permittee shall minimize the trimming of trees to that essential to maintain the integrity of the facilities. Except in emergencies, all trimming of trees in the public right-of-way shall have the advance approval of manager.

(h) *Installation and maintenance.* The construction and installation of the facilities shall be performed pursuant to plans approved by municipality. The open cut of any public right-of-way shall be coordinated with the manager or manager's designee. Permittee shall install and maintain the facilities in a reasonably safe condition. If the existing poles in the public right-of-way are overburdened or unavailable for permittee's use, or the facilities of all users of the poles are required to go underground then permittee shall, at its expense, place such portion of its facilities underground, unless the municipality approves an alternate location. Permittee may perform maintenance on the facilities without prior approval of the municipality, provided that permittee shall obtain any and all permits required by the municipality in the event that any maintenance will disturb or block vehicular traffic or are otherwise required by the municipality.

(i) *Pavement cut coordination.* Permittee shall coordinate its construction and all other work in the public right-of-way with the municipality's program for street construction and rebuilding (collectively "street construction") and its program for street repaving and resurfacing (except seal coating and patching) (collectively, "street resurfacing").

(1) The goals of such coordination shall be to encourage permittee to conduct all work in the public right-of-way in conjunction with or immediately prior to any street construction or street resurfacing planned by the municipality.

(j) *Compliance with laws.* Permittee shall comply with all valid and enforceable federal and state statutes and regulations; and all valid and enforceable local regulations regarding the use and occupation of the public right-of-way, including the police powers of the municipality; regarding the construction, installation, and maintenance of its facilities, now in force or which hereafter may be promulgated. Before any installation is commenced, permittee shall secure all necessary permits, licenses and approvals from the municipality or other governmental entity as may be required by law, including, without limitation, all utility line permits and highway permits. The municipality shall not unreasonably delay or deny issuance of any such permits, licenses or approvals. Permittee shall comply in all respects with applicable codes and industry standards, including but not limited to the National Electrical Safety Code (latest edition adopted by Michigan Public Service Commission) and the National Electric Code (latest edition). Permittee shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended. This section does not constitute a waiver of permittee's right to challenge laws, statutes, ordinances, rules or regulations now in force or established in the future.

(k) *Street vacation.* If municipality vacates or consents to the vacation of public right-of-way within its jurisdiction, and such vacation necessitates the removal and relocation of permittee's facilities in the vacated public right-of-way, permittee shall consent to the vacation and remove its facilities at its sole cost and expense when ordered to do so by the municipality or a court of competent jurisdiction. Permittee shall relocate its facilities to such alternate route as the municipality and permittee mutually agree, applying reasonable engineering standards.

(l) *Relocation.* If the municipality requests permittee to relocate, protect, support, disconnect, or remove its facilities because of street or utility work, or other public projects, permittee shall relocate, protect, support, disconnect, or remove its facilities, at its sole cost and expense, including where necessary to such alternate route as the municipality and permittee mutually agree, applying reasonable engineering standards. The work shall be completed within a reasonable time period.

(m) *Public emergency.* The municipality shall have the right to sever, disrupt, dig-up or otherwise destroy facilities of permittee if such action is necessary because of a public emergency. If reasonable to do so under

the circumstances, the municipality shall attempt to provide notice to permittee. Public emergency shall be any condition which poses an immediate threat to life, health, or property caused by any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, water main breaks, hazardous material spills, etc. Permittee shall be responsible for repair at its sole cost and expense of any of its facilities damaged pursuant to any such action taken by the municipality.

(n) *MISS DIG.* If eligible to join, permittee shall subscribe to and be a member of "MISS DIG," the association of utilities formed pursuant to Act 53 of the Public Acts of 1974, as amended, MCL § 460.701 et seq,, and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.

(o) *Underground relocation.* If permittee has its facilities on poles of Consumers Energy, Detroit Edison or another electric or telecommunications provider and Consumers Energy, Detroit Edison or such other electric or telecommunications provider relocates its system underground, then permittee shall relocate its facilities underground in the same location at permittee's sole cost and expense.

(p) *Identification.* All personnel of permittee and its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing permittee's name, their name and photograph. Permittee shall account for all identification cards at all times. Every service vehicle of permittee and its contractors or subcontractors shall be clearly identified as such to the public, such as by a magnetic sign with permittee's name and telephone number.

(Ord. No. 4-10, §§ 6.0—6.16, 2-15-2010)

Sec. 74-127. Indemnification.

(a) *Indemnity.* Permittee shall defend, indemnify, protect, and hold harmless the municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions from any and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, and expenses of any nature (collectively "claims") (including, without limitation, attorneys' fees) arising out of or resulting from the acts or omissions of permittee, its officers, agents, employees, contractors, successors, or assigns, but only to the extent such acts or omissions are related to permittee's use of or installation of facilities in the public right-of-way and only to the extent of the fault or responsibility of permittee, its officers, agents, employees, contractors, successors and assigns.

(b) *Notice, cooperation.* The municipality shall notify permittee promptly in writing of any such claims and the method and means proposed by the municipality for defending or satisfying any such claims. The municipality shall cooperate with permittee in every reasonable way to facilitate the defense of any such claims. The municipality shall consult with permittee respecting the defense and satisfaction of such claims, including the selection and direction of legal counsel.

(c) *Settlement.* The municipality shall not settle any claim subject to indemnification under the preceding two sections without the advance written consent of permittee, which consent shall not be unreasonably withheld. Permittee shall have the right to defend or settle, at its own expense, any claim against the municipality for which permittee is responsible hereunder.

(Ord. No. 4-10, §§ 7.0—7.3, 2-15-2010)

Sec. 74-128. Insurance.

(a) *Coverage required.* Prior to beginning any construction in or installation of permittee's facilities in the public right-of-way, permittee shall obtain insurance as set forth below and file certificates evidencing same with the municipality. Such insurance shall be maintained in full force and effect until the end of the term of its franchise agreement or pre-existing agreement (whichever is then in effect). In the alternative, permittee

may satisfy this requirement through a program of self-insurance, acceptable to the municipality, by providing reasonable evidence of its financial resources to the municipality. The municipality's acceptance of such self-insurance shall not be unreasonably withheld.

(1) Commercial general liability insurance, including completed operations liability, independent contractors liability, contractual liability coverage, railroad protective coverage and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage, in an amount not less than $5,000,000.00.

(1) Liability insurance for sudden and accidental environmental contamination with minimum limits of $500,000.00 and providing coverage for claims discovered within three years after the term of the policy. Pursuant to the 2006 MPSC decision in Case U-14720, permittee need not comply with the preceding sentence until such time after the effective date of this article that it decides to place any new or existing facilities underground within the public right-of-way in the municipality.

(3) Automobile liability insurance in an amount not less than $1,000,000.00.

(4) Workers' compensation and employer's liability insurance with statutory limits, and any applicable federal insurance of a similar nature.

(5) The coverage amounts set forth above may be met by a combination of underlying (primary) and umbrella policies so long as in combination the limits equal or exceed those stated. If more than one insurance policy is purchased to provide the coverage amounts set forth above, then all policies providing coverage limits excess to the primary policy shall provide drop down coverage to the first dollar of coverage and other contractual obligations of the primary policy, should the primary policy carrier not be able to perform any of its contractual obligations or not be collectible for any of its coverages for any reason during the term of the franchise agreement or pre-existing agreement (whichever is then in effect), or (when longer) for as long as coverage could have been available pursuant to the terms and conditions of the primary policy.

(b) *Additional insured.* The municipality shall be named as an additional insured on all policies (other than worker's compensation and employer's liability). All insurance policies shall provide that they shall not be canceled, modified or not renewed unless the insurance carrier provides 30 days prior written notice to the municipality. Permittee shall annually provide the municipality with a certificate of insurance evidencing such coverage. All insurance policies (other than environmental contamination, workers' compensation and employer's liability insurance) shall be written on an occurrence basis and not on a claims made basis.

(c) *Qualified insurers.* All insurance shall be issued by insurance carriers licensed to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance and surplus line carriers shall be rated A+ or better by A.M. Best Company.

(d) *Deductibles.* If the insurance policies required by this ordinance are written with retainages or deductibles in excess of $50,000.00, they shall be approved by manager in advance in writing. Permittee shall indemnify and save harmless the municipality from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished hereunder.

(e) *Contractors.* Permittee's contractors and subcontractors working in the public right-of-way shall carry in full force and effect commercial general liability, environmental contamination liability, automobile liability and workers' compensation and employer liability insurance which complies with all terms of this section. In the alternative, permittee, at its expense, may provide such coverages for any or all its contractors or subcontractors (such as by adding them to permittee's policies).

(f) *Insurance primary.* Permittee's insurance coverage shall be primary insurance with respect to the municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions (collectively "them"). Any insurance or self-insurance maintained by any of them shall be in

excess of permittee's insurance and shall not contribute to it (where "insurance or self-insurance maintained by any of them" includes any contract or agreement providing any type of indemnification or defense obligation provided to, or for the benefit of them, from any source, and includes any self-insurance program or policy, or self-insured retention or deductible by, for or on behalf of them).

(Ord. No. 4-10, §§ 8.0—8.6, 2-15-2010)

Sec. 74-129. Performance bond or letter of credit.

Municipal requirement. The municipality may require permittee to post a bond (or letter of credit), in the amount provided in Section 15(3) of the Metro Act, as amended, MCL § 484.3115(3).

(Ord. No. 4-10, §§ 9.0, 9.1, 2-15-2010)

Sec. 74-130. Removal.

(a) *Removal; underground.* As soon as is practicable after the term of its franchise agreement or pre-existing agreement (whichever is later) expires, permittee or its successors and assigns shall remove any underground cable or other portions of permittee's facilities from the public right-of- way which has been installed in such a manner that it can be removed without trenching or other opening of the public right-of-way. Permittee shall not remove any underground cable or other portions of the facilities which requires trenching or other opening of the public right-of-way except with the prior written approval of manager. All removals shall be at permittee's sole cost and expense.

(1) For purposes of section 74-130, "cable" means any wire, coaxial cable, fiber optic cable, feed wire or pull wire.

(b) *Removal; above ground.* As soon as is practicable after the expiration of the term of its franchise agreement or pre-existing agreement (whichever is later), permittee, or its successor or assigns at its sole cost and expense, shall, unless waived in writing by the manager, remove from the public right-of-way all above ground elements of its facilities, including but not limited to poles, pedestal-mounted terminal boxes, and lines attached to or suspended from poles.

(c) *Schedule.* The schedule and timing of removal shall be subject to approval by the manager. Unless extended by the manager, removal shall be completed not later than 12 months following the expiration of the term of a franchise agreement or pre-existing agreement (whichever is later). Portions of permittee's facilities in the public right-of-way that are not removed within such time period shall be deemed abandoned and, at the option of the municipality exercised by written notice to permittee at the address provided for in the franchise agreement or pre-existing agreement (whichever was last in effect), title to the portions described in such notice shall vest in the municipality.

(Ord. No. 4-10, §§ 10.0—10.3, 2-15-2010)

Sec. 74-131. Other items.

(a) *Duties.* Permittees shall faithfully perform all duties required by this article.

(b) *Different terms.* The Act allows local units of government and video service providers to enter into voluntary franchise agreements that include terms and conditions which are different from those required under the Act or which are different from those in the standardized, uniform form of franchise agreement established by the MPSC. The Metro Act allows municipalities and providers to mutually agree to Metro Act permit terms differing from those in the standard forms of Metro Act permit approved by the MPSC. Current or

prospective permittees who desire terms different from those in this article, as applied to them, should request such a voluntary franchise agreement or a mutually agreed to Metro Act permit from municipality.

(c) *Interpretation and severability.* The provisions of this article shall be liberally construed to protect and preserve the peace, health, safety and welfare of the public, and should any provision or section of this ordinance be held unconstitutional, invalid, overbroad or otherwise unenforceable, such determination/holding shall not be construed as affecting the validity of any of the remaining conditions of this article. If any provision in this article is found to be partially overbroad, unenforceable, or invalid, permittee and the municipality may nevertheless enforce such provision to the extent permitted under applicable law.

(d) *Violations.* A permittee who violates any provision of this article is responsible for a municipal civil infraction, and shall be subject to such civil infraction fines and costs as provided in the municipality's ordinances or Municipal Code. Nothing in this section shall be construed to limit the remedies available to the municipality in the event of a violation by a permittee of this article.

(e) *Authorized officials.* The manager, which includes his or her designee, is hereby designated as the authorized official of the municipality 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 of this ordinance, as provided by the municipality's ordinances or Municipal Code.

(Ord. No. 4-10, §§ 11.0—11.5, 2-15-2010)

Sec. 74-132. Repealer.

All ordinances, resolutions or rules, parts of ordinances, resolutions or rules inconsistent with the provisions hereof are hereby repealed.

(Ord. No. 4-10, § 12.0, 2-15-2010)

Sec. 74-133. Effective date.,

This article shall take effect on the 28th day of February 2010 unless given immediate effect.

(Ord. No. 4-10, § 13.0, 2-15-2010)

Chapter 78 TRAFFIC AND VEHICLES[65]

ARTICLE I. IN GENERAL

[65]Cross reference(s)—Offenses and miscellaneous provisions, ch. 50; streets, sidewalks and other public places, ch. 70; vehicles for hire, ch. 90; P-1 vehicular parking districts, § 98-721 et seq.

State law reference(s)—Michigan Vehicle Code, MCL 257.1 et seq.

Sec. 78-1. Regulations for operation.

It is declared to be a misdemeanor for any person to operate a motor vehicle on any lands owned or leased by the city or by the city public school system except on lands duly designated by the city or the city public school system, for the operation of such motor vehicles, such motor vehicles prohibited being all licensed motor vehicles and all unlicensed motor vehicles; except that licensed motor vehicles may travel on public rights-of-way or driveways within the confines of such lands owned or leased by the city or by the city school system. The term "motor vehicle" means every vehicle which is self-propelled by any kind of power except a device propelled by human power.

(Comp. Ords. 1982, § 3.405.00)

State law reference(s)—Regulation of motor vehicles on school grounds, MCL 257.961.

Sec. 78-2. Penalty.

Any person violating or failing to comply with any provisions of this chapter shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 3.405.02)

Secs. 78-3—78-30. Reserved.

ARTICLE II. TRAFFIC CODE[66]

DIVISION 1. GENERALLY

Secs. 78-31—78-50. Reserved.

DIVISION 2. STATE VEHICLE CODE

Sec. 78-51. Adopted by reference.

The Michigan Vehicle Code, Public Act No. 300 of 1949 (MCL 257.1 et seq.) is hereby adopted by reference.

State law reference(s)—Authority to adopt the Michigan Vehicle Code by reference, MCL 117.3(k).

Sec. 78-52. Resolution of conflicts.

(a) In the event of a conflict between the state vehicle code adopted by section 78-51 and the Uniform Traffic Code adopted by section 78-71 the state vehicle code shall prevail.

[66]State law reference(s)—Authority to adopt the Uniform Traffic Code by reference, MCL 257.951; authority to adopt amendments to the Uniform Traffic Code by reference, MCL 257.953; authority to adopt the Michigan Vehicle Code by reference, MCL 117.3(k).

(b) In the event of a conflict between the Uniform Traffic Code adopted by section 78-71 and this code or an ordinance, this code or the ordinance shall prevail.

(c) In the event of a conflict between the state vehicle code adopted by section 78-51 and this code or an ordinance, the state vehicle code shall prevail.

Sec. 78-53. School property; municipal regulation of operation, parking and speed of vehicles.

The Tecumseh Police Department is hereby authorized to enforce any and all applicable traffic laws, including the operation, parking without fees and the speed of motor vehicles, on property owned or under the control of the Tecumseh Public Schools.

(Ord. No. 02-06, 4-17-2006)

State law reference(s)—Regulation of vehicles on school grounds, MCL 257.962.

Secs. 78-54—78-70. Reserved.

DIVISION 3. UNIFORM TRAFFIC CODE

Sec. 78-71. Adopted by reference.

The Uniform Traffic Code for Cities, Townships and Villages 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.

(Comp. Ords. 1982, §§ 3.400.00, 3.4000.00; Ord No. 01-03, 2-17-03)

State law reference(s)—Authority to adopt the Uniform Traffic Code by reference, MCL 257.951.

Sec. 78-72. References in code.

References in the Uniform Traffic Code for Cities, Townships and Villages to the term "governmental unit" shall mean the City of Tecumseh, Michigan.

(Comp. Ords. 1982, § 3.400.00)

Sec. 78-73. Amendments.

The amendments to the Uniform Traffic Code adopted by the city shall be as set out in this section. All references to rule numbers in the text of this section are references to rules of the Uniform Traffic Code.

Rule 204. Use of skateboards, coasters, roller skates and similar devices restricted; violation as civil infraction.

(1) A person who is on a skateboard, roller skates, or who is riding in, or by means of, any coasters, toy vehicle, or similar device shall not go on the following areas:

(a) On a sidewalk, public parking lot, roadway, street or any other public area located in the Central Business District of the City of Tecumseh.

(b) On a roadway or street in any other portion of the City of Tecumseh, except while crossing a street on a crosswalk. When crossing a street on a crosswalk, such person shall be granted all of the rights, and shall be subject to all of the duties, applicable to pedestrians.

(2) A person who violates this rule is responsible for a civil infraction.

Rule 9.3. Penalties.

Any provision of this rule which describes an act or omission which constitutes a civil infraction under the terms of the Michigan Vehicle Code shall be processed as a civil infraction and any person found to have committed a civil infraction may be ordered to pay a civil fine of not more than $100.00 and costs in accordance with section 907 of the Michigan Vehicle Code (MCL 257.907.

Violation of any other provision of this rule not constituting a civil infraction, as herein provided, shall be punishable by a fine of not more than $500.00 or imprisonment for not more than 90 days, or by both such fine and imprisonment.

(Comp. Ords. 1982, §§ 3.401.00, 3.404.00, 3.405.03.1, 3.405.03.3; Ord. No. 01-03, 2-17-03)

Secs. 78-74—78-110. Reserved.

ARTICLE III. PARKING[67]

Sec. 78-111. Proof of illegal parking.

The fact that an automobile which is illegally parked is registered in the name of a person shall be considered prima facie proof that such person was in control of the automobile at the time of such parking.

(Comp. Ords. 1982, § 3.305.00)

Sec. 78-112. Off-street parking regulations.

In all off-street parking areas under the control of the city, where such areas are not metered, parking of any vehicle shall be limited to a 48-hour period; and it shall be unlawful for any person to leave his vehicle in such an area for a longer period.

(Comp. Ords. 1982, § 3.211a.00)

Cross reference(s)—Streets, sidewalks and other public places, ch. 70.

Sec. 78-113. Commercial vehicle parking.

It shall be unlawful to park any truck, commercial trailer or commercial vehicle within any residential area, either upon the street or upon private property, except for the purpose of emergency repairs and loading or

[67]Cross reference(s)—Stopping, standing or parking of garbage collection vehicles, § 62-53.

State law reference(s)—Local authority to regulate standing or parking of vehicles, MCL 257.606(1)(a); stopping, standing or parking of vehicles, MCL 257.672.

unloading not to exceed a one hour's duration. This section shall not apply to those vehicles commonly known as pickup trucks, to any commercial vehicle less than 4,000 pounds, nor to any commercial vehicle which is garaged.

(Comp. Ords. 1982, § 3.402.00)

Sec. 78-114. Night parking.

No automobile, truck or trailer shall be parked on any street or alley in the city between the hours of 2:00 a.m. and 6:00 a.m. on those days when an accumulation of snow requires that the city snowplows clear such streets and alleys. Designation of such snow condition shall be made by the city manager or the chief of police and shall be posted in the police department no later than 10:00 p.m. of the day preceding a prospective clearing of the roads and alleys.

(Comp. Ords. 1982, § 3.403.00)

Sec. 78-115. Snow or ice emergency.

(a) *Declaration.*

(1) The city manager or his authorized representative is appointed street emergency coordinator. If in the judgment of the street emergency coordinator a snow or ice emergency exists, the parking or standing of a motor vehicle on a public street or highway in the city shall be prohibited during the term of such emergency.

(2) A snow or ice emergency shall be deemed to exist when snow, ice or a combination of the two exceeds the depth of two inches on city streets or highways.

(3) The provisions of subsection (a)(1) of this section shall be effective immediately on the street emergency coordinator's posting a notice that an emergency is in effect in city hall and on the announcement in a public media, newspaper or radio station that disseminates news within the city.

(b) *Enforcement.* Any person who owns or is in the control of a motor vehicle that is in violation of this section shall be subject to fines and costs set forth as established by the city council, and such motor vehicle may be removed from such city street or highway by the police department or its authorized designee, with the costs paid by such person.

(c) *Posting.* Appropriate signs shall be posted at all entrances to the city in conformance with applicable statutes.

(Comp. Ords. 1982, § 3.403.01)

Secs. 78-116—78-150. Reserved.

ARTICLE IV. SNOWMOBILES[68]

[68]State law reference(s)—Local authority to regulate snowmobiles, MCL 324.82119, 324.82124, 324.82125.

Sec. 78-151. Definitions.

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

Operate means to control the operation of a snowmobile.

Operator means a person who operates or is in actual control of a snowmobile.

Snowmobile means a self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.

(Comp. Ords. 1982, § 3.999.01)

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

Sec. 78-152. Regulations.

It shall be unlawful for any person to operate a snowmobile under the following circumstances:

(1) On private property of another without the express permission to do so by the owner or occupant of the property.

(2) On public school grounds, park property, playgrounds or recreational areas without express provision or permission to do so by the proper public authority.

(3) In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of another person.

(4) In a careless, reckless or negligent manner so to endanger the safety of any person or property of any other person.

(5) Without having such snowmobile registered as provided for by statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.

(6) Within the right-of-way of any public street or on sidewalks, streets or roads.

(Comp. Ords. 1982, § 3.999.02)

Sec. 78-153. Exceptions to regulations.

Notwithstanding the prohibitions of this article, the parks and recreation director shall have authority to supervise and regulate events or programs in connection with events conducted by the parks and recreation department in which snowmobiles are used. The parks and recreation director shall have the authority to designate city park areas that he shall deem available for the use of snowmobiles.

(Comp. Ords. 1982, § 3.999.03)

Sec. 78-154. Equipment required.

All snowmobiles operated within the city shall have the following equipment:

(1) Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the noise necessary for operating the vehicle, and no person shall use a muffler cutout bypass or similar device on the vehicle.

(2) Adequate brakes in good working condition and at least one headlight and one taillight.

(3) A safety or so-called deadman throttle in operating condition. A safety or deadman throttle is defined as a device which when pressure is removed from the accelerator or throttle causes the motor to be disengaged from driving track.

(Comp. Ords. 1982, § 3.999.04)

Sec. 78-155. Unattended vehicle.

It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or with the keys for starting the vehicle in the ignition.

(Comp. Ords. 1982, § 3.999.05)

Sec. 78-156. Violation; penalty.

Any person violating or failing to comply with any provision of this article shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 3.999.06)

Chapter 82 UTILITIES[69]

ARTICLE I. IN GENERAL

Sec. 82-1. Maintenance, management of water supply and sewage disposal system.

(a) *Separation of system.* The water supply and sewage disposal system of the city shall be operated and maintained as a separate system on a separated water and sewer rate basis; and the system shall include all wells, pumps, pumphouses, water mains and laterals, water and sewer pumping stations, water storage and

[69]Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 14; electrical code, § 14-91 et seq.; plumbing code, § 14-121 et seq.; mechanical code, § 14-151 et seq.; businesses, ch. 18; community development, ch. 22; environment, ch. 34; historical preservation, ch. 42; land divisions and other subdivisions of land, ch. 46; easement for utilities for subdivisions, § 46-93; subdivisions, § 46-121 et seq.; streets and utilities improvements in subdivisions, § 46-182; solid waste, ch. 62; streets, sidewalks and other public places, ch. 70; telecommunications, ch. 74; franchises, app. A.

State law reference(s)—Ownership and operation of water supply or sewage disposal facility by a city, Mich. Const. 1963, art. VII, § 24; authority to provide and regulate sewer and water service, MCL 324.4301 et seq.; collection of water and sewerage charges, MCL 123.161 et seq.; rates charged for use of public improvement in order to pay bonds, MCL 141.121; water and sewer authorities, MCL 124.281 et seq.; sewage disposal and water supply districts, MCL 323.151 et seq.; sewerage systems, operation, construction and inspection, MCL 324.4101 et seq.

treatment facilities, sewers, force main and lift stations, sewage treatment facilities, and all attendant facilities and equipment which are used or useful in the operation and maintenance of the water supply and sewage disposal system.

(b) *Management of system.* The construction, alteration, repair and management of the system shall be under the supervision and control of the city council. The city may employ such persons, boards or commissions in such capacities as it deems advisable to carry on the efficient management and operation of the system, subject to the approval of the city council. The city council may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient management and operation of the system.

(Comp. Ords. 1982, §§ 2.000.01, 2.000.09; Ord. No. 2-14, 9-2-2014)

Secs. 82-2—82-30. Reserved.

ARTICLE II. CROSS CONNECTIONS

Sec. 82-31. Rules adopted.

The city adopts by reference the water supply cross connection rules of the State of Michigan, being R 325.11401 to R 325.11407 of the Michigan Department of Environmental Quality (MDEQ).

(Comp. Ords. 1982, § 2.200.01; Ord. No. 2-14, 9-2-2014)

Sec. 82-32. Inspections.

It shall be the duty of the public utility department to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the public utility department and as approved by the Michigan Department of Environmental Quality (MDEQ).

(Comp. Ords. 1982, § 2.200.02)

Sec. 82-33. Right of access, information.

The representative of the public utility 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 for cross connections. On request the owner, lessee or occupant 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.

(Comp. Ords. 1982, § 2.200.03)

Sec. 82-34. Discontinuing service.

The public utility department is authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this article 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 has been eliminated in compliance with the provisions of this article.

(Comp. Ords. 1982, § 2.200.04)

Sec. 82-35. Protection of potable water.

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 article and by the state and the city 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

(Comp. Ords. 1982, § 2.200.05)

Sec. 82-36. Relationship to state plumbing code.

This article does not supersede the state plumbing code but is supplementary to it.

(Comp. Ords. 1982, § 2.200.06)

Sec. 82-37. Penalty.

Any person or customer found guilty of violating any of the provisions of this article or any written order of the public utility department in pursuance of this article shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in section 1-7.

(Comp. Ords. 1982, § 2.200.07)

Secs. 82-38—82-70. Reserved.

ARTICLE III. RATES, FEES AND CHARGES

Sec. 82-71. Rates.

(a) *Generally.* Minimum wastewater, sewer and water rates and charges on all sizes of water meters serving residential, commercial and industrial premises are set from time to time for the following services:

(1) Quarterly debt service charge.

(2) Quarterly readiness-to-serve charge.

(3) Unmetered quarterly sewer only charge.

(4) Commodity charge.

(5) Extra-strength surcharges; industrial.

(b) *Special rates.* For miscellaneous services for which a special rate should be established, such rates shall be fixed by the city council.

(c) *Billing.* Water and sewer rates and charges shall be billed and collected quarterly, and all bills shall be due and payable at the office of the city treasurer on or before the date specified on the bill. For all bills not paid when due, a ten percent penalty shall be added.

(d) *Enforcement.*

(1) The charges for water service which are under the provisions of section 21, Public Act No. 94 of 1933 (MCL 141.121), or Public Act No. 178 of 1939 (MCL 123.161 et seq.), made a lien on all premises served by such services, are recognized to constitute such lien; and whenever any such charge against any piece of property shall be delinquent for six months, the city council shall certify on or before the first council meeting in May of each year to the city tax assessing officer the fact of such delinquency, whereupon such delinquent charge shall be entered upon the next tax roll as a charge against such premises and the lien enforced in the same manner as general city taxes against such premises are collected and the lien enforced.

(2) However, in a case when a tenant is responsible for the payment of the charges and the city is so notified in writing by the owner of the property, the charges shall not become a lien against the premises after the date of the notice. In the event of the filing of such notice, no further service shall be rendered such premises until a cash deposit shall have been made as security for payment of such charges and services. The amount of the cash deposit shall be set from time to time as deemed necessary by the city council.

(3) In addition to other remedies provided, the city shall have the right to shut off and discontinue the supply of water to any premises for the nonpayment of water and sewer rates when due. If water and sewer charges for services furnished to any premises are not paid within 30 days after the due date, water service to the premises shall be shut off and discontinued and shall not be restored until all such charges and penalties plus a turn-on charge has been paid. The amount of the turn-on charge shall be set from time to time as deemed necessary by the city council.

(Comp. Ords. 1982, § 2.000.10; Ord. No. 2-14, 9-2-2014)

Sec. 82-72. No free service.

No free service shall be furnished by the water and sewer system to any person or to any public agency or instrumentality.

(Comp. Ords. 1982, § 2.000.11)

Sec. 82-73. Rate covenant.

The rates fixed in this article are established to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the system as are necessary to preserve the system in good repair and working order, to provide for the payment of the interest upon and the principal of all the bonds as and when they become due and payable, and the creation of the reserve required by this article, and to provide for such other expenditures and funds for the system as this article may require. Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts, and it is covenanted and agreed at all times to fix and maintain such rates for services furnished by the system as shall be sufficient to provide for the foregoing.

(Comp. Ords. 1982, § 2.000.12)

Sec. 82-74. Fiscal year.

The water and sewer system shall be operated on the basis of an operating year commencing on July 1 and ending on June 30 next following.

(Comp. Ords. 1982, § 2.000.13)

Sec. 82-75. Disposition of revenues.

(a) The revenues of the water and sewer system shall be set aside, as collected, and deposited in a depositary account in a bank duly qualified to do business in the state, in an account to be designated water supply and sewage disposal system receiving fund; and the revenues so deposited are pledged for the purpose of the operation and maintenance fund and shall be transferred from the receiving fund periodically in the manner and at the times specified in this section.

(b) Out of the revenues in the receiving fund there shall be first set aside, quarterly, into a depositary account designated operation and maintenance fund, a sum sufficient to provide for the payment of the next quarter's current expenses of administration and operation of the system and such current expenses for its maintenance as may be necessary to preserve it in good repair and working order.

(c) The city council, prior to the commencement of each operating year, shall adopt a budget covering the foregoing expenses for each year; and such total expenses shall not exceed the total amount specified in the budget, except by a vote of three-fifths of the members of the city council.

(d) On June 30, 1967, there shall be transferred from funds of the system then on hand to the operation and maintenance fund a sum sufficient to meet operation and maintenance expenses of the system for the quarterly period beginning July 1, 1967.

(Comp. Ords. 1982, § 2.000.14; Ord. No. 2-14, 9-2-2014)

Secs. 82-76—82-110. Reserved.

ARTICLE IV. WATER SUPPLY SYSTEM[70]

Sec. 82-111. Surcharge for nonwater users.

Residents who do not have city water but are using city sanitary sewers shall install a water meter on their source of water and shall pay installation expense and meter fees as provided elsewhere in this chapter. The consumption of water as reflected by these meters shall be the basis of the sewer surcharge against the residents, in accordance with the rates specified in section 82-71.

(Comp. Ords. 1982, § 2.201.00)

[70]State law reference(s)—Safe drinking water act, MCL 325.1001 et seq.; fluoridation of water, MCL 333.12721.

Sec. 82-112. Obstructing fire hydrants.

All persons are prohibited from obstructing free access and from depositing any rubbish or building material in proximity to any fire hydrant, water gate or stop cock in the public street.

(Comp. Ords. 1982, § 2.202.00)

Cross reference(s)—Fire prevention and protection, ch. 38.

Sec. 82-113. Frozen pipes.

Whenever any pipe shall become frozen between the service cock and any building on the premises supplied by water, the cost and expense of thawing out such pipe shall be a charge against the user of the water and owner of the premises and shall be collected in the same manner as water rates are collected.

(Comp. Ords. 1982, § 2.203.00)

Sec. 82-114. Opening streets.

In putting down and repairing service pipes, the street must be opened in such a manner as will occasion the least inconvenience to the public. No excavation in any public place shall be left open during the night unless amply protected, to prevent accident, by the person to whom the permit has been granted. The opening of any street or work in the right-of-way shall require a city permit. It shall be the permit holder's responsibility to repair the street in a like manner to the condition before the repair. The city manager or his or her designated representative shall provide the sole determination as to what is like manner.

(Comp. Ords. 1982, § 2.204.00; Ord. No. 2-14, 9-2-2014)

Cross reference(s)—Streets, sidewalks and other public places, ch. 70.

Sec. 82-115. Climbing upon elevated tank.

It shall be unlawful for any person, except employees of the city and persons duly authorized, to be upon or climb any elevated tank within the city.

(Comp. Ords. 1982, § 2.205.00)

Sec. 82-116. Pollution of wells.

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 any building or other structure. It shall be likewise unlawful 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.

(Comp. Ords. 1982, § 2.206.00; Ord. No. 2-14, 9-2-2014)

Sec. 82-117. Eligibility to make connection.

No connection shall be made with the city water system nor shall any change be made in existing connection except under direction of the city manager or his or her designated representative. All connections shall comply

with local, state and federal regulations. The city manager or his or her designated representative shall make the sole determination as to the types of pipe and fittings that are deemed acceptable.

(Comp. Ords. 1982, § 2.207.00; Ord. No. 2-14, 9-2-2014)

Sec. 82-118. Termination of service.

The city reserves the right to discontinue the supply of water at any time without incurring any liability or cause of action for damages, any permit granted, or any regulation to the contrary notwithstanding.

(Comp. Ords. 1982, § 2.208.00)

Sec. 82-119. Rates for sprinkler systems.

Water rates for usage of privately owned water sprinkler systems shall be established from time to time by resolution of the city council.

(Comp. Ords. 1982, § 2.209.00)

Sec. 82-120. Private water wells.

(a) *Definitions.* The following definitions shall apply in the interpretation of this section:

Applicant means a person who is applying under subsection 82-120(n) for an addition or modification to a restricted zone.

City means the City of Tecumseh.

City water service means the water supplied by the City of Tecumseh.

Construction site dewatering means temporary removal of ground water from an excavating site.

Owner means the person holding the legal or equitable title to real property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee or any other person, firm or corporation directly or indirectly in control of a building, structure or real property or his duly authorized agent.

Person means any individual, partnership, corporation, limited liability company, association, organization or other legal entity.

Restricted zone is the area depicted on Figure I, prepared by RMT and dated March 2010, which accompanies Ord. No. 4-11, from which this section derives, and any other areas so designated pursuant to subsection 82-120(n).

Water well means a hole drilled or bored into the earth for the purpose of removing water through mechanical or non-mechanical means.

(b) *Purpose.* The purpose of this section is to protect public health, safety and welfare by preventing public exposure to an area of likely or known groundwater contamination.

(c) *Private water wells prohibited.* Except as provided in subsection (d), no person shall install, construct, develop, maintain or use a water well within a restricted zone.

(d) *Permitted water wells.* The following water wells are not prohibited by this section:

(1) A water well used solely for the purpose of construction site dewatering or for conducting response activities, including sampling or treatment of the groundwater, provided that: (i) prior notice of the well is given to the city manager or his or her designated representative, (ii) the owner has demonstrated to the city manager or his or her designated representative's satisfaction that the use of the well will not result in exposure to contaminated groundwater, possible cross-contamination between zones of groundwater, or hydrogeological effects on contaminated groundwater plumes, and (iii) the water generated by the well is properly handled and disposed of in compliance with all applicable laws, rules, regulations, permit and license requirements, orders and directives of any governmental entity or agency of competent jurisdiction.

(2) Municipal wells operated by the city for its municipal water supply, provided such wells are subject to groundwater monitoring under the oversight of the Michigan Department of Natural Resources and Environment Drinking Water and Radiological Protection Division, and/or its successor agency or designee, in accordance with Act 399 of 1976, The Michigan Safe Drinking Water Act, and applicable Administrative Rules promulgated thereunder.

(3) A geothermal type well for non-contact heating, cooling or processing activities, provided the well is a closed-loop design which does not allow fluid in the coils to be in direct contact with the subsurface, and further provided that owner has demonstrated to the city manager or his or her designated representative's satisfaction that the closed loop system and associated wells will not penetrate a confining clay layer and will be constructed and grouted in accordance with relevant construction criteria.

(e) *Large capacity wells.* No well may be installed or used at any place in the city if its use will cause the migration of contaminated groundwater into previously unaffected groundwater, or will adversely affect any groundwater treatment system, unless the well is part of an MDEQ or US EPA approved groundwater monitoring or remediation system.

(f) *Connection to city water service required.* The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes situated within the restricted zone or who is prohibited from installing a well by subsection 82-120(c), is hereby required at his or her expense to install suitable plumbing facilities therein, in accordance with the plumbing codes then in effect and enforced within the city and to connect such facilities directly with the City water service in accordance with the requirements of the City of Tecumseh City Code of Ordinances.

(g) *Existing wells.* Any existing well, the use of which is prohibited by subsection 82-120(c), except as permitted under subsection 82-120(d), shall be plugged or abandoned in conformance with Rules established by the Michigan Department of Environmental Quality ("MDEQ") and applicable Lenawee County ordinance and regulation.

(h) *Violations.* Any person who violates any provision of this section shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101—600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than $500.00. Each day this section is violated shall be considered a separate violation.

(i) *Enforcement officials.* The city manager or his or her designated representative is authorized to issue municipal civil infraction citations.

(j) *Nuisance per se.* A violation of this section is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

(k) *Civil remedies.* In addition to enforcing this section through the use of a municipal civil infraction proceeding, the city may initiate proceedings in the circuit courts to abate or eliminate the nuisance per se or any other violation of this section.

(l) *Severability.* If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any remaining portion or application of this section which can be given effect without the invalid portion or application.

(m) *Amendments.* The city shall notify the MDEQ at least 30 days prior to adopting a modification to this section or the lapsing or revocation thereof, including any modification to add to or remove property from a restricted zone.

(n) *Additions or modifications to restricted zone.*

(1) *Removing property from restricted zone.*

a. An owner of property located in the city within a restricted zone may apply to the city to remove property from the restricted zone upon a demonstration that such property need not be included in the restricted zone because of improved conditions in the affected groundwater.

b. The application must include the MDEQ's written and specific concurrence with the requested action, as well as all documentation on which MDEQ based its concurrence.

c. The application must be accompanied by payment of an application fee established by resolution of the city council, intended to cover the city's anticipated out-of-pocket expenses to review and respond to the application.

(2) *Adding property to or establishing a restricted zone.*

a. Property may be added to a restricted zone or a new restricted zone established on a case-by-case basis following the procedures set forth in this section. An applicant shall file an application with the city to add property to a restricted zone or establish a new restricted zone. The applicant shall include a fee established by resolution of the council, intended to cover the city's anticipated out-of-pocket expenses to review and respond to the application. The application shall describe the proposed location to be added, and the nature of the proposed use restrictions.

b. The applicant shall include all documentation submitted to the MDEQ, along with a written statement from a MDEQ representative with approval authority stating that the proposed restricted zone and use regulations have received MDEQ approval as part of the response actions for groundwater contamination.

c. The applicant shall include notices provided to the Lenawee County Health Department concerning the property, and the health department's written acknowledgment that it will not issue permits for prohibited wells within the property to be added to the restricted zone.

(3) *Council action.*

a. Once the city manager, or his or her designee is satisfied that a restricted zone application is complete, the city manager or his or her designated representative shall place the matter on the city council agenda for a public hearing.

b. After the city council sets the public hearing, the city manager or his or her designated representative or his or her designee shall cause a written notice of the hearing to be sent by first class mail to all persons having an interest as owner, tenant, easement holder or mortgagee in any property included in the application. The notice shall describe the application and identify its main features and potential impact on the recipients. The notice shall be mailed at least ten days, but not more than 20 days, prior to the date of the hearing. The notice shall also be mailed to the appropriate MDEQ representatives.

c. After the public hearing, the city council shall act on the application within 30 days, unless it determines that it needs more information before it can decide. In that case, it shall act on the application within 30 days after it has received the additional information.

d. Within ten days of city council action modifying the restricted zone, the applicant shall cause a notice of the city council action to be recorded with the Lenawee County Register of Deeds, in a form approved by the city, and recorded in a manner designed to insure that it serves as record notice of the city council action with respect to all affected premises within the restricted zone.

e. Within 30 days of recording the notice, applicant shall provide the city clerk, the Lenawee County Health Department, and the MDEQ with copies of the recorded notice.

(Ord. No. 4-11, § 1, 6-6-2011; Ord. No. 2-14, 9-2-2014)

Editor's note(s)—Ord. No. 4-11, § 1, adopted June 6, 2011, included a map of the restricted zone as Figure 1, which is not set out herein but is available at the office of the city clerk.

Sec. 82-121 Building water connection (service leads), installation, maintenance, repair and replacement.

(a) *Permit and fees.* No person shall uncover, make any connection with or opening onto, use or disturb any public or private water appurtenance thereof, without first obtaining a written permit from the City of Tecumseh. No water line shall be covered until after it has been inspected and approved by the city building inspector or his designee.

The cost of the city tap, lead and valve will be included in the tap fee paid to the city by the contractor or property owner. Should the cost of the tap, lead and valve exceed the established tap fee, the contractor or property owner will be required to reimburse the city for such costs. The city council shall establish tap fees from time to time as needed.

(b) *Service lead ownership.* The city will be responsible to install a tap, water lead and shut-off valve in the city right-of-way. The contractor or property owner shall install the service lead from the city valve to the building. All installation work will require a city permit and must be inspected by the city prior to being covered.

The cost of installing the service lead from the city service valve to the building will be borne by the contractor or property owner.

The city shall pay the cost of repair, maintenance and replacement of the service lead from the main to the service valve, limited to the portion of this service lead which is within the city right-of-way. The contractor or property owner shall be responsible for the cost of repair, maintenance and replacement from the service valve, located in the city right-of-way, to and including all plumbing in the building. At no time will the city be responsible for repair, maintenance or replacement of any fixtures not originally installed by the city.

(c) *Separate service lead required for each dwelling unit; exceptions.* A separate and independent service lead shall be provided for every dwelling unit, except for those instances where the city determines that one of the following conditions prevails, in which case a multiple connection may be allowed:

(1) Where one building stands in the rear of a residential building on an interior lot and no water service is available or can be made available for the rear building through an adjoining alley, courtyard or driveway and where both buildings are under common ownership.

(2) Where a complex of commercial establishments or multiple dwelling units are situated under a common roof, share common interior walls and are of common ownership. The interconnection of

adjacent units by companionways or underground utility tunnels does not constitute sufficient physical connection to allow the use of a single service lead.

(3) Where an industrial complex consists of several adjacent buildings which are an integral part of an industrial process or production sequence and where all portions of the complex are under a common ownership. In the event of sale of a portion of the complex a separate and independent building service lead will be required for each portion of the divided complex.

(Ord. No. 2-14, 9-2-2014)

Secs. 82-122—82-150. Reserved.

ARTICLE V. INDUSTRIAL WASTEWATER DISCHARGE[71]

DIVISION 1. GENERALLY

Sec. 82-151. Purpose and policy.

This article sets forth uniform requirements for users of the wastewater collection and publicly owned treatment works (POTW) for the city and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.), and the general pretreatment regulations (40 CFR 403). The objectives of this article are to:

(1) Prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;

(2) Prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise are incompatible with the POTW;

(3) Ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;

(4) Protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;

(5) Improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;

(6) Provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW; and

(7) Enable the city to comply with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject.

This article shall apply to all industrial users of the POTW. The article authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires industrial user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(Comp. Ords. 1982, § 2.101.1.1)

[71]State law reference(s)—Liquid industrial wastes, MCL 324.12101 et seq.

Sec. 82-152. Administration.

Except as otherwise provided in this article, the director shall administer, implement and enforce the provisions of this article. Any powers granted to or duties imposed upon the director may be delegated by the director to other city personnel.

(Comp. Ords. 1982, § 2.101.1.2)

Cross reference(s)—Administration, ch. 2.

Sec. 82-153. Definitions.

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

Act or *the act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Approval authority means an NPDES state with an approved state pretreatment program.

Authorized representative of the industrial user means:

(1) If the industrial user is a corporation:

a. The president, secretary, treasurer or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

b. The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(2) If the industrial user is a partnership, or sole proprietorship, a general partner or proprietor, respectively;

(3) If the industrial user is a federal, state or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his designee;

The individuals described in subsections (1)—(3) of this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originated or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees Celsius expressed in terms of mass and concentration (milligrams per liter (mg/l)).

Categorical pretreatment standard or *categorical standard* means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with sections 307(b) and (c) of the act (33 USC 1317) which apply to a specific category of industrial users and which appear in 40 CFR chapter 1, subchapter N, parts 405—471.

Color means the optical density at the visual wave length of maximum absorption, relative to distilled water; 100 percent transmittance is equivalent to 0.0 optical density.

Composite sample means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

Director means the person designated by the city to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

Environmental Protection Agency or *EPA* means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the regional water management division director or other duly authorized official of that agency.

Existing source means any source of discharge the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the act.

Grab sample means a sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.

Indirect discharge or *discharge* means the introduction of nondomestic pollutants into the POTW from any nondomestic source regulated under section 307(b), (c) or (d) of the Act.

Industrial user or *user* means a source of indirect discharge.

Instantaneous maximum allowable discharge limit means the maximum concentration or loading of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore is a cause of a violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued under such provisions (or more stringent state or local regulations):

(1) Section 405 of the Clean Water Act;

(2) The Solid Waste Disposal Act (SWDA), including title II commonly referred to as the Resource Conservation and Recovery Act (RCRA);

(3) Any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA;

(4) The Clean Air Act;

(5) The Toxic Substances Control Act; and

(6) The Marine Protection, Research and Sanctuaries Act.

Medical waste means isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

New source means:

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

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

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

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

(2) Construction of a site at which an existing source is located results in modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)b. or c. of this definition but otherwise alters, replaces or adds to existing process or production equipment.

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

a. Begun or caused to begin as part of continuous on-site construction program.

1. Any placement, assembly or installation of facilities or equipment;

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

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

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

Pass through means a discharge which exits the POTW into waters of the U.S. in quantities of concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities.

pH means a measure of the acidity or alkalinity of a substance, expressed in standard units.

Pollutant means any dredged soil, solid waste, incinerator residue, sewage garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants in the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment imposed of an industrial user, other than a pretreatment standard.

Pretreatment standards or *standards* means prohibitive discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards or *prohibited discharges* means absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 82-181.

Publicly owned treatment works or *POTW* means a treatment works as defined by section 212 of the act (33 USC 1292), which is owned by the state or the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.

Septic tank waste means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

Sewage means human excrement and gray water (household showers, dishwashing operations, etc.).

Significant industrial user means all industrial users subject to categorical pretreatment standards under 40 CFR 403.3 and 40 CFR chapter I; subchapter N; and any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant or is designed as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)). Upon a finding that an industrial user meeting the criteria of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement the control authority as time on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f), determine that such industrial user is not a significant industrial user.

Significant noncompliance means as specified in section 82-361.

Slug load means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 82-181 or any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge.

Standard Industrial Classification (SIC) Code means a classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

Stormwater means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Suspended solids means the total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquid, and which is removable by laboratory filtering.

Toxic pollutant means one of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of section 307 (3 USC 1317) of the act.

Treatment plant effluent means any discharge of pollutants from the POTW into waters of the state.

Wastewater means liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater treatment plant or *treatment plant* means that portion of the POTW designed to provide treatment of sewage and industrial waste.

(Comp. Ords. 1982, § 2.101.1.3)

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

Sec. 82-154. Abbreviations.

The following abbreviations shall have the designated meanings:

BOD	Biochemical oxygen demand
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	U.S. Environmental Protection Agency
gpd	Gallons per day
l	Liter
mg/l	Milligrams per liter
mg	Milligrams
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and maintenance
POTW	Publicly owned treatment works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classifications
SWDA	Solid Waste Disposal Act (42 USC 6901, et seq.)
TSS	Total suspended solids
USC	United States Code

(Comp. Ords. 1982, § 2.101.1.4)

Secs. 82-155—82-180. Reserved.

DIVISION 2. SEWER USE

Sec. 82-181. Prohibited discharge standards.

(a) No industrial user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all industrial users of the POTW, whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements. Furthermore, no industrial user may contribute the following substances to the POTW:

(1) Pollutants which create a fire or explosive hazard in the municipal wastewater collection and the POTW, including but not limited to waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.

(2) Any wastewater having a pH less than 5.0 or more than 9.0 or otherwise causing corrosive structural damage to the POTW or equipment, or endangering city personnel.

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half inch or 1.27 centimeters in any dimension.

(4) Any wastewater containing pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with

other pollutants, will cause interference with either the POTW, or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.

(5) Any wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).

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

(7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(8) Any trucked or hauled pollutants, except at discharge points designated by the city in accordance with section 82-215.

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

(10) Any wastewater which imparts color which cannot be removed by the treatment process, such as but not limited to dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent from the seasonably established norm for aquatic life.

(11) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the director in compliance with applicable state or federal regulations.

(12) Stormwater, surface water, clean groundwater, groundwater cleanups, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the director.

(13) Any sludges, screenings or other residues from the pretreatment of industrial wastes.

(14) Any medical wastes, except as specifically authorized by the director in a wastewater discharge permit.

(15) Any wastewater causing the treatment plant's effluent to fail a toxicity test.

(16) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.

(17) Any discharge of fats, oils or greases of animal or vegetable origin is limited to 52 mg/l.

(b) Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.

(Comp. Ords. 1982, § 2.102.2.1)

Sec. 82-182. Federal Categorical Pretreatment Standards.

The National Categorical Pretreatment Standards found at 40 CFR chapter I, subchapter N, parts 405—471 are incorporated.

(Comp. Ords. 1982, § 2.102.2.2)

Sec. 82-183. 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 set forth in this article.

(Comp. Ords. 1982, § 2.102.2.3)

Sec. 82-184. Limitations.

(a) Specific pollutant limitations are as follows:

Pollutant	Daily Maximum (mg/l)	Monthly Average *(mg/l)*
Ammonia	120	
Arsenic	0.441	
BOD/5	1000	
Cadmium	0.047	
Chromium	2.77	1.71
Copper	3.38	2.07
Cyanide, total	0.059	
Lead	0.453	0.43
Mercury	0.0005	
Nickel	2.12	
Oil and grease	52	26
Phosphorus	100	
Silver	0.43	0.24
TSS	1000	
TTO	2.13	
Zinc	2.61	1.48

(b) Concentrations apply at the point where the industrial waste is discharged to the POTW. At his discretion, the director may impose mass limitations in addition to or in place of the concentration-based limitations of this section.

(Comp. Ords. 1982, § 2.102.2.4)

Sec. 82-185. City's rights revision.

The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in section 82-151 or the general and specific prohibitions in section 82-181.

(Comp. Ords. 1982, § 2.102.2.5)

Sec. 82-186. Special agreement.

(a) The city may enter into an agreement with the person making the discharge for the purpose of treatment for compatible pollutants for a fee and allow the discharge. The discharge from a user shall be subject to provisions when the following limits are exceeded:

(1) Five-day BOD greater than 250 mg/l.

(2) TSS greater than 300 mg/l.

(3) Phosphorus greater than 20 mg/l.

(4) Ammonia nitrogen greater than 40 mg/l.

(b) An industrial waste containing pollutants up to levels which are within the treatment capacity of the sewage treatment plant may be accepted, subject to payment by the industrial concern, provided such agreement shall not violate EPA guidelines or NPDES requirements, and provided user charges and surcharges as provided in this article are agreed to in the agreement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the EPA. Such a request will be approved only if the industrial user can prove that factors relating to its discharge are fundamentally different from the factors considered by the EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

(Comp. Ords. 1982, § 2.102.2.6)

Sec. 82-187. Dilution.

No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Comp. Ords. 1982, § 2.102.2.7)

Secs. 82-188—82-210. Reserved.

DIVISION 3. PRETREATMENT OF WASTEWATER

Sec. 82-211. Pretreatment facilities.

Industrial users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in section 82-181 within the shortest time feasible, but in no case longer than three years for existing users subject to Federal Categorical Pretreatment Standards. New sources subject to categorical standards must be required to install and have in operating condition, and start up all pollution control equipment before beginning discharge. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review and shall be acceptable to the city before construction of the

facility. The review of such plans and operation procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the city under the provisions of this article.

(Comp. Ords. 1982, § 2.103.3.1)

Sec. 82-212. Additional pretreatment measures.

(a) Whenever deemed necessary, the director may require industrial users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the industrial user's compliance with the requirements of this article.

(b) Grease, oil and sand interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed by the owner at his expense.

(c) Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(d) At no time shall two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, be more than 80 percent of the lower explosive limit (LEL) of the meter.

(Comp. Ords. 1982, § 2.103.3.2)

Sec. 82-213. Accidental discharge/slug control plans.

The director may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two years, the director shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:

(1) Description of discharge practices, including nonroutine batch discharges.

(2) Description of stored chemicals.

(3) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in section 82-181.

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include but are not limited to inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operation, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(Comp. Ords. 1982, § 2.103.3.3)

Sec. 82-214. Tenant responsibility.

Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this article.

(Comp. Ords. 1982, § 2.103.3.4)

Sec. 82-215. Hauled wastewater.

(a) Septic tank waste may be accepted into the POTW at a designated receiving structure within the treatment plant area, and at such times as are established by the director, provided such wastes do not violate section 82-181 or any other requirements established or adopted by the city. Wastewater discharge permits for individual vehicles to use such facilities shall be issued by the director.

(b) The discharge of hauled industrial wastes as industrial septage requires prior approval and a wastewater discharge permit from the city. The director shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation. Waste haulers are subject to all other sections of this article.

(c) Fees for dumping septage will be established as part of the industrial user fee system as established and modified from time to time by the city council.

(Comp. Ords. 1982, § 2.103.3.5)

Sec. 82-216. Vandalism.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in section 1-7.

(Comp. Ords. 1982, § 2.103.3.6)

Secs. 82-217—82-240. Reserved.

DIVISION 4. WASTEWATER DISCHARGE PERMIT

Subdivision I. In General

Sec. 82-241. Wastewater survey.

When requested by the director, all industrial users must submit information of the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The director is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for termination service to the industrial user and shall be considered a violation of this article.

(Comp. Ords. 1982, § 2.104.4.1)

Sec. 82-242. Wastewater discharge permit requirement.

(a) It shall be unlawful for any significant industrial user to discharge wastewater in the city's POTW without first obtaining a wastewater discharge permit from the director. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in sections 82-391—82-435. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

(b) The director may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this article.

(Comp. Ords. 1982, § 2.104.4.2)

Sec. 82-243. Wastewater discharge permitting existing connections.

Any significant industrial user which discharges industrial waste into the POTW prior to April 2, 1995, and who wishes to continue such discharges in the future, shall, within 180 days after April 2, 1995, apply to the city for a wastewater discharge permit in accordance with section 82-246, and shall not cause or allow discharges to the POTW to continue after 90 days of April 2, 1995, except in accordance with a wastewater discharge permit issued by the director.

(Comp. Ords. 1982, § 2.104.4.3)

Sec. 82-244. Wastewater discharge permitting new connections.

Any significant industrial user proposing to begin or recommence discharging industrial wastes in the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least 90 days prior to the date upon which any discharge will begin.

(Comp. Ords. 1982, § 2.104.4.4)

Sec. 82-245. Wastewater discharge permitting extrajurisdictional industrial users.

(a) Any existing significant industrial user located beyond the city limits shall submit a wastewater discharge permit application, in accordance with section 82-246, within 180 days of April 2, 1995. New significant industrial users located beyond the city limits shall submit such applications to the director 180 days prior to any proposed discharge into the POTW.

(b) Alternately, the director may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against the industrial user.

(Comp. Ords. 1982, § 2.104.4.5)

Sec. 82-246. Wastewater discharge permit application contents.

In order to be considered for a wastewater discharge permit, all industrial users required to have a wastewater discharge permit must submit the information required by section 82-291. The director shall approve a form to be used as a permit application. In addition, the following information may be requested:

(1) Description of activities, facilities and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.

(2) Number and type of employees, hours of operation, and proposed or actual hours of operation of the POTW.

(3) Each product produced by type, amount, process or processes, and rate of production.

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

(5) The site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains and appurtenances by size, location and elevation, and all points of discharge.

(6) Time and duration of the discharge.

(7) Any other information as may be deemed necessary by the director to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision.

(Comp. Ords. 1982, § 2.104.4.6)

Sec. 82-247. Application signatories and certification.

All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user:

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

(Comp. Ords. 1982, § 2.104.4.7)

Sec. 82-248. Wastewater discharge permit decisions.

The director will evaluate the data furnished by the industrial user and may require additional information. Within 120 days of receipt of a complete wastewater discharge permit application, the director will determine whether or not to issue a wastewater discharge permit. If no determination is made within this time period, the application will be deemed denied. The director may deny any application for a wastewater discharge permit.

(Comp. Ords. 1982, § 2.104.4.8)

Secs. 82-249—82-260. Reserved.

Subdivision II. Issuance Process

Sec. 82-261. Duration.

Wastewater discharge permits shall be issued for a specified time period, not to exceed five years, at the discretion of the director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(Comp. Ords. 1982, § 2.105.5.1)

Sec. 82-262. Contents.

(a) Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the POTW.

(b) Wastewater discharge permits must contain the following conditions:

(1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years.

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from the city and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

(3) Effluent limits applicable to the user based on applicable standards in federal, state and local law.

(4) Self monitoring, sampling, reporting, notification and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law.

(5) Statement of applicable civil, criminal and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state or local law.

(c) Wastewater discharge permits may contain but need not be limited to the following:

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

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

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

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

(5) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.

(6) The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the POTW.

(7) Requirements for installation and maintenance of inspection and sampling facilities and equipment.

(8) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit.

(9) Other conditions as deemed appropriate by the director to ensure compliance with this article, and state and federal laws, rules and regulations.

(Comp. Ords. 1982, § 2.105.5.2)

Sec. 82-263. Appeals.

(a) Any person, including the industrial user, may petition the city to reconsider the terms of a wastewater discharge permit within 30 days of its issuance.

(b) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(c) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to; the reasons for this objection; and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(d) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(e) If the city fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative action for purpose of judicial review.

(f) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the circuit court for the county within 120 days of appeal.

(Comp. Ords. 1982, § 2.105.5.3)

Sec. 82-264. Modification.

The director may modify the wastewater discharge permit for good cause, including but not limited to the following:

(1) To incorporate any new or revised federal, state or local pretreatment standards or requirements.

(2) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.

(4) Information indicating that the permitted discharge poses a threat to the city's POTW, personnel, or the receiving waters.

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

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.

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

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

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

(Comp. Ords. 1982, § 2.105.5.4)

Sec. 82-265. Transfer.

Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least 30 days' advance notice to the director and the director approves the wastewater discharge permit transfer. The notice to the director must include a written certification by the new owner and/or operator which:

(1) States that the new owner or operator has no immediate intent to change the facility's operations and processes.

(2) Identifies the specific date on which the transfer is to occur.

(3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable on the date of facility transfer.

(Comp. Ords. 1982, § 2.105.5.5)

Sec. 82-266. Revocation.

(a) Wastewater discharge permits may be revoked for the following reasons:

(1) Failure to notify the city of significant changes to the wastewater prior to the changed discharge.

(2) Failure to provide prior notification to the city of changed conditions pursuant to section 82-295.

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.

(4) Falsifying self-monitoring reports.

(5) Tampering with monitoring equipment.

(6) Refusing to allow the city timely access to the facility premises and records.

(7) Failure to meet effluent limitations.

(8) Failure to pay fines.

(9) Failure to pay sewer charges.

(10) Failure to meet compliance schedules.

(11) Failure to complete a wastewater survey or the wastewater discharge permit application.

(12) Failure to provide advance notice of the transfer of a permitted facility.

(13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

(b) Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.

(Comp. Ords. 1982, § 2.105.5.6)

Sec. 82-267. Reissuance.

A significant industrial user shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application in accordance with section 82-246 a minimum of 90 days prior to the expiration of the industrial user's existing wastewater discharge permit.

(Comp. Ords. 1982, § 2.105.5.7)

Secs. 82-268—82-290. Reserved.

DIVISION 5. REPORTING

Sec. 82-291. Baseline monitoring reports.

(a) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the city a report which contains the information listed in subsection (b) of this section. At least 90 days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the city a report which contains the information listed in subsection (b). A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(b) The industrial user shall submit the information required by this section, including:

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owners.

(2) *Wastewater discharge permits.* A list of any environmental control wastewater discharge permits held by or for the facility.

(3) *Description of operations.* A brief description of the nature, average rate of production and standard industrial classifications of the operations carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5) *Measurement of pollutants.* To measure pollutants:

a. Identify the categorical pretreatment standards applicable to each regulated process.

b. Submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the city) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative

of daily operations and shall be analyzed in accordance with procedures set out in section 82-300.

c. Sampling must be performed in accordance with procedures set out in section 82-301.

(6) *Certification.* A statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 82-246.

(c) All baseline monitoring reports must be signed and certified in accordance with section 82-247.

(Comp. Ords. 1982, § 2.106.6.1)

Sec. 82-292. Compliance schedule progress report.

The following conditions shall apply to the schedule required by section 82-291. The schedule shall contain progress increments in the form of dates for commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No such increment shall exceed nine months. The industrial user shall submit a progress report to the director no later than 14 days following each date in the schedule and the final date of compliance, including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the industrial user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the director.

(Comp. Ords. 1982, § 2.106.6.2)

Sec. 82-293. Report on compliance with categorical pretreatment standard deadline.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in section 82-291. For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the industrial user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 82-247.

(Comp. Ords. 1982, § 2.106.6.3)

Sec. 82-294. Periodic compliance reports.

(a) Any significant industrial user shall, at a frequency determined by the director but in no case less than twice per year in January and July, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 82-247.

(b) All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

(c) If an industrial user subject to the reporting requirement in and of this section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in section 82-301, the results of this monitoring shall be included in the report.

(Comp. Ords. 1982, § 2.106.6.4)

Sec. 82-295. Report of changed conditions.

(a) Each industrial user is required to notify the director of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least 60 days before the change.

(b) The director may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 82-246.

(c) The director may issue a wastewater discharge permit under section 82-248 or modify an existing wastewater discharge permit under section 82-264.

(d) No industrial user shall implement the planned change conditions until and unless the director has responded to the industrial user's notice.

(e) For purposes of this section, flow increases of ten percent or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.

(Comp. Ords. 1982, § 2.106.6.5)

Sec. 82-296. Reports of potential problems.

(a) In the case of any discharge, including but not limited to accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in section 82-181), it is the responsibility of the industrial user to immediately telephone and notify the city of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.

(b) Within five days following such discharge, the industrial user shall, unless waived by the director, submit a detailed written report describing the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural

resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this article.

(c) Failure to notify the city of potential problem discharges shall be deemed a separate violation of this article.

(d) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (a) of this section. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

(Comp. Ords. 1982, § 2.106.6.6)

Sec. 82-297. Reports from nonsignificant industrial users.

All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the city as the director may require.

(Comp. Ords. 1982, § 2.106.6.7)

Sec. 82-298. Notice of violation/repeat sampling and reporting.

If sampling performed by an industrial user indicates a violation, the industrial user must notify the control authority within 24 hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation. The industrial user is not required to resample if the POTW performs monitoring at the industrial user at least once a month, or if the POTW performs sampling between the industrial user's initial sampling and when the industrial user receives the results of this sampling.

(Comp. Ords. 1982, § 2.106.6.8)

Sec. 82-299. Notification of the discharge of hazardous waste.

(a) Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharge during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under section 82-295. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of sections 82-291, 82-293 and 82-294.

(b) Dischargers are exempt from the requirements of subsection (a) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR

261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA regional waste management waste division director, and state hazardous waste authorities of the discharge of such substances within 90 days of the effective date of such regulations.

(d) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(Comp. Ords. 1982, § 2.106.6.9)

Sec. 82-300. Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

(Comp. Ords. 1982, § 2.106.6.10)

Sec. 82-301. Sample collection.

(a) Except as indicated in subsection (b) of this section, the industrial user must collect wastewater samples using flow proportional composite collection techniques. If flow proportional sampling is infeasible, the director may authorize the use of time proportional sampling or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(b) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

(Comp. Ords. 1982, § 2.106.6.11)

Sec. 82-302. Determination of noncompliance.

The director may use a grab sample to determine noncompliance with pretreatment standards.

(Comp. Ords. 1982, § 2.106.6.12)

Sec. 82-303. Timing.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern.

(Comp. Ords. 1982, § 2.106.6.13)

Sec. 82-304. Recordkeeping.

Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under this article. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning compliance with this article, or where the industrial user has been specifically notified of a longer retention period by the director.

(Comp. Ords. 1982, § 2.106.6.14)

Secs. 82-305—82-320. Reserved.

DIVISION 6. COMPLIANCE MONITORING

Sec. 82-321. Inspection and sampling.

(a) The city shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this article, and any permit or order issued under this article, is being met and whether the industrial user is complying with all requirements of this article. Industrial users shall allow the director or his representatives ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(b) Where an industrial user has security measures in force which require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the city, the state and the EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.

(c) The city, the state, and the EPA shall have the right to set up on the industrial user's property or require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations.

(d) The city may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.

(e) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.

(f) Unreasonable delays in allowing city personnel access to the industrial user's premises shall be a violation of this article.

(Comp. Ords. 1982, § 2.107.7.1)

Sec. 82-322. Search warrants.

If the director has been refused access to a building, structure or property, and if the director has demonstrated probable cause to believe that there may be a violation of this article or that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this article or any permit or order issued under this article, or to protect the overall public health, safety and welfare of the community, then upon application by the city attorney, the district court judge of the Second Judicial District of the county shall issue a search and/or seizure warrant describing the specific location subject to the warrant. The

warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the director in the company of a uniformed police officer of the city. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

(Comp. Ords. 1982, § 2.107.7.2)

Secs. 82-323—82-340. Reserved.

DIVISION 7. CONFIDENTIAL INFORMATION

Sec. 82-341. Availability.

Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from city inspection and sampling activities, shall be available to the public without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Comp. Ords. 1982, § 2.108.00)

Secs. 82-342—82-360. Reserved.

DIVISION 8. PUBLICATION OF NONCOMPLIANCE

Sec. 82-361. Authorized.

The city shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the industrial users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount.

(2) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH).

(3) Any other discharge violation that the city believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city personnel or the general public).

(4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge.

(5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.

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

(7) Failure to accurately report noncompliance.

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

(Comp. Ords. 1982, § 2.109.00)

Secs. 82-362—82-380. Reserved.

DIVISION 9. ENFORCEMENT

Subdivision I. In General

Secs. 82-381—82-390. Reserved.

Subdivision II. Administrative Enforcement Remedies[72]

Sec. 82-391. Notification of violation (N.O.V.).

Whenever the director finds that any user has violated or is violating this article, a wastewater discharge permit or order issued under this article, or any other pretreatment requirement, the director or his agent may serve upon the user a written notice of violations. Within 15 days of the receipt of this notice, an explanation of the violation and a plan for its satisfactory correction and prevention, to include specific required actions, shall be submitted by the user to the director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Comp. Ords. 1982, § 2.110.10.1)

[72]Cross reference(s)—Administration, ch. 2.

Sec. 82-392. Consent orders.

The director is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as the administrative orders issued pursuant to sections 82-394 and 82-395 and shall be judicially enforceable.

(Comp. Ords. 1982, § 2.110.10.2)

Sec. 82-393. Show cause hearing.

The director may order any user which causes or contributes to a violation of this article, wastewater discharge permits, or orders issued under this article, or any other pretreatment standard or requirements, to appear before the director and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.

(Comp. Ords. 1982, § 2.110.10.3)

Sec. 82-394. Compliance orders.

When the director finds that a user has violated or continues to violate this article, wastewater discharge permits or orders issued under this article, or any other pretreatment standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within 30 days. If the user does not come into compliance within 30 days, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement; nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

(Comp. Ords. 1982, § 2.110.10.4)

Sec. 82-395. Cease and desist orders.

When the director finds that a user is violating this article, the user's wastewater discharge permit, any order issued under this article, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all requirements.

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

(Comp. Ords. 1982, § 2.110.10.5)

Sec. 82-396. Administrative fines.

(a) Notwithstanding any other section of this article, any user that is found to have violated any provision of this article, its wastewater discharge permit, and orders issued under this article, or any other pretreatment standard or requirement shall be fined in an amount not to exceed $500.00. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(b) Assessments may be added to the user's next scheduled sewer service charge, and the director shall have such other collection remedies as may be available for other service charges and fees.

(c) Unpaid charges, fines and penalties shall, after 30 calendar days, be assessed an additional penalty of four percent of the unpaid balance; and interest shall accrue thereafter at a rate of 1.5 percent per month. A lien against the individual user's property will be sought for unpaid charges, fines and penalties.

(d) Users desiring to dispute such fines must file a written request for the director to reconsider the fine along with full payment of the fine amount within 30 days of being notified of the fine. Where a request has merit, the director shall convene a hearing on the matter within 14 days of receiving the request from the industrial user. If the user's appeal is successful, the payment, together with any accruing interest, shall be returned to the industrial user. The city may add the costs of preparing administrative enforcement actions such as notices and orders to the fine.

(e) Issuance of an administrative fine shall not be a prerequisite for taking any other action against the user.

(Comp. Ords. 1982, § 2.110.10.6)

Sec. 82-397. Emergency suspensions.

(a) The director may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

(b) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings set forth in section 82-398 are initiated against the user.

(c) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the director, prior to the date of any show cause or termination hearing under sections 82-393 and 82-398.

(d) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(Comp. Ords. 1982, § 2.110.10.7)

Sec. 82-398. Termination of discharge.

In addition to those provisions in section 82-266, any user that violates the following conditions of this article, wastewater discharge permits, or orders issued under this article, is subject to discharge termination:

(1) Violation of wastewater discharge permit conditions.

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(5) Violation of the pretreatment standards in section 82-182.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 82-393 why the proposed action should not be taken.

(Comp. Ords. 1982, § 2.110.10.8)

Secs. 82-399—82-410. Reserved.

Subdivision III. Judicial Enforcement Remedies

Sec. 82-411. Authorized.

Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this article, wastewater discharge permits or orders issued under this article, or any other pretreatment requirement, the director may petition the circuit court of the county through the city attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by this article on activities of the industrial user. Such other action as appropriate for legal and/or equitable relief may also be sought by the city. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

(Comp. Ords. 1982, § 2.111.11.1)

Sec. 82-412. Civil penalties.

(a) Any user which has violated or continues to violate this article, any order or wastewater discharge permit under this article, or any other pretreatment standard or requirement shall be liable to the director for a maximum civil penalty of $500.00 per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The director may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.

(Comp. Ords. 1982, § 2.111.11.2)

Sec. 82-413. Criminal prosecution.

(a) Any user that willfully or negligently violates any provision of this article, any orders or wastewater discharge permits issued under this article, or any other pretreatment requirements shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than $500.00 per violation per day or imprisonment for not more than 90 days or both.

(b) Any user that willfully or negligently introduces any substance in the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least $500.00 and/or be subject to imprisonment for 90 days. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) Any user that knowingly makes any false statements, representations or certifications in any application, record, report, plan or other documentation filed, or required to be maintained pursuant to this article, wastewater discharge permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than $500.00 per violation per day or imprisonment for not more than 90 days or both.

(d) In the event of a second conviction, a user shall be punished by a fine of not more than $500.00 per violation per day or imprisonment for not more than 90 days or both.

(Comp. Ords. 1982, § 2.111.11.3)

Sec. 82-414. Remedies nonexclusive.

The provisions in sections 82-361—82-435 are not exclusive remedies. The city reserves the right to take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city reserves the right to take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

(Comp. Ords. 1982, § 2.111.11.4)

Secs. 82-415—82-430. Reserved.

Subdivision IV. Supplemental Enforcement Actions

Sec. 82-431. Performance bonds.

The director may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this article, any orders, or a previous wastewater discharge permit issued under this article,

unless such user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the director to be necessary to achieve consistent compliance.

(Comp. Ords. 1982, § 2.112.12.1)

Sec. 82-432. Liability insurance.

The director may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this article, any order, or a previous wastewater discharge permit issued under this article, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(Comp. Ords. 1982, § 2.112.12.2)

Sec. 82-433. Water supply severance.

Whenever a user has violated or continues to violate the provisions of this article, orders, or wastewater discharge permits issued under this article, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(Comp. Ords. 1982, § 2.112.12.3)

Sec. 82-434. Public nuisances.

Any violation of this article, wastewater discharge permits, or orders issued under this article, is declared a public nuisance and shall be corrected or abated as directed by the director or his designee. Any person creating a public nuisance shall be subject to the Michigan Statutory Provisions of Rules and Regulations governing such nuisances, including reimbursing the city for any costs incurred in removing, abating or remedying the nuisance.

(Comp. Ords. 1982, § 2.112.12.4)

Sec. 82-435. Contractor listing.

Users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the city. Existing contracts for the sale of goods or services to the city held by a user found to be in significant noncompliance with pretreatment standards may be terminated at the discretion of the city.

(Comp. Ords. 1982, § 2.112.12.5)

Secs. 82-436—82-450. Reserved.

Subdivision V. Affirmative Defenses to Discharge Violations

Sec. 82-451. Upset.

(a) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error,

improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with pretreatment standards if the requirements of subsection (c) of this section are met.

(c) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the industrial user can identify the cause of the upset.

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.

(3) The industrial user has submitted the following information to the POTW and treatment plant operation orally within 24 hours of becoming aware of the upset, and written submission must be provided within five days:

a. A description of the indirect discharge and cause of noncompliance.

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

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

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

(e) Industrial users will have the opportunity for a judicial determination of any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

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

(Comp. Ords. 1982, § 2.113.13.1)

Sec. 82-452. General/specific prohibitions.

An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in section 82-181 if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either a local limit exists for each pollutant discharge and the industrial user was in compliance with each limit directly prior to, and during, the pass through or interference, or no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(Comp. Ords. 1982, § 2.113.13.2)

Sec. 82-453. Bypass.

(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:

Bypass means the intentional diversion of waste streams from any portion of an industrial user's treatment facility.

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

(b) *When permitted.* An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (c) and (d) of this section.

(c) *Notice.*

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

(2) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) *Prohibited.*

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

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

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The industrial user submitted notices as required under subsection (c) of this section.

(2) The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in subsection (d)(1) of this section.

(Comp. Ords. 1982, § 2.113.13.3)

Secs. 82-454—82-460. Reserved.

Subdivision VI. Surcharge Costs

Sec. 82-461. Description of surcharges and fees.

(a) For reimbursement of costs of setting up and operating the pretreatment program; for monitoring, inspections and surveillance procedures; for reviewing accidental discharge procedures and construction; for filing appeals; for consistent removal by the city of pollutants otherwise subject to federal pretreatment

standards; and others as the city may deem necessary to carry out the requirements contained in this article, additional surcharges may be made by the city to compensate the city for the cost of treatment of pollutant loadings not normally treated at or in excess of those treated by the POTW.

(b) There shall be additional charges for laboratory testing of wastewater. The laboratory charge shall be for the cost of testing and will be determined for each industrial user. The charges and fees for the services provided by the system shall be levied upon any user which may have any sewer connections with the POTW and which discharges industrial waste to the POTW or any part of the POTW. Such charges shall be based upon the quantity and quality of industrial wastewater used on or in the POTW.

(Comp. Ords. 1982, § 2.114.14.1)

Secs. 82-462—82-610. Reserved.

ARTICLE VI. GENERAL SEWER USE

Sec. 82-611. 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 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 any sanitary sewage, industrial wastes, or other polluted waters.

(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.

(d) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, 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 180 days after date of official notice to do so.

(e) At the time of connection, any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned for sanitary use and filled with a suitable material.

(Ord. No. 2-14, 9-2-2014)

Sec. 82-612. Specific limitations.

(a) No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater or roof water to any sanitary sewer.

(b) Stormwater, groundwater and all other unpolluted drainage shall be discharged into such sewers as specifically designated as storm sewers.

(c) Except as otherwise provided in this chapter, no person shall discharge, or cause to be discharged, any of the following described waters or wastes to any public sewer:

(1) Any liquid or vapor causing the temperature of the influent to the POTW to exceed 104 degrees Fahrenheit (40 degrees Celsius)

(2) Any discharge of petroleum oil, nonbiodegradable cutting oil or mineral oil products in amounts that will interfere with POTW operations or cause pass through

(3) Any discharge of pollutants which create a fire or explosion hazard in the sewer system or POTW, including but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius)

(4) Any garbage that has not been properly shredded

(5) Any discharge of trucked or hauled pollutants, except at discharge points designated by the city manager or his or her designated representative.

(6) Solid or viscous substances capable of causing obstruction to flow in sewers or other interference with the proper operation of the POTW, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, grease, plastics, woods, paunch manure or other solid or viscous substance.

(7) Any waters or wastes having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the POTW. The pH of the wastes discharged into the sewer system must be within the limits of five and nine.

(8) Any discharge of pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(9) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(10) Any radioactive waste or idotopes of such half-life or concentration as may exceed limits established by the city manager or his or her designated representative in compliance with state and federal regulations. All users of radioactive material shall register with the city manager or his or her designated representative.

(Ord. No. 2-14, 9-2-2014)

Sec. 82-613. Inspection and sampling.

The city shall have the right to enter the facilities of any user to ascertain whether the purpose of this article is being met and whether the user is complying with all requirements of this article. Industrial users shall allow the director or his representative's ready access to all parts of the premises for the purposes of inspection, sampling, and the performance of any additional duties.

(Ord. No. 2-14, 9-2-2014)

Sec. 82-614. Building sewer connection, installation, maintenance, repair and replacement.

(a) *Permit and fees.* No person shall uncover, make any connection with or opening onto, use or disturb any public or private sewer appurtenance thereof, without first obtaining a written permit from the City of Tecumseh. No water line shall be covered until after it has been inspected and approved by the city building inspector or his designee.

The city council shall establish tap fees from time to time as needed.

(b) *Service lead ownership.* The cost of the service lead installation from the city main (inclusive of the tap) to the building will be borne by the contractor or property owner.

The contractor or property owner shall be responsible for the cost of repair, maintenance and replacement from the city main (inclusive of the tap) to the building or property.

(c) *Service lead construction.* 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 service lead..

(d) *Separate service lead required for each dwelling unit; exceptions.* A separate and independent service lead shall be provided for every dwelling unit; except for those instances where the city determines that one of the following conditions prevails, in which case a multiple connection may be allowed:

(1) Where one building stands in the rear of a residential building on an interior lot and no water service is available or can be made available for the rear building through an adjoining alley, courtyard or driveway and where both buildings are under common ownership.

(2) Where a complex of commercial establishments or multiple dwelling units are situated under a common roof, share common interior walls and are of common ownership. The interconnection of adjacent units by companionways or underground utility tunnels does not constitute sufficient physical connection to allow the use of a single service lead.

(3) Where an industrial complex consists of several adjacent buildings which are an integral part of an industrial process or production sequence and where all portions of the complex are under a common ownership. In the event of sale of a portion of the complex a separate and independent building service lead will be required for each portion of the divided complex.

(Ord. No. 2-14, 9-2-2014)

Chapter 86 VEGETATION[73]

ARTICLE I. IN GENERAL

Secs. 86-1—86-30. Reserved.

ARTICLE II. WEEDS AND NOXIOUS PLANTS[74]

Sec. 86-31. Definitions.

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

[73]Cross reference(s)—Buildings and building regulations, ch. 14; community development, ch. 22; environment, ch. 34; land divisions and other subdivisions of land, ch. 46; parks and cemeteries, ch. 54; streets, sidewalks and other public places, ch. 70; waterways, ch. 94; zoning, ch. 98.

[74]Editor's note(s)—Ord. No. 6-11, adopted June 20, 2011, amended former Art. II, §§ 8-31—8-35, in its entirety to read as herein set out. Former Art. II pertained to similar subject matter and derived from the Compiled Ordinances of 1982 and Ord. No. 3-04, adopted Aug. 2, 2004.

Charter reference(s)—Municipal powers, requiring owner of real property to abate public hazards and nuisances, § 2.3(u).

State law reference(s)—Noxious weeds, MCL 247.61 et seq.; obnoxious plants and trees, MCL 124.151 et seq.

Brush means unmaintained vegetation and scrub trees that are not part of a landscaping plan or system.

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.

Due notice means notice in accordance with subsection 86-36(a).

Growing season is defined as the calendar year.

Lawn extension means the unimproved portion of any street right-of-way.

Noxious vegetation means any vegetation, living or dead, that is generally odious to man or which acts as a haven for the hiding, nesting or breeding of mosquitoes, flies, bees, mice, bats, snakes, rats or other insects or animals that are generally odious to man.

Owner means any person, partnership, co-partnership, cooperative, firm, company, corporation, estate, trust, club, public or private association, organization or any other legal entity that has control over or legal responsibility for land subject to regulation under this division and/or is the owner of record as listed in the property tax assessment records of the city.

Poisonous vegetation means poison sumac, poison ivy, poison oak or like vegetation that may cause inflammation and blistering of human skin when contact occurs with human skin.

Scrub trees means unmaintained trees of less than three inches diameter, at the height of 36 inches from the ground, that are not part of a landscaping plan or system.

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.

Vegetation means any plant life, including, but not limited to, molds, fungi, algae, herbs, grasses, flowers, shrubs, bushes and trees.

Weed means any grass exceeding the average height of six inches or any uncultivated or rank vegetation, including, but not limited to, vegetation bearing seeds of a winged or downy nature capable of being spread by the winds, such as, sunflowers, thistle, dodder, mustard, straw, belladonna, nightshade, dandelion, wild carrot, milkweeds, oxeye daisies, bind weed, perennial sow thistle, hoary alyssum, ragweed, marijuana, hemp, tobacco, burdock, cocklebur, barberry brush or other weeds of a like kind.

(Ord. No. 6-11, 6-20-2011; Ord. No. 2-13, 2-18-2013)

Sec. 86-32. Declaration of nuisance.

Weeds, noxious vegetation and poisonous vegetation, as defined in this article, are declared to be a hazard to the public health and welfare of persons within the city and offensive to the well-kept appearance of the city and are, therefore a public nuisance.

(Ord. No. 6-11, 6-20-2011)

Sec. 86-33. Weed growth prohibited.

(a) *Undeveloped property.* Grass, brush, scrub trees and weeds must be maintained at a height of six inches or less for a minimum distance of 24 feet from any abutting roadway/pavement edge. The city manager or his designee shall have the ability to adjust this distance based on terrain, location, unusual conditions, etc. Such adjustment shall be documented in writing. The city manager, code enforcement officer or other designated

official may require the removal of poisonous vegetation, such as poison sumac, poison oak and poison ivy, when determined to be a hazard to the public, health, safety and welfare of persons in the specific area.

(b) *Undeveloped property with some clearing.* If brush and/or scrub trees have been removed from some portion of undeveloped property (clearing) and if said cleared area is within 30 feet of an existing structure, then the property owner shall continue to keep said area cleared of brash, scrub trees, and weeds.

(c) *Developed property.* All developed portions of the property must maintain grass, brash, scrub trees and weeds at a height of six inches or less.

(d) *Lawn extension and city street right-of-way.* The owner of every parcel of land is responsible for grading, planting, mowing and raking the extension or city street right-of-way so that it is covered with turf grass or suitable vegetation with an average height not in excess of six inches. The city shall not be liable for damage to any vegetation planted, or to any property or fixtures placed, in or upon the lawn extension or the city right-of-way that results from work performed by the city in the lawn extension or right-of-way.

(e) Exempted from the provisions of this article are flower gardens, plots of shrubbery and vegetable gardens. An exemption under the terms of this section cannot be claimed unless the land is being cultivated and cared for in a manner appropriate to such exempt categories. Notwithstanding the provisions of the previous paragraph of this section, ornamental grasses over six inches in height may be maintained under the following conditions:

(1) Ornamental grasses must be sterilized to prevent airborne seeding or pollination or be of a species which does not reproduce through airborne seeding or pollination. Such plantings which rely solely upon insect pollination for reproduction shall be permissible.

(2) Ornamental grasses may be planted only within an easily identifiable planting garden, the boundaries of which are clearly delineated.

(3) Ornamental grasses shall be planted in bold, clearly visible landscape patterns to distinguish the ornamental plantings from wild, unmaintained natural vegetation.

(4) Ornamental grasses shall not cover more than 25 percent of the total area of the property lot or parcel.

(5) Ornamental grasses shall not be planted or maintained so as to obstruct a clear view of the home, building or structure or its outside doorways, walkways, or windows. "Clear view of the home, building or structure" shall be defined as the ability to see the top 75 percent of the front wall of the home, building or structure from the curb line or edge of gravel shoulder of the public roadway. The definition of "front wall" shall include all building walls facing public or commonly shared streets.

(6) Ornamental grasses shall not be located within or obstruct public rights-of-way.

(f) The vegetation height limits and the provisions of this article shall not apply to:

(1) Vegetation in woodlands, wetlands or conservation easements.

(2) On portions of undeveloped property behind a wooded tree line.

(3) Open space, landscaped areas and storm water retention and detention facilities developed in accordance with a site plan approved by the planning commission.

(4) Areas beside ponds, lakes, and open waterways.

(5) On steep slopes subject to erosion.

(6) On parcels used for public parks or governmental purposes.

(7) Weeds growing in fields devoted to growing agricultural crops.

(8) Areas within a golf course that typically are overgrown as part of the facility design.

(Ord. No. 6-11, 6-20-2011)

Sec. 86-34. Duty of owner.

It shall be the duty of the owner of any lot or parcel of ground within the city to cut and remove or destroy by lawful means all such grass, brush, scrub trees, poisonous vegetation and weeds as often as may be necessary to comply with the provisions of sections 86-37 and 86-38.

(Ord. No. 6-11, 6-20-2011)

Sec. 86-35. Appeal by owner.

(a) If a property owner believes that an error has been made in the administration of this article or that special circumstances exist on his property that should permit exemption or some relief from this article, then the property owner may make an appeal for such relief to the zoning board of appeals as provided below.

(b) The zoning board of appeals shall hear petitions from a property owner in regards to decisions and/or enforcement actions taken by the city manager, code enforcement officer or other designated official under the terms of this article. In order to make an appeal, the property owner shall file, a written petition requesting such hearing, and containing a statement of the grounds therefore, within ten days from the date of personal service or the date of mailing of notice to remedy the unlawful conditions existing under this article. Hearings held by the board of appeals under this article shall follow the same administrative and procedural process as other hearings held by the board of appeals (section 98-115 of the city Code).

(c) During the period of time that an appeal is pursued by the owner, enforcement of the notice to remedy the unlawful conditions under this Code shall be stayed.

(Ord. No. 6-11, 6-20-2011)

Sec. 86-36. Notice and enforcement.

(a) The first time a violation occurs each growing season, the city shall notify the owner and occupant of any lot or parcel of ground found to be in violation of sections 86-38 or 86-39 of such violation, either by personal service, or by regular first class mail, or by posting such notice in a conspicuous place on the premises, if the owner is unknown or delivery cannot be accomplished by personal service or by regular first class mail. The owner shall have ten days from the date of receipt of personal notice or of mailing of notice to remedy such unlawful conditions, which are hereby deemed to be a public nuisance. Only the current owner of record as indicated on the city's tax and assessing records shall be entitled to notice of violation. Failure to remedy the violation within the time shall be cause for the city to enter the property and remove the unlawful growth of grass, brush, scrub trees, poisonous vegetation and weeds, without further notice and in addition, the violation shall be a municipal civil infraction. Any expense incurred by the city in removing such unlawful growth shall be assessed as a lien on the property and become a single lot assessment against the property upon which the growth existed. For additional violations in the same calendar year, notice shall be mailed by first class mail, or by posting such notice in a conspicuous place on the premises giving the owner five days from the date of mailing and/or posting to remedy the situation.

(b) Any person found to have violated this section three times in one 12-month period or one growing season, shall be guilty of a civil infraction as set forth in section 1-7(e) and (f) and subject to the fines and costs set forth therein.

(c) Failure of the city manager, code enforcement officer or other designated official to give such notice or failure of the mail delivery service to deliver the notice in a timely fashion shall not, however, constitute a defense to any action to enforce the payment of any penalty provided for or debt created under this article.

(Ord. No. 6-11, 6-20-2011; Ord. No. 2-13, 2-18-2013)

Sec. 86-37. Abatement process and costs.

(a) If the owner, occupant or person in charge of lands within the city shall fail, refuse or neglect to destroy grass, brush, scrub trees and weeds and to conform with this article, it shall be the duty of the city manager, code enforcement officer or other designated official, after due notice, to cause all grass, brush, scrub trees and weeds to be cut down, removed and destroyed.

(b) When the city has affected the cutting or removal of such obnoxious growth, or has paid for its removal or destruction, a minimum cutting fee to cover the costs associated with cutting and enforcement of $140.00, or the actual costs, plus $20.00 or 20 percent, whichever is greater, for mowing, inspection, scheduling, administration, billing and other connected costs, if not previously paid by such owner, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the city, and the charge shall be due and payable by the owner at the time of payment of such tax bill.

(c) The costs shall become a lien upon the land and shall be collected in the same manner as other city taxes are collected and when collected shall be paid into the general city fund to reimburse the outlay there from as authorized in this section.

(Ord. No. 6-11, 6-20-2011)

Sec. 86-38. Notice to destroy.

Notice of the provisions of this article shall be published in a newspaper circulating within the city on or before the 15th day of March of each year and by posting notice of this article on the city's web site. Such publication shall constitute sufficient notice to those owners whose addresses are unknown and not reasonably ascertainable.

(Ord. No. 6-11, 6-20-2011; Ord. No. 2-13, 2-18-2013)

Sec. 86-39. Failure of railroad to destroy noxious and high weeds; penalty.

If any company, association or person owning, controlling or operating a railroad shall refuse or neglect to dig up and destroy or take other certain means of exterminating noxious and high weeds that may at any time be growing upon the right-of-way or other lands of such road, or appertaining thereto, they shall be guilty of a civil infraction as set forth in section l-7(e) and (f) and subject to fines and costs set forth therein.

(Ord. No. 6-11, 6-20-2011)

Secs. 86-40—86-70. Reserved.

ARTICLE III. TREES

Sec. 86-71. Administrator and duties.

The city manager or his designee shall direct, regulate and control the planting, insect and disease control, fertilizing, mulching and removal of all trees growing in any rights-of-way, parkways, parks or other public areas of the city. The department of public works shall be charged with the routine maintenance and care of the trees under the provision of this article. The city manager or his designee shall cause the provisions of this article to be enforced.

(Comp. Ords. 1982, § 11.050.01)

Sec. 86-72. 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:

Park means all public parks having individual names and all areas owned by the city or to which the public has free access as a park.

Public place means all other grounds owned by the city.

Street means all the land lying between the property lines on either side of all streets, rights-of-way and boulevards in the city.

Tree means all woody vegetation.

(Comp. Ords. 1982, § 11.050.02)

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

Sec. 86-73. Planting and control of trees.

(a) The city manager or his designee shall have the exclusive power to plant, maintain and remove trees and herbaceous material, both living and dead, in any right-of-way, park or public place of the city.

(b) The city manager or his designee shall assume complete responsibility for the selection, planting, maintenance and removal of all trees growing in any right-of-way, or growth into the right-of-way, park or public place of the city as promptly as financial and labor conditions permit.

(c) Permits for planting, maintenance and removal of trees may be granted as specified in sections 86-76 and 86-77.

(Comp. Ords. 1982, § 11.050.03)

Sec. 86-74. Varieties of trees.

No willow (Salix—all varieties, except horticultural varieties), poplar (Populus sp.), soft (silver) maple (Acer saccharinum), box elder (Acer negundo), tree of heaven (Ailanthus Altissima, silanthus altissimus), Chinese elm (Ulmun parvifolia), American elm (Ulmus americanna), or other trees and vines determined to be undesirable by the city manager or his designee shall be planted in the public rights-of-way, parks or public places in the city.

(Comp. Ords. 1982, § 11.050.04)

State law reference(s)—Obnoxious plants and trees, MCL 124.151 et seq.

Sec. 86-75. Location of planting and height of branches.

(a) There shall be a minimum distance of 50 feet between trees planted in the city right-of-way. No trees shall be planted in the right-of-way between the sidewalk and the curb, less than three feet from the curb or sidewalk lines. However, where the right-of-way is less than six feet, but not less than four feet in width, a tree may be planted midway between the curb and the sidewalk. Any exceptions to these requirements will be determined by the city manager or his designee. No tree shall be planted which is less than 1½ inches in diameter measured at six inches above the ground.

(b) Any tree located on private property so near to a street or right-of-way, park or public place as to overhang, obstruct the view, interfere with light from any street lamp or interfere with the use of the street or right-of-way, park or public place so that in the opinion of the city manager or his designee it endangers the life, health, safety or property of the public is declared a public nuisance; and in such case the city manager or his designee shall notify the owner or occupant of the property on which the tree or plant is located in writing of the existence of such nuisance with instructions for its removal or correction within such time as the city manager or his designee shall deem reasonable; and if such owner or occupant fails to comply with such notice, the city manager shall cause such nuisance to be removed or corrected, and the expense of such removal or correction shall be collected in the manner set forth in section 86-84. All trees and plants located on the triangle formed by two property lines at the intersection of two streets, and extending for a distance of 25 feet each way from the intersection of the rights-of-way lines on any corner lot within the city, shall not be permitted to grow to a height of more than three feet above the surface of the roadway, in order that the view of the driver of a vehicle approaching a street intersection shall not be obstructed. Trees may be planted and maintained in this area provided that all branches are trimmed to maintain a clear vision for a vertical height of eight feet above the roadway surface.

(Comp. Ords. 1982, § 11.050.05)

Charter reference(s)—Municipal powers, requiring owner of real property to abate public hazards and nuisances, § 2.3(u).

Sec. 86-76. Permit to plant, treat or remove.

No person shall plant, move, spray, fertilize, brace, trim, do surgery work, cut above or below ground, cut any branch or root from or otherwise disturb any tree in any right-of-way, park or public place of the city, nor cause such acts to be done by others, without first obtaining a written permit from the city manager or his dsignee, who shall issue the permit if, in his judgment, the desired work is necessary, and the proposed method of workmanship is of a satisfactory nature. The person receiving such permit shall abide by the specifications and standards of practice adopted by the city.

(Comp. Ords. 1982, § 11.050.06)

Sec. 86-77. Permit for removal of trees.

(a) As a condition to any permit to remove any tree, the city manager or his designee may require that the permittee plant a tree in place of the one removed. Whenever any such tree has been destroyed or removed, it shall be a misdemeanor for the permittee to fail, refuse or neglect to plant another tree of the type, size and at the location specified in the permit, within six months or within the next planting season, from the date of the issuance of the permit.

(b) Every permit granted by the city manager or his designee shall describe the work to be done, specify the species or variety, size, grade, location, briefly specify the method of planting, method of support and

trimming all trees concerned, and contain a definite date of expiration. Any permit may be declared void if its terms are violated.

(Comp. Ords. 1982, § 11.050.07)

Sec. 86-78. Protection of trees.

(a) No person shall break, injure, climb, peel, cut, mutilate, kill or destroy any tree or set fire or permit any fire to burn where such fire or the heat of the fire will injure any portion of any tree in any right-of-way, park or public place of the city; no person shall pluck, break, trample upon or interfere with any flower on any right-of-way, park or public place; no person shall knowingly permit any wire designed to carry electric current to come in contact with any such tree unless protected by approved methods; and no person shall attach any electric insulation to any tree or shall excavate any ditches, tunnels or trenches, or lay any drive within a radius of five feet from any tree without first obtaining a written permit from the city manager or his designee.

(b) In the erection, alteration, repair or removal of any building or structure, the owner shall place or cause to be placed such guards around all nearby trees on the public property as will effectually prevent injury to such trees.

(Comp. Ords. 1982, § 11.050.08)

State law reference(s)—Injury or destruction of trees on public property, MCL 19.142; destruction or injury of trees on public highways, MCL 247.235; destruction of trees and shrubs, MCL 750.382.

Sec. 86-79. Entering upon private lands to abate infestations; notice, payment of cost.

(a) Any trees or plants on any private lands whereon insect pests and plant diseases may be found to have injuriously affected either the trees and plants, or which may injuriously affect the public health and welfare, may be entered upon by the city manager or his designee or other authorized employees of the public works department to make field inspections, including the removal of specimens for laboratory analysis that may be necessary to determine the presence of the infestation or to locate any private lands which might serve as a breeding place for insects and disease.

(b) After determination of infestation, the city manager or his designee or authorized employees of the public works department may, by written notice, give the property owner a definitive time but not less than ten days to remove, treat and dispose of the infested lands, trees or plants. If the work is not satisfactorily completed by that time, the city manager or his designee or other authorized agent may enter upon the property and remove, destroy and/or treat the infested area by approved practice. In such case, all costs pertaining to the destruction of such infestation shall be paid from the city treasury and the amount assessed against the property on the next general assessment roll of the city.

(Comp. Ords. 1982, § 11.050.09)

Charter reference(s)—Municipal powers, requiring owner of real property to abate public hazards and nuisances, § 2.3(u).

State law reference(s)—Control of insect pests and contagious plant diseases, MCL 286.251 et seq.; white pine blister rust, MCL 286.101 et seq.

Sec. 86-80. Access water to tree roots, not to be impeded.

No person shall, without the written permit of the city manager or his designee, deposit, place nor maintain upon the surface of any street or public right-of-way of the city any sod, cement or other material which shall impede the free passage of water and air to the roots of any tree growing in such street or public right-of-way; however, nothing contained in this section shall be construed to require the city, in the construction of sidewalk or pavements, to leave any open space around the trunk of any tree when such tree is planted or is growing within the lines established as a sidewalk line; further, if any tree grows within a distance of less than one foot from the inner or outer established sidewalk lines, the sidewalk shall be so constructed as to leave an open space of one foot around the base of such tree.

(Comp. Ords. 1982, § 11.050.10)

Sec. 86-81. Enforcement powers.

The city manager or his designee shall have and possess powers for the purpose of enforcing this article, and it is made the duty of the city manager or his designee to observe that the provisions of this article are strictly complied with and to make complaint for any violation of such provisions.

(Comp. Ords. 1982, § 11.050.11)

Sec. 86-82. Property development.

Any property development in any manner within the city limits shall require planting of trees not less than but at least 50-foot intervals. All tree plantings as such shall conform to provisions and regulations of this article.

(Comp. Ords. 1982, § 11.050.12)

Sec. 86-83. No interference with the city manager.

No person shall prevent, delay or interfere with the city manager or his designee in the execution of enforcement of this article; however, nothing in this section shall be construed as an attempt to prohibit a public hearing or any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the city.

(Comp. Ords. 1982, § 11.050.13)

State law reference(s)—Obstruction of government officers, MCL 750.479.

Sec. 86-84. Collection of expenses.

Any expenses due to the city in connection with the enforcement of this article shall be certified by the city manager or his designee to the city council on or before April 1 of each year. Such expenses shall be certified by the council to the city assessor and assessed against the premises on whose behalf the expenses were incurred and shall be collected or returned in the same manner as municipal taxes are assessed, collected and returned.

(Comp. Ords. 1982, § 11.050.14)

Sec. 86-85. Violation and penalty.

Any persons who shall violate any provision of this article or any lawful order issued in pursuant of the provisions of this article shall be guilty of a misdemeanor and, upon conviction before a court of competent jurisdiction, shall be punished as provided in section 1-7. Imposition of any penalty for a violation of this article shall not be construed as a waiver of the right of the city to collect the cost of work performed in accordance with the provisions of this article and the provisions of this article in such case made and provided, where it is necessary of the city to perform work in accordance with provisions of this article.

(Comp. Ords. 1982, § 11.050.15)

Chapter 90 VEHICLES FOR HIRE[75]

ARTICLE I. IN GENERAL

Secs. 90-1—90-30. Reserved.

ARTICLE II. TAXICABS[76]

Sec. 90-31. License required.

No motor vehicle may be operated within the city as a taxicab unless the owner and each operator shall have first secured a city chauffeur's license from the chief of police. A licensee shall be qualified to operate a taxicab and is further satisfied as to the mechanical condition of the particular vehicle and its insurance coverage. A fee set from time to time shall be due and payable to the city for each city chauffeur's license, such license to be effective for the entire calendar year during which it is issued. Renewals of such licenses may be secured in the month of December for the ensuing calendar year at a cost set from time to time; however, the provisions of this section shall not apply to taxicabs entering the city occasionally and in completion of a trip originating without the city limits.

(Comp. Ords. 1982, § 3.950a.00)

Chapter 94 WATERWAYS[77]

[75]Cross reference(s)—Businesses, ch. 18; streets, sidewalks and other public places, ch. 70; traffic and vehicles, ch. 78.

[76]Charter reference(s)—Municipal powers, regulation of trades and occupations, § 2.3(n); licenses, § 2.3(q).

[77]Cross reference(s)—Buildings and building regulations, ch. 14; community development, ch. 22; environment, ch. 34; land divisions and other subdivisions of land, ch. 46; subdivisions, § 46-121 et seq.; parks and cemeteries, ch. 54; streets, sidewalks and other public places, ch. 70; vegetation, ch. 86; zoning, ch. 98.

State law reference(s)—Watercraft and marine safety, MCL 324.80101 et seq.

Sec. 94-1. Prohibition.

No person, except city employees or the city's designated agents, shall operate a motor-driven or engine-propelled ship, boat, vessel, watercraft or any other motor-driven or engine-propelled device on or upon Globe Pond, Standish Pond and the raceway that separates these waters within the city; and any person who shall violate this section shall be guilty of a misdemeanor.

(Comp. Ords. 1982, § 3.991.01)

Chapter 98 ZONING[78]

ARTICLE I. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. PURPOSE, VALIDITY AND SCOPE

Sec. 98-1. Title.

This ordinance, enacted under the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended), shall be known and referred to as the Zoning Ordinance of the City of Tecumseh, Michigan and will be referred to herein as "this chapter."

(Ord. of 5-18-2009, § 1.101)

Sec. 98-2. Purpose.

The ordinance from which this chaper derives is enacted to preserve and promote the public health, morals, safety and general welfare, and for the following more particularly specified purposes:

(1) To protect the character and stability of residential, commercial, industrial and recreational areas within the city, and to promote the orderly development of such areas;

(2) To prevent overcrowding the land and undue congestion of population;

[78]Editor's note(s)—The Zoning Ordinance of May 18, 2009 repealed and replaced in its entirety the prior zoning ordinance of the city as set out in the 2000 recodification of this Code that was adopted on Feb. 19, 2001, as amended. See the Code Comparative Tables for a listing of ordinances that amended former Ch. 98. Section numbering and formatting of the of Zoning Ordinance of May 18, 2009 have been provided by the editor to conform to the format used in this Code.

Cross reference(s)—Any ordinance adopting or amending the comprehensive master plan saved from repeal, § 1-11(9); buildings and building regulations, ch. 14; community development, ch. 22; environment, ch. 34; historical preservation, ch. 42; historic districts, § 42-111 et seq.; land divisions and other subdivisions of land, ch. 46; subdivision and site condominiums, § 46-61 et seq.; condominium subdivisions, § 46-91 et seq.; subdivisions, § 46-121 et seq.; streets, sidewalks and other public places, ch. 70; telecommunications, ch. 74; vegetation, ch. 86; waterways, ch. 94.

(3) To regulate the location of buildings and the use of buildings and land adjacent to streets and thoroughfares; and

(4) To guide and regulate future growth and development of the city in accordance with the comprehensive master plan for the Tecumseh area.

(Ord. of 5-18-2009, § 1.102)

Sec. 98-3. Interpretation and application.

The provisions of this chapter shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comforts, morals, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any ordinance, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this Ordinance, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this chapter.

Nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; however, where this chapter imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces or larger lot areas than are imposed or required by any other ordinances or agreements, the provisions of this chapter shall control.

(Ord. of 5-18-2009, § 1.103)

Sec. 98-4. Conflicting regulations.

Whenever any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this chapter shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, the provisions of such law or ordinance shall govern.

(Ord. of 5-18-2009, § 1.104)

Sec. 98-5. Scope.

No building or structure, or part of a building or structure, shall be erected, constructed 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.

No portion of a lot or parcel once used in complying with the provisions of this chapter for yards, lot area per family, density as for a development in the multiple-family district, or percentage of lot occupancy in connection with an existing or proposed building or structure shall again be used as part of the lot or parcel required in connection with any other building or structure existing or intended to exist at the same time.

(Ord. of 5-18-2009, § 1.105)

Sec. 98-6. Vested right.

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. EXCEPTION: if a site plan or plat has been submitted for general review under the site plan or plat review procedure on or before the effective date of the

ordinance from which this chapter derives, the provisions of this chapter shall not apply so far as they are more stringent or require more than the requirements in effect at the time of the site plan or plat was submitted for general review. All other requirements of this chapter shall be in effect and followed from and after the effective date of the ordinance from which this chapter derives.

(Ord. of 5-18-2009, § 1.106)

Sec. 98-7. Validity and severability.

Sections of this chapter shall be deemed to be severable and should any section, paragraph or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this chapter as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

(Ord. of 5-18-2009, § 1.107)

Sec. 98-8. Adoption and effective date.

(a) *Repeal of prior ordinance.* The Zoning Ordinance adopted by the City of Tecumseh City Council on February 19, 2001, and all amendments thereto, is hereby repealed insofar as it conflicts with this chapter. The repeal of the ordinance and all amendments does not affect or impair any act done, offense committed or right accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

(b) *Adoption and effective date.* This chapter, which specifically includes the zoning district map, is hereby ordered to be given immediate effect and be in force from and after the earliest date allowed by law, and the ordinance from which this chapter derives is hereby ordered to be published, in the manner provided by law, in the Tecumseh Herald on Thursday the 28th day of May, 2009.

(c) The ordinance from which this chapter derives was adopted by the City Council of Tecumseh by authority of Act 110 of the Public Acts of Michigan, 2006 (as amended) at a meeting thereof duly called and held on Monday, the 18th day of May, 2009 and ordered to be published in the manner provided by law.

(Ord. of 5-18-2009, § 1.108)

Secs. 98-9—98-20. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 98-21. Amendments.

(a) *Initiation of amendment.* The city council may, from time to time, on recommendation from the city planning commission or on its own motion or on petition, amend, supplement, modify or change this ordinance in accordance with the authority of Public Act No. 110 of 2006 (as amended).

(b) *Fee.* Upon presentation of petition for amendment of this chapter by the owner of any interest of record of real estate to be affected, or by owners of record of real estate within 300 feet of any part of the premises to be affected, such petition shall be accompanied by a fee. The amount of such fee shall be set by resolution of the city mCouncil and shall be used to defray the expense of publishing the required notices of public hearings, and the expenses of the public hearing.

(c) *Amendment review procedure.* The amendment and application materials shall be prepared in accordance with the provisions of this section, and shall be reviewed in accordance with the following procedure. Amendments or application materials that do not meet the stipulated requirements shall be considered incomplete and shall not be eligible for consideration by the planning commission:

(1) *Technical review.* Prior to planning commission consideration, the proposed amendment and application materials shall be distributed to appropriate city officials and staff for review and comment. The proposed amendment and application materials may also be distributed to applicable outside agencies and designated city consultants for review.

(2) *Public hearing.* A public hearing shall be held for all proposed amendments in accordance with the procedures set forth in the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended) as summarized in section 98-25.

(3) *Planning commission consideration of the proposed amendment.* Subsequent to the hearing, the planning commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies and any public comments. The planning commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this section, and shall report its findings and recommendation to the city council.

(4) *City council action on the proposed amendment.* Upon receipt of the report and recommendation from the planning commission, the city council shall consider the proposed amendment. If determined to be necessary, the city council may refer the amendment back to the planning commission for further consideration. In the case of an amendment to the official zoning map, the city council shall approve or deny the amendment, based upon its consideration of the criteria contained herein this section.

(d) *Re-application.* Whenever an application for an amendment to this chapter has been denied by the city council, a new application for the same amendment shall not be accepted by the planning commission for consideration for a period of 365 days, unless, upon recommendation by staff, the planning commission determines that one or more of the following conditions has been met:

(1) There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application.

(2) New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed.

(3) The new application is materially different from the prior application.

(e) *criteria for amendment of the official zoning map.* In considering any petition for an amendment to the official zoning map, the planning commission and city council shall consider the following criteria in making findings, recommendations, and decision. The planning commission and city council may also take into account other factors or considerations that are applicable to the application but are not listed below.

(1) Consistency with the goals, policies and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered.

(2) Compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district.

(3) Evidence the applicant cannot receive a reasonable return on investment through developing the property with one or more of the uses permitted under the current zoning.

(4) Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

(5) The capacity of city's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the city.

(6) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

(7) The boundaries of the requested rezoning district are reasonable in relationship to surroundings and construction on the site will be able to meet the dimensional regulations for the requested zoning district.

(8) If a rezoning is appropriate, the requested zoning district is considered to be more appropriate from the city's perspective than another zoning district.

(9) If the request is for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.

(10) The requested rezoning will not create an isolated or incompatible zone in the neighborhood.

(f) *Protest petition.* An amendment under this section is subject to a protest petition in accordance with Section 403 of the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended).

(1) *Petition submittal requirements.* The protest petition shall be presented to the city council before final legislative action on the amendment, and shall be signed by one or more of the following:

a. The owners of at least 20 percent of the area of land included in the proposed change.

b. The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

Publicly owned land shall be excluded in calculating the 20 percent land area under this subsection (f)(1).

(2) *Vote.* If a protest petition is filed, approval of the amendment to this chapter shall require a two-thirds vote of the city council.

(Ord. of 5-18-2009, § 1.201)

Sec. 98-22. Rezoning with conditions.

Pursuant to MCL 125.584.g, the city council, following a public hearing and recommendation by the planning commission, may approve a petition for a rezoning with conditions requested by a property owner. The standards of this section shall grant a property owner the option of proposing conditions for the development and use of property in conjunction with an application for rezoning. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.

(a) *Conditional rezoning agreement.* The conditions attached to the rezoning shall be set forth by submitting a conditional rezoning agreement listing the proposed conditions. A conditional rezoning agreement shall contain the following information:

(1) A statement acknowledging that the rezoning with conditions was proposed by the applicant to induce the city to grant the rezoning, and that the city relied upon such proposal and would not have granted the rezoning but for the terms spelled out in the conditional rezoning agreement; and, further agreement and acknowledgment that the conditions and conditional rezoning agreement are authorized by all applicable state and federal law and constitution, and that the

agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the city.

(2) Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the conditional rezoning agreement.

(3) Agreement and understanding that the approval and conditional rezoning agreement shall be binding upon and inure to the benefit of the property owner and city, and their respective heirs, successors, assigns, and transferees.

(4) he date upon which the rezoning with conditions becomes void, as specified in subsection (c), below. If an extension of approval is granted by the city council, a new conditional rezoning agreement with the new expiration date shall be recorded.

(5) Agreement and understanding that, if a rezoning with conditions becomes void in the manner provided in subsection (c), below, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.

(6) Agreement and understanding that each of the requirements and conditions in the conditional rezoning agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved rezoning with conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.

(7) A legal description of the property affected by the rezoning with conditions.

(8) Development regulations affected by the conditions of rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, etc.

(9) Revocation of approval provisions returning the property to its original zoning designation if the developer violates the terms of the agreement.

(10) A conditional rezoning agreement may contain a conditional rezoning plan as an attachment, with such detail and inclusions proposed by the applicant and approved by the city council in accordance with this section, following recommendation by the planning commission. Inclusion of a conditional rezoning plan as an attachment to a conditional rezoning agreement shall not replace the requirement for preliminary and final site plan, subdivision, condominium, or special land use review and approval, as the case may be.

(b) *Amendment.* A proposed amendment to a conditional rezoning agreement shall be reviewed and approved in the same manner as a new rezoning with conditions.

(c) *Period of approval.* Unless extended by the city council for good cause, the rezoning with conditions shall expire following a period of two years from the effective date of the rezoning unless bona fide development of the property pursuant to approved building and other permits required by the city commences within the two-year period and proceeds diligently and in good faith as required by ordinance to completion.

(1) *Expiration.* In the event bona fide development has not commenced within two years from the effective date of the rezoning, the rezoning with conditions and the conditional rezoning agreement shall be void and of no effect. The landowner may apply for a one-year extension one time. The request must be submitted to the city clerk before the two-year time limit expires. The landowner must show good cause as to why the extension should be granted.

(2) *Effect of expiration.* If the rezoning with conditions becomes void in the manner provided in this section, either or both of the following actions may be taken:

a. The property owner may seek a new rezoning of the property; and/or

b. By the automatic reverter set forth in MCL 125.584g, the land shall revert to its former zoning classification upon the approval of a resolution by the city council.

(d) *Zoning map.* If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoning accompanied by a reference to "CR Conditional rezoning." The zoning map shall specify the new zoning district plus a reference to CR. By way of example, the zoning classification of the property may be "B-1 local business district with CR conditional rezoning," with a zoning map designation of "B-1 CR."

(e) *Review and approval process.* An application for a rezoning with conditions shall be reviewed following the same process and procedures applicable to a rezoning set forth in 98-21, with the exception that the conditional rezoning agreement shall be executed between the applicant and the city council at the time of city council approval of a rezoning with conditions.

(f) *Recordation of a conditional rezoning agreement.* A rezoning with rezoning conditions shall become effective following publication in the manner provided by law, and after recordation of the conditional rezoning agreement with the county register of deeds, whichever is later.

(g) *Violation of conditional rezoning agreement.* If development and/or actions are undertaken on or with respect to the property in violation of the conditional rezoning agreement, such development and/or actions shall constitute a nuisance per se. In such case, the city may issue a stop work order relative to the property and seek any other lawful remedies. Until curative action is taken to bring the property into compliance with the conditional rezoning agreement, the city may withhold, or, following notice and an opportunity to be heard, revoke permits and certificates in addition to or in lieu of such other lawful action to achieve compliance.

(Ord. of 5-18-2009, § 1.202)

Sec. 98-23. Determination of similar uses.

A land use that is not cited by name as a permitted use in a zoning district may be permitted upon a determination by the city council that such a use is clearly similar in nature and compatible with the listed or existing uses in that district. In making such a determination, the city council shall seek the advice of and recommendation by the planning commission. Consideration shall be given to the following:

(a) *Determination of compatibility.* In making the determination of compatibility, the city council shall consider specific characteristics of the use in question and compare such characteristics with those of the uses that are expressly permitted in the district. Such characteristics shall include, but are not limited to, traffic generation, types of service offered, types of goods produced, methods of operation, and building characteristics.

(b) *Conditions.* If the city council determines that the proposed use is compatible with permitted and existing uses in the district, the council shall then decide whether the proposed use shall be permitted by right, by special approval, or as a permitted accessory use. The proposed use shall be subject to the review and approval requirements for the district in which it is located. The city council shall have the authority to establish additional standards and conditions applicable to the use.

No use shall be permitted in a district under the terms of this section if the use is specifically listed as a use permitted by right or special approval in any other zoning district.

(Ord. of 5-18-2009, § 1.203)

Sec. 98-24. Prohibited land uses.

Uses that are not specifically listed in and permitted by this chapter or otherwise determined to be similar to listed and permitted uses are hereby determined to be prohibited uses.

(Ord. of 5-18-2009, § 1.204)

Sec. 98-25. Public hearing procedures.

The body charged with conducting a public hearing required by this chapter shall, upon receipt of a completed application, select a reasonable time and place for such hearing. Such hearings shall be subject to the procedures set forth in the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended). Those procedures are summarized as follows:

(a) *Special land use, pud, and variance requests.*

(1) *Publication in a newspaper of general circulation.* Notice of the request shall be published in a newspaper of general circulation not less than 15 days before the date the application will be considered for approval.

(2) *Personal and mailed notice.*

a. Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.

b. Notice shall be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property, including the owners or occupants of structures located in adjacent communities. If the name of the occupant is not known, the term "occupant" may be used in making notification.

c. All notice delivered by mail or personal delivery must be given not less than 15 days before the date of the public hearing. Notice shall be deemed mailed by its deposit in the United States mail.

d. The city shall prepare a list of property owners and occupants to whom notice was mailed.

(3) *Content.* Any notice published in a newspaper or delivered by mail shall:

a. Describe the nature of the request.

b. Indicate the property that is the subject of the request.

c. Include a listing of all existing street addresses within the property. If no such addresses exist, other means of identifying the property may be used.

d. When and where the public hearing will occur.

e. When and where written comments may be submitted concerning the request.

(b) *Zoning ordinance text and map amendments.*

(1) *Map or text amendments affecting ten or fewer parcels.* If the proposed map or text amendment will impact ten or fewer parcels, notice shall be given as specified in subsection 98-25(a).

(2) *Map or text amendments affecting 11 or more parcels.* If the proposed map or text amendment will impact 11 or more parcels, notice shall be given as specified in subsection 98-25(a), with the

exception that the notice need not list street addresses of properties that will be impacted by the map or text amendment.

(3) *Notice to other entities.* Notice of the time and place of the public hearing shall also be given by mail to any of the following entities that have registered their name with the city clerk for the purposes of receiving public notice: any electric, gas, or pipeline public utility company; each telecommunication service provider; each railroad operating within the district or zone affected; and the airport manager of each airport.

(4) *Additional information required in notice.* Any notice required under this section shall include the places and times at which the proposed text or map amendment may be examined.

(Ord. of 5-18-2009, § 1.205)

Secs. 98-26—98-30. Reserved.

DIVISION 3. ENFORCEMENT

Sec. 98-31. Enforcement.

The provisions of this chapter shall be administered and enforced by the building inspector or by such deputies of his department as the building inspector may delegate to enforce the provisions of this chapter.

(Ord. of 5-18-2009, § 1.301)

Sec. 98-32. Duties, powers, and limitations.

(a) The building inspector shall have the power to grant zoning compliance and occupancy permits, and 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 building inspector 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 the requirements of this chapter.

(b) The building inspector and/or such other officers or departments as shall be designated by the council shall record in duplicate, one copy of which shall be filed with the city clerk, all nonconforming uses of structures and land existing on May 18, 2009 for the purpose of carrying out the provisions of Article III of this chapter.

(c) The building inspector is under no circumstances permitted to make changes to this chapter or to vary the terms of this chapter in carrying out his duties as building inspector.

(d) The building inspector 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 the granting of the permit.

(Ord. of 5-18-2009, § 1.302)

Sec. 98-33. Plot plan.

(a) *Plot plan required.* The building inspector shall require that all applications for building permits for uses not covered in Article II, Division 2 of this chapter shall be accompanied by plans and specifications, including a plot plan, 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) *Records.* One copy of the plans shall be returned to the applicant by the building inspector after he shall have marked such copy either as approved or disapproved. The second copy shall be retained in the office of the building inspector.

(Ord. of 5-18-2009, § 1.303)

Sec. 98-34. Permits.

The following shall apply in the issuance of any permit:

(a) *Permits not to be issued.* No building permit shall be issued for the erection, alteration or use of any building or structure or part of a building or structure, or for the use of any land, which is not in accordance with all provisions of this chapter.

(b) *Permits for new use of land.* No vacant land shall be used or an existing use of land be changed to a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

(c) *Permits for new use of building.* No building or structure, or part of a building or structure, shall be changed to or occupied by a use of a different class or type unless a building permit is first obtained for the new or different use.

(d) *Building permit required.* No building or structure, or part of a building or structure, shall be erected, altered, moved or repaired unless a building permit shall have first been 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 ingress and egress, or other changes affecting or regulated by the state construction, state housing law, or this chapter, except for minor repairs or changes not involving any of such features.

(e) *Zoning compliance permit required.* A zoning compliance permit shall be required to assure compliance with all applicable zoning ordinance standards. A zoning compliance permit is also required for the installation of fences and sheds less than 200 sq. ft.

(f) *Deposit of guarantee.* Any guarantee required by this chapter shall be deposited with the city clerk prior to the issuance of permits.

(Ord. of 5-18-2009, § 1.304)

Sec. 98-35. Certificate of occupancy.

No land, building, structure, or part of land, building or structure, shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such new use. The following shall apply in the issuance of any certificate:

(a) *Certificates not to be issued.* No certificates of occupancy pursuant to the building code of the city shall be issued for any building or structure, or part of a building or structure, or for the use of any land, which is not in accordance with all the provisions of this chapter.

(b) *Certificates required.* No building or structure, or part of a building or structure, which is erected or altered shall be occupied or used or such action caused to be done unless and until a certificate of occupancy shall have been issued for such building or structure.

(c) *Certificates including zoning.* Certificates of occupancy as required by the building code for new buildings or structures, or parts, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this chapter.

(d) *Certificates for existing buildings.* Certificates of occupancy shall be issued for existing buildings, structures, or parts, or existing uses of land if, after inspection, it is found that such buildings, structures, or parts, or such use of land, are in conformity with the provisions of this chapter. Certificates of occupancy may be issued for business buildings in B-1, B-2 and B-3 zones existing on April 25, 1991, which change occupancy and which do not provide sufficient parking as required under Article XI of this chapter, provided there is no decrease in the number of spaces existing on April 25, 1991.

(e) *Temporary certificates.* Nothing in this chapter shall prevent the issuance of a temporary certificate of occupancy for a portion of a building or structure in the process of erection or alteration, provided that such temporary certificate shall not be effective for a period of time in excess of six months, no more than five days after the completion of the building, and provided further that such portion of the building, structure or premises is in conformity with the provisions of this chapter.

(f) *Records of certificates.* A record of all certificates issued shall be kept on file in the office of the building inspector, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

(g) *Certificates for dwelling accessory buildings.* Buildings 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 dwelling.

(h) *Applications for certificates.*

(1) Application for certificates of occupancy shall be made in writing to the building inspector on forms furnished by the department; and such certificates shall be issued within ten days after receipt of such application if it is found that the building or structure, or part of such building or structure, or the use of land is in accordance with the provisions of this chapter.

(2) If such certificate is refused for cause, the applicant shall be notified in writing of such refusal and the cause within the ten-day period.

(Ord. of 5-18-2009, § 1.305)

Sec. 98-36. Uses subject to performance standards.

(a) *Application.* An application for a building permit and a certificate of occupancy for a use subject to performance standards shall be submitted to the city engineer, who may refer it to the planning commission with recommendations. The applicant shall also submit a plan of the proposed construction or development, including a general description of proposed types of machinery, operations and products. No applicant shall be required to reveal any secret process and all information shall be treated as confidential.

(b) *Previous permits.* Previous to issuance of a building permit and certificate of occupancy, the applicant shall furnish an affidavit acknowledging his understanding of the applicable performance standards and an agreement to conform to such standards.

(c) *Expert opinion.* In case of reasonable doubt as to the likelihood of or ability to conform, the planning commission may require the applicant to furnish, at his expense, an opinion from a qualified expert who shall be mutually acceptable to the commission and to the applicant.

(d) *Decision of the board.* At the next regular meeting of the planning commission, but in no case more than 30 days after receipt of required information, the Commission shall decide whether the proposed use will conform to the applicable performance standards and on such basis shall authorize or refuse to authorize the issuance of the permit. Such decision shall be in the form of a written report.

(e) *Continued enforcement.* The building inspector shall investigate any alleged violation of performance standards on the part of any use coming under the provisions of this chapter; and if there are reasonable grounds to believe that a violation exists, he shall notify the board of appeals of the occurrence or existence of a probable violation. The board shall investigate the violation and for such investigation may employ qualified experts. If after a public hearing on due notice the board finds that a violation occurred or exists, a copy of such findings shall be forwarded to the city council. The services of any qualified experts employed by the city to establish a violation shall be paid by the violator, if a violation is proved, otherwise by the city.

(Ord. of 5-18-2009, § 1.306)

Sec. 98-37. Final inspection.

The holder of every building permit for the construction, erection, alteration, repair or moving of any building, structure or part shall notify the building inspector immediately upon the completion of the work authorized by such permit for a final inspection.

(Ord. of 5-18-2009, § 1.307)

Sec. 98-38. Fees.

Fees for inspection and the issuance of permits or certificates or copies required or issued under the provisions of this chapter may be collected by the building inspector in advance of issuance. The amount of such fees shall be established by resolution of the city council and shall cover the cost of inspection and supervision resulting from enforcement of this chapter.

(Ord. of 5-18-2009, § 1.308)

Secs. 98-39—98-50. Reserved.

DIVISION 4. VIOLATIONS AND REMEDIES

Sec. 98-51. Municipal civil infraction.

Any person violating any of the sections of this chapter or the owner of any building, structure or premises or part thereof, where any condition in violation of this chapter shall exist or be created, and who has assisted knowingly in the commission of such violation, shall be responsible for a municipal civil infraction and upon a determination or admission of responsibility thereof shall be subject to a civil fine as established in the City of

Tecumseh Code of Ordinances, the costs of prosecution, and such other costs, damages, expenses, sanctions and remedies authorized by law.

(Ord. of 5-18-2009, § 1.401)

Sec. 98-52. Public nuisance per se.

In addition to all other remedies, including the penalties provided in this article, the city may commence and prosecute appropriate actions or proceedings in a court of competent jurisdiction to restrain or prevent any noncompliance with or violation of any of the sections in this ordinance or to correct, remedy or abate such noncompliance or violation. Buildings erected, altered, razed or converted, or uses carried on in violation of any section of this ordinance or in violation of any regulations made under the authority of the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended) are hereby declared to be a nuisance per se, and the court shall order such nuisance abated.

(Ord. of 5-18-2009, § 1.402)

Sec. 98-53. Cumulative rights and remedies.

The rights and remedies provided in this chapter are cumulative and in addition to any other remedies provided by law.

(Ord. of 5-18-2009, § 1.403)

Sec. 98-54. Forebearance not condoned.

Forbearance of enforcement of this chapter shall not be deemed to condone any violation thereof.

(Ord. of 5-18-2009, § 1.404)

Sec. 98-55. Each day of violation a separate offense.

A separate violation shall be deemed committed upon each day during or when a violation of this Ordinance occurs or continues.

(Ord. of 5-18-2009, § 1.405)

Secs. 98-56—98-70. Reserved.

ARTICLE II. ADMINISTRATIVE ORGANIZATION

DIVISION 1. ORGANIZATION

Sec. 98-71. Overview.

The city manager or his or her duly authorized representatives as specified in this Article II are hereby charged with the duty of enforcing the provisions of this chapter. Accordingly, the administration of this chapter is hereby vested in the following city entities:

(a) City council.

(b) City planning commission.

(c) Zoning board of appeals.

(Ord. of 5-18-2009, § 2.101)

Sec. 98-72. City council.

The city council shall have the following responsibilities and authority pursuant to this chapter:

(a) *Adoption of zoning ordinance and amendments.* In accordance with the intent and purposes of this chapter, and pursuant to the authority conferred by the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended), the city council shall have the authority to adopt this chapter, as well as amendments previously considered by the city council at a hearing or as decreed by a court of competent jurisdiction.

(b) *Setting of fees.* The city council shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this chapter. In the absence of specific action taken by the city council to set a fee for a specific permit or application, the appropriate city administrative official shall assess the fee based on the estimated costs of processing and reviewing the permit or application.

(c) *Approval of planning commission members.* In accordance with the Municipal Planning Act, Michigan Public Act 33 of 2008, as amended, members of the planning commission shall be appointed by the city mayor with the approval of the city council.

(d) *Special land use.* City council review and approval is required for all special land uses.

(Ord. of 5-18-2009, § 2.102)

Sec. 98-73. Planning commission.

(a) *In general.* The city planning commission is designated as the planning commission specified in Public Act No. 33 of 2008, the Michigan Planning Enabling Act and shall perform the duties of such commission as provided in the statute in connection with this chapter.

(b) *Approvals.*

(1) When the planning commission is empowered to recommend approval for certain use of premises under this ordinance, 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.

(2) The planning commission shall investigate the circumstances of each such case and shall notify such parties, who may, in its opinion, be affected thereby, as required under its rules of procedure.

(3) The planning commission may recommend imposing such conditions or limitations in recommending approval as may, in its judgment, be necessary to fulfill the spirit and purpose of this chapter.

(c) *Zoning commission.* The planning commission is hereby designated as the zoning commission specified in Article III of Public Act 110 of 2006, as amended, and shall perform the duties of said commission as provided in the statute.

(d) *Composition, appointment, terms, vacancies and compensation.* The planning commission shall consist of nine members, as established by resolution of the City Council and pursuant to the provisions of PA 33 of 2008 (as amended).

(1) The term of any ex-officio members shall be determined by the city council and stated in the resolution selecting the ex-officio members, but shall not exceed the member's term of office as a trustee of the city council. A vacancy on the planning commission occurring for any reason other than the expiration of term shall be filled for the un-expired term by the city mayor (in the case of a member appointed by the city mayor) subject to approval by the city council, and by the city council (in the case of the ex-officio member selected by the city council). The ex-officio member shall have full voting rights.

(2) The planning commission shall elect its chairman from amongst the appointed members and create and fill such other of its offices as it may determine. The term of chairman shall be one year, with eligibility for reelection.

(e) *Removal of a member for cause.* After a public hearing, a member other than the member selected by the city council may be removed by the city mayor for inefficiency, neglect of duty, or malfeasance in office. The city council may for like cause remove the ex-officio member selected by the city council.

(f) *Organization, meetings, records and rules.* The 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 all other city employees. The commission may consult with planners, engineers, architects, attorneys and other consultants for such services as it may require, as contracted by the city council. The expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the city council, which shall provide the funds, equipment and accommodations necessary for the commission's work.

(g) *Powers and duties.* The planning commission shall have such powers concerning the preparation and adoption of a master plan consisting of future land use, street and thoroughfare plan, community facilities, public improvements programs, zoning ordinances, subdivision regulations, and other such rights, powers, duties and responsibilities as are expressly provided for in this chapter, the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, and the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

(Ord. of 5-18-2009, § 2.103)

Sec. 98-74. Zoning board of appeals.

There is established a zoning board of appeals, which shall perform its duties and exercise its powers as provided in section 601 of Public Act No. 110 of 2006 and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and substantial justice done.

(a) *Organization.*

(1) *Membership.* The board shall consist of five members, and one of whom shall be a member of the city planning commission, all appointed by the mayor, by and with the consent of city council. Appointments shall be as follows: One member appointed for a period of one year; two members appointed for a period of two years; and two members appointed for a period of three years respectively; thereafter, each member to hold office for a full three-year term. One regular member may be a member of the legislative body but shall not serve as chairperson of the zoning board of appeals. An employee or contractor of the legislative body may not serve as a member of the zoning board of appeals.

(2) *Residency.* Each member of the zoning board of appeals shall have been a resident of the city for at least one year prior to the date of his appointment and shall be a qualified and registered elector of the city on such day and throughout his tenure of office.

(3) *Removal.* Appointed members may be removed for cause by the city council only after consideration of written charges and a public hearing. Any appointive vacancies in the zoning board of appeals shall be filed by the city council for the remainder of the unexpired term.

(4) *Officers.* The zoning board of appeals shall annually elect its own chairperson, vice-chairperson, and secretary. The compensation of the appointed members of the zoning board of appeals shall be fixed by the city council.

(5) *Alternates.* The city council may also, if it so desires, appoint not more than two alternate members for the same term as regular members of the zoning board of appeals. The alternate members may be called on a rotating basis to sit as regular members of the zoning board of appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve in the place of 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. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the zoning board of appeals.

(b) *Procedure.*

(1) *Membership.* The qualifications of members, the term of each member, filling of vacancies, compensation of members, and operation of the ZBA shall be in accordance with Act 110.

(2) *Meetings.* All meetings of the ZBA shall be held at the call of the chairperson and at such times as such board may determine. All hearings conducted by such board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicate such fact, and shall also keep records of its hearings and other official action. The board 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 it.

(3) *Majority required.* The ZBA shall not conduct business unless a majority of the ZBA is present. The concurring vote of a majority of the members of the ZBA, i.e. a minimum of three affirmative votes, shall be necessary to reverse an order, requirement, permit, decision, or refusal made by an official, board, or commission.

(c) *Jurisdiction.* The ZBA shall have the authority granted to it in Article II, Division 2 of this chapter.

(Ord. of 5-18-2009, § 2.104)

Secs. 98-75—98-80. Reserved.

DIVISION 2. SITE PLAN REVIEW

Sec. 98-81. Site plan required.

Site plan review shall be conducted by the planning commission with the assistance of the building inspector and administrative and technical personnel as may be deemed necessary to properly evaluate a proposed plan. A

preliminary and final site plan shall be submitted for review in accordance with the provisions of this chapter and such other rules and procedures established by the city.

(Ord. of 5-18-2009, § 2.201)

Sec. 98-82. Review.

Every site plan submitted to the city shall be in accordance with the requirements of this chapter and the city's rules and procedures for site plan submittal and review. No site plan shall be approved until the site plan has been reviewed by the building inspector and administrative and technical personnel for compliance with the standards of this chapter and other requirements of the city.

The body or official designated in this chapter to review and approve requests may deny, approve or approve with conditions requests for approval. The decision shall be incorporated in a statement of conclusions relative to the request under consideration. The decision shall specify the basis for the decisions and any conditions imposed.

(Ord. of 5-18-2009, § 2.202)

Sec. 98-83. Approval.

A site plan shall be submitted to the city for approval of:

(a) Any use or development for which the submission of a site plan is required by any provision of this chapter.

(b) Any development, except single-family residential, for which off-street parking areas are required.

(c) Any use in an RM, PRD, MH, OS-I, B, I-1, or I-C district lying contiguous to or across a street from a single-family residential district.

(d) Any use except single-family residential which lies contiguous to a major thoroughfare or collector street.

(e) All residentially related uses permitted in a single-family district, such as but not limited to churches, schools and public facilities.

(f) Site plans for all subdivisions, site condominiums, cluster housing, planned residential developments and multiple-family developments involving more than one building.

(g) All special land uses.

(h) All uses not otherwise included within a specific use district.

(i) Any site plan may be sent to the planning commission for review should the building inspector so desire.

(Ord. of 5-18-2009, § 2.203)

Sec. 98-84. Public hearing.

The planning commission may, in its discretion, hold a public hearing in conjunction with the review of a site plan. The public hearing shall be noticed following the procedures applicable for a special land use listed in section 98-25.

(Ord. of 5-18-2009, § 2.204)

Sec. 98-85. Preliminary site plan.

Preliminary site plan approval by the planning commission, or when required by the city council, establishes site development feasibility. Action on a preliminary site plan shall be taken by the planning commission when one or more of the following conditions exist:

(a) All requirements for preliminary site plan approval, as set forth in this subsection, are met and a recommendation for approval has been forwarded to the planning commission by all reviewing agencies of the city.

(b) A site plan, by request of the applicant, needs an official denial by the planning commission in order to gain access to the zoning board of appeals.

(c) In those instances where approval authority is vested with the city council, a recommendation shall be made by the planning commission to the city council.

(Ord. of 5-18-2009, § 2.205)

Sec. 98-86. Final site plan.

(a) Except where otherwise set forth in this chapter, final site plan approval may be given administratively when all conditions set forth in this subsection for final site plans are complied with; except the planning commission may, at the time of preliminary site plan approval, require final site plan approval by the commission as well. In the process of reviewing a final site plan, the various reviewing agencies and departments shall consider that:

(1) All local, county and state requirements as may apply to the proposed use are met.

(2) All applicable engineering requirements are met.

(3) The final site plan remains substantially unchanged from the approved preliminary site plan.

(b) Final site plan approval, except as specifically permitted by subsections 98-86(b)(3) and (4), shall not be given until all the requirements of this section are met. No work shall commence on any site, except as specifically permitted in this subsection, or any buildings requiring site plan approval; and no permits shall be issued until after final site plan approval is granted. Final site plan approval shall be granted as set forth in this subsection:

(1) All requirements for final site plan approval are met.

(2) In those instances where approval authority is vested with the city council, a recommendation shall be made by the planning commission to the city council.

(3) Upon request, the city may permit, when justifiable conditions are found to exist, and after preliminary site plan approval has been given, the movement of soil on the site prior to final site plan approval provided:

a. A grading plan, drawn to local specifications and when necessary to county specifications, has been reviewed and approved.

b. A soil erosion permit, when required, has been secured.

(4) Upon request, the city may permit, when justifiable conditions are found to exist, and after preliminary site plan approval has been given, the layout of footings and the construction of foundation walls prior to final site plan approval provided:

a. A grading plan, drawn to local specifications and when necessary to county specifications, has been reviewed and approved.

b. A soil erosion permit, when required, has been secured.

c. Footing and foundation design plans have been approved by all applicable state, county and local departments and consultants.

d. A resolution absolving the city of any liability has been submitted by the applicant and approved by the city.

(Ord. of 5-18-2009, § 2.206)

Sec. 98-87. Changes.

(a) *Site plan review required.* Site plan review by the planning commission is required whenever any of the following changes is made to a developed site:

(1) A separate principal building or structure is added to a developed site.

(2) A site is razed and a new principal building and structure is erected.

(3) The site is subject to a special land use permit.

(4) Additional off-street parking is required beyond that already provided.

(b) *Site plan review not required.* Site plan review by the planning commission is not required whenever a principal or accessory building is physically attached to an existing building or structure on a developed site or whenever a principal building or structure is repaired or replaced at the same size, as long as the change does not require additional off-street parking. In addition, the building inspector may refer any changes to the planning commission in accordance with subsection 98-83(i).

(Ord. of 5-18-2009, § 2.207)

Sec. 98-88. Required information.

(a) *Generally.* Where the planning commission is empowered to approve certain uses of premises under the provisions of this chapter or in cases where the commission is required to make an investigation, the applicant shall furnish such surveys, plans or other information as may be reasonably required by the commission for the proper evaluation and consideration of the matter.

(b) *Specifically.* The site plan shall include all information included on the "Tecumseh Check List for Site Plan Review" available at the development services department. The site plan shall also contain any other information requested by the reviewing body or official.

(Ord. of 5-18-2009, § 2.208)

Sec. 98-89. Review considerations.

In the process of reviewing the site plan, the following shall be considered:

(a) The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and in relation to pedestrian traffic.

(b) The traffic circulation features within the site and location of automobile parking areas; and may make such requirements with respect to any matters as will assure:

(1) Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets.

(2) Satisfactory and harmonious relationships between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.

(c) The planning commission may further require landscaping, fences and walls in pursuance of these objectives, which shall be provided and maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant.

(d) In those instances where an excessive number of ingress and/or egress points may occur with relation to major or secondary thoroughfares, thereby diminishing the carrying capacity of the thoroughfare, the planning commission may require marginal-access drives. For a narrow frontage, which will require a single outlet, the planning commission may require that money be placed in escrow with the city so as to provide for a marginal service drive equal in length to the frontage of the property involved. Occupancy permits shall not be issued until the improvement is physically provided or moneys have been deposited with the city clerk.

(e) Compliance with the design standards applicable to commercial and office development outside the B-2 district (See Article VI).

(f) Landscaping improvements required by Article X, including the following specific items of information:

(1) Existing and proposed topography, by contours, correlated with the grading plan.

(2) Location, type, size and condition of existing plant materials to be saved, moved, or removed; proposed means of protecting existing plant materials during construction.

(3) Location of proposed plant materials; a planting list of proposed materials, showing sizes, height, quantity, botanical and common names, spaces and root type (bare root or balled and burlapped).

(4) Location of proposed improvements such as outdoor lighting, signage, trash receptacles, and fencing shall be shown on the site plan.

(5) Sections, elevations, plans and details of landscape elements, such as berms, walls, ponds, retaining walls and tree wells shall be shown on the site plan.

(g) Compliance with all applicable requirements of this chapter

(Ord. of 5-18-2009, § 2.209)

Sec. 98-90. Expiration of approval.

(a) The approval of any site plan under this section shall expire one year after the date of such approval unless actual construction and development have been commenced in accordance with a prior site plan. If such construction and development is commenced within a one-year period, such approval shall continue for a period of five years from the date of approval; however, should a lapse of more than one year in continuous substantial construction and development not occur, the approval shall expire. The building inspector shall not issue a building permit for any type of construction on the basis of the approved site plan after such approval has expired.

(b) Fees for review of an expired site plan may be waived in those instances where no substantial change in conditions of the site plan or of abutting uses has taken place. In those instances where conditions have changed, the fee for review of expired site plans or new site plans shall be the same as for the initial submittal.

(Ord. of 5-18-2009, § 2.210)

Sec. 98-91. Security required.

(a) *Amount.* The applicant shall deposit as security cash, letter of credit or certified check with the city treasurer on a date to be determined by the building inspector, and for an amount to insure the completion of all site improvements, such as but not limited to streets or drives, parking lots, grading, landscaping and screens according to the approved final site plan. The amount of such security shall be determined by the building inspector based upon his estimate of the cost of the work to be completed plus a contingency fee to cover administrative and unexpected expenses. Such security may be released in proportion to work completed and approved upon inspection as complying with the approved final site plan.

(b) *Completion of improvements.* If the applicant shall fail to provide improvements according to the approved final site plan, the city council shall have the authority to have such work completed, and shall reimburse itself for the costs of such work by appropriating funds from the security. Any unused portion of the security remaining after final inspection of the site and its approval by the building inspector in relation to the approved final site plan shall be refunded to the applicant.

(c) *Withholding of permits.* In addition to the security mentioned in this subsection, or in place of such security, the building inspector may refuse to issue an occupancy permit in order to achieve compliance with the approved final site plan. In such case, the occupancy permit shall be issued upon compliance with the approved final site plan or when adequate security is provided to guarantee compliance following occupancy.

(Ord. of 5-18-2009, § 2.211)

Sec. 98-92. Fees.

Fees for the review of site plans and inspections, as required in this section, shall be established and may be amended from time to time by resolution of the city council.

(Ord. of 5-18-2009, § 2.212)

Secs. 98-93—98-100. Reserved.

DIVISION 3. SPECIAL LAND USE APPROVAL

Sec. 98-101. Intent.

Special land uses are uses that serve an area, interest or purpose that extends beyond the borders of the city, create particular problems of control in relation to adjoining uses or districts, may have detrimental effects upon public health, safety or welfare, or possess other unique characteristics that prevent such uses from being classified as principal permitted uses in a particular zoning district.

This chapter is intended to provide a consistent and uniform method for review of special land use applications, ensure full compliance with the standards contained in this chapter and other applicable local ordinances, and state and federal laws, achieve efficient use of the land, minimize or prevent adverse impacts on neighboring properties and districts, protect natural resources and facilitate development in accordance with the land use objectives of the master plan and any sub-area or corridor plans.

(Ord. of 5-18-2009, § 2.301)

Sec. 98-102. Procedures and requirements.

(a) *Planning commission recommendation.* Prior to the city council making a discretionary decision on a special land use, the planning commission, or the zoning board of appeals if specifically indicated, shall hold a public hearing, make a record of the public comment, make a recommendation and forward such record and recommendation to the city council before the decision is made.

(b) *Public hearing notice.* The public hearing provided for in this subsection shall be held to comply with the requirements of the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended), as set forth section 98-25. The notice of the public hearing provided for in this section shall state a public hearing before the City Council may be requested by those persons indicated in the preceding sentence.

(c) *City council decision.* The city council may deny, approve or approve with conditions a special land use application. The decision on a special land use shall be incorporated in a statement containing the conclusions relative to the special land use specifying the basis for the decision, and any conditions of approval imposed on the application. The written statement shall specify the reasons for the decision and any conditions imposed.

(1) *Approval.* Upon determination that a special land use proposal is in compliance with the standards and requirements of this chapter and other applicable ordinances and laws, approval shall be granted.

(2) *Approval with conditions.* The city council may impose reasonable conditions with the approval of a special land use. The conditions may include provisions necessary to insure that public services and facilities affected by a proposed special land use or activity will be capable of accommodating increased service and facility loads generated by the new development, 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 shall meet all of the following requirements:

a. Conditions shall be designed to protect natural resources, the health, safety, welfare, and social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

b. Conditions shall be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

c. Conditions shall be necessary to meet the intent and purpose of this chapter, related to the standards established in the Ordinance for the land use or activity under consideration, and necessary to insure compliance with those standards.

(3) *Denial.* A special land use application shall be denied upon determination by the city council that a special land use proposal does not comply with the standards and regulations set forth in this chapter, or otherwise will be injurious to the public health, safety, welfare, or orderly development of the city.

(d) *Recording of conditions.* Conditions shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the property owner. The approving authority shall maintain a record of changes granted in conditions.

(e) *Coordination with site plan review.* Planning commission shall consider the preliminary site plan and special land use simultaneously, and shall act upon the preliminary site plan prior to making a special land use recommendation to the city council. A final site plan associated with a special land use may not be approved until the special land use has first been approved by the city council.

(f) *Resubmission.* Whenever an application for special land use approval has been denied by the city council, a new application for the same use shall not be accepted by the planning commission for consideration for a period of 365 days, unless, upon recommendation by staff, the planning commission determines that one or more of the following conditions has been met:

(1) There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application.

(2) New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed.

(3) The new application is materially different from the prior application.

(g) *Appeals.* The zoning board of appeals shall not have the authority to consider appeals of special land use determinations by the city council.

(h) *Expiration of special land use approval.* Special land use approval shall expire 365 days after the date of approval, unless the use has been established on the site, or the final site plan associated with the special land use has been submitted to the planning department for review. Special land use approval shall also expire upon expiration of the approved final site plan associated with a special land use. Upon written request received by the city prior to the expiration date, the planning commission may grant one (1) extension of up to 180 days, provided that the approved special land use conforms to current zoning ordinance standards.

(i) *Rescinding approval of special land uses.* Approval of a special land use may be rescinded by the city council upon determination that the use has not been improved, constructed or maintained in compliance with this ordinance, approved permits, site plans, or conditions of site plan or special land use approval. Such action shall be subject to the following:

(1) *Public hearing.* Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended) as summarized in section 98-25, at which time the owner of an interest in land for which special land use approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.

(2) *Determination.* Subsequent to the hearing, the council's decision regarding to the rescission shall be made and written notification shall be provided to the property owner or the owner's designated agent.

(Ord. of 5-18-2009, § 2.302)

Sec. 98-103. Standards for special land use approval.

For decisions on special land uses referred to in subsection (a) of this section and in all other instances in this ordinance where discretionary decisions must be made by a board, commission or official, including decisions on site plans, the requirements and standards as particularly set forth in this ordinance concerning the matter for decision shall be followed, and such discretionary decision shall also be based upon the findings that the special land use will:

(a) Promote the intent and purpose of this chapter.

(b) Be designed, constructed, operated, maintained and managed so as to be compatible, harmonious and appropriate in appearance with the existing or planned character of the general vicinity, adjacent uses

of land, the natural environment, the capacity of public services and facilities affected by the land use, and the community as a whole.

(c) Be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways, refuse disposal, or that the persons or agencies responsible for the establishment of the land use or activity shall be able to provide adequately any such service.

(d) Not be detrimental, hazardous, or disturbing to existing or future neighboring uses, persons, property or the public welfare.

(e) Not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.

The city council shall grant the requested approval only upon determination of compliance with the standards in this subsection. In granting the requested approval, the city council shall impose such requirements or conditions as it deems necessary to protect the public interest of the city and the surrounding property and to achieve the objectives of this chapter.

(Ord. of 5-18-2009, § 2.303)

Sec. 98-104. Operation and maintenance in accordance with special land use approval.

It shall be the responsibility of the owner of the property and the operator of the use for which special land use approval has been granted to develop, improve, operate and maintain the use, including the site, buildings and all site elements, in accordance with the provisions of this chapter and all conditions of special land use approval until the use is discontinued. Failure to comply with the provisions of this Section shall be a violation of the use provisions of this chapter and shall be subject to the same penalties appropriate for a use violation.

The mayor or his or her designee may make periodic investigations of developments for which a special land use has been approved. Noncompliance with chapter requirements or conditions of approval shall constitute grounds for the city council to rescind special land use approval.

(Ord. of 5-18-2009, § 2.304)

Secs. 98-105—98-110. Reserved.

DIVISION 4. VARIANCES and APPEALS

Sec. 98-111. Jurisdiction, powers and duties.

(a) *Powers and duties.* The Zoning board of appeals shall have the power and it shall be its duty to:

(1) Hear and decide on all matters referred to it by the provisions of this chapter.

(2) Hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the building, planning, or public services department in the enforcement of this chapter. See section 98-115.

(3) Interpret the text and map and all matters relating thereto whenever a question arises in the administration of this ordinance as to the meaning and intent of any provision or part of this ordinance. Any interpretations shall be in a manner as to carry out the intent and purpose of this ordinance and zoning map, and commonly accepted rules of construction for ordinances and laws in general. See section 98-116 and 98-117 for additional considerations.

(4) Where there are practical difficulties or unnecessary hardships, within the meaning of state law and this chapter, in the way of carrying out the strict letter of this ordinance, the zoning board of appeals shall have the power upon appeal in specific cases to authorize such variation or modification of the provisions of this ordinance so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done. See section 98-118 and section 98-119 for additional considerations.

(b) *Review considerations.* In consideration of all appeals and all proposed variances to this ordinance the zoning board of appeals shall, before granting any variance to this ordinance in a specific case, first determine that the proposed variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or endanger the public safety or unreasonably diminish or impair established property values within the surrounding area or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the city.

(c) *Majority vote required.* Except for use variances, the concurring vote of a majority of the zoning board of appeals shall be necessary to reverse any order, requirement, decision, or determination of the building department, or to decide in favor of the applicant on any matter upon which it is authorized by this chapter to render a decision.

(d) *Limitations of authority.*

(1) Nothing contained in this section shall be construed to give or grant to the zoning board of appeals the power or authority to alter or change this ordinance or the zoning map or to rezone, such power and authority being reserved to the city council.

(2) Nothing in this section shall be construed to authorize the zoning board of appeals to hear, review or decide any appeal from a decision of the city council or planning commission to approve, approve with conditions, or deny a site plan or special use.

(e) *Conditions.* In authorizing a variance or taking any other action within its jurisdiction, the zoning board of appeals may attach such conditions as may be deemed necessary in the furtherance of the purposes of this chapter, provided any conditions are in compliance with the standards for imposing conditions as contained in the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended).

(Ord. of 5-18-2009, § 2.401)

Sec. 98-112. Exercising powers.

In exercising the powers described in 98-111, 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 take such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the building department from whom the appeal is taken.

(Ord. of 5-18-2009, § 2.402)

Sec. 98-113. Notice.

The zoning board of appeals shall make no recommendation except in a specific case and after a hearing conducted by such board. Notice such hearing shall be provided in the manner established in the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended). Refer to section 98-25. for a summary of the noticing requirements and procedures set forth in the Michigan Zoning Enabling Act.

(Ord. of 5-18-2009, § 2.403)

Sec. 98-114. Effect of actions.

(a) *Expiration of approval.*

(1) No order of the zoning board of appeals permitting the erection or alteration of a building shall be valid for a period longer than one year unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of the permit.

(2) No order of the zoning board of appeals permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; however, where such use permitted is dependent upon the erection or alternation of a building, such order shall continue in force and effect if a building permit for the erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(b) *Resubmittal.* No request or appeal which the zoning board of appeals has denied wholly or in part may be resubmitted to or reheard by the zoning board of appeals for a period of 365 days, unless, as determined by staff, one or more of the following conditions has been met:

(1) There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the zoning board of appeals' application of the relevant review standards to the request or appeal.

(2) New or additional information is available that was not available at the time of the original review that might reasonably affect the zoning board of appeals' application of the relevant review standards to the request or appeal.

(3) The new request or appeal is materially different from the prior request or appeal.

(c) *Appeal.* The decision of the zoning board of appeals shall be final. A party aggrieved by the decision may appeal to the Circuit Court for Lenawee County, as provided in Public Act No. 110 of 2006. An appeal to the Circuit Court for Lenawee County shall be filed within 30 days after the board certifies its decision in writing or approves the minutes of its decision. The court shall have jurisdiction to make such further orders as justice may require. An appeal may be had from the decision of any circuit court to the court of appeals.

(Ord. of 5-18-2009, § 2.404)

Sec. 98-115. Appeals of administrative decisions.

(a) *Authority.* An appeal may be taken to the zoning board of appeals by any person, business or corporation or by an officer, department, board or bureau affected by a decision of the building inspector. 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 building inspector and with the zoning board of appeals a notice of appeal, specifying the grounds of the appeal. The building inspector shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken.

In exercising the powers granted in this Article II, 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 building inspector from whom the appeal is taken.

(b) *Stay of proceedings.* An appeal shall stay all proceedings in furtherance of the action appealed from unless the building inspector certified 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 the zoning board of appeals or by a court of record on application, on notice to the building inspector and on due course shown.

(c) *Public hearing.* The board shall select a reasonable time and place for the hearing of the appeal and shall give due notice in accordance with the public hearing requirements of the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended) as summarized in section 98-25 and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

(d) *Fee.* The city council shall, from time to time, determine by resolution a fee which shall be paid to the secretary of the zoning board of appeals at the time notice of appeals is filed, which the secretary shall forthwith pay over to the city to the credit of the general fund of the city.

(e) *Required findings.* The zoning board of appeals may reverse an administrative action only if it finds that the order, requirement, decision or determination was arbitrary or capricious, based upon an erroneous finding of a material fact, constituted an abuse of discretion, or based upon an erroneous interpretation of this chapter.

(Ord. of 5-18-2009, § 2.405)

Sec. 98-116. Interpretation of zoning district boundaries.

Where the actual lines of streets, alleys, or property boundaries vary from the portions indicated on the zoning map, or some ambiguity exists as to zoning district boundaries, the zoning board of appeals shall have the power to interpret the zoning map in such a way as to carry out the intents and purposes of this chapter an the master plan.

(Ord. of 5-18-2009, § 2.406)

Sec. 98-117. Interpretation of zoning ordinance provisions.

The zoning board of appeals shall have the power to hear and decide requests for interpretations of zoning ordinance provisions in such a way as to preserve and promote the character of the zoning district in question, and carry out the intents and purposes of the this chapter and the master plan.

(Ord. of 5-18-2009, § 2.407)

Sec. 98-118. Dimensional variance.

(a) *Authority.* The zoning board of appeals may grant a dimensional (nonuse) variance to provide relief from a specific standard in this chapter relating to an area, a dimension or a construction requirement or limitation, upon the concurring vote of a majority of the members of the zoning board of appeals.

(b) *Practical difficulty.* A nonuse variance shall not be granted unless the zoning board of appeals finds that there is a practical difficulty in the way of carrying out the strict letter of this ordinance. In determining whether a practical difficulty exists, the zoning board of appeals must find that:

(1) Compliance with the strict letter of the restrictions governing area, setback, frontage, height, bulk, lot coverage, density or other dimensional or construction standards will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with such restrictions unnecessarily burdensome.

(2) A grant of the variance will do substantial justice to the applicant as well as to other property owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other property owners in the zoning district.

(3) The plight of the applicant is due to the unique circumstances of the property.

(4) The problem is not self-created.

(5) The spirit of this chapter will be observed, public safety and welfare secured, and substantial justice done.

(6) There is compliance with the standards set forth in subsection 98-111(a)(4).

(7) There is compliance with the standards for discretionary decisions as contained in 98-101.

(Ord. of 5-18-2009, § 2.408)

Sec. 98-119. Use variance.

(a) *Authority.* The zoning board of appeals may grant a use variance to authorize a land use which is not otherwise permitted by this ordinance in the district where the property is located, upon the concurring vote of two-thirds of the members of the zoning board of appeals.

(b) *Remedies exhausted.* An application for a use variance shall not be submitted or considered unless the applicant has first received a written determination from the building department that the proposed land use is not permitted under this chapter in the district where the property is located, and, second has received a final decision from the city council denying a rezoning of the property to a zoning district where the proposed land use would be permitted under this chapter.

(c) *Unnecessary hardship.* A use variance shall not be granted unless the zoning board of appeals finds, on the basis of substantial evidence presented by the applicant, that there is an unnecessary hardship in the way of carrying out the strict letter of this ordinance. In determining that an unnecessary hardship exists, the zoning board of appeals must find that:

(1) The property in question cannot be reasonably used or cannot yield a reasonable return on a prudent investment if the property would be used only for a purpose allowed in the zoning district.

(2) The plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions.

(3) The use to be authorized by the variance will not alter the essential character of the area and locality.

(4) The problem is not self-created.

(5) The spirit of this chapter will be observed, public safety and welfare secured, and substantial justice done.

(6) There is compliance with the standards set forth in subsection 98-111(b).

(7) There is compliance with the standards for discretionary decisions as contained in section 98-103.

(Ord. of 5-18-2009, § 2.409)

Secs. 98-120—98-140. Reserved.

ARTICLE III. NONCONFORMITIES

Sec. 98-141. Intent and purpose.

This article is established for the following purposes:

(a) *Recognition.* To recognize that within the districts established by this chapter there exist lots of record, structures, sites and uses of land that were lawful prior to the effective date of adoption or amendment of this chapter, but would be incompatible with permitted uses in the district and are therefore prohibited, regulated, or restricted under the terms of this chapter.

(b) *Determinations.* To provide procedures for determining whether a use of land is conforming, nonconforming or illegal in the district where it is located, or whether an existing nonconforming use of land has ceased, and to establish reasonable standards for making such determinations.

(c) *Regulation.* To regulate the use and development of nonconforming lots of record, the completion, restoration and reconstruction of nonconforming structures, the re-development and improvement of nonconforming sites, the extension, enlargement and substitution of nonconforming uses of land, and the circumstances and conditions under which nonconformities shall be permitted to continue.

(d) *Termination.* To require the termination and removal of illegal structures or uses of land.

(e) *Establish classifications.* To recognize that certain nonconformities may not have a significant adverse impact upon nearby properties or the public health, safety and welfare. Accordingly, this article establishes two classes of nonconforming structures and uses of land. Class A nonconforming status may be granted by the City, allowing the property or use to be perpetuated and improved subject to specific conditions designed to enhance the character of the neighborhood and to protect adjacent properties. Class B nonconformities are not desirable and the intent of this article is to eliminate Class B nonconformities as rapidly as possible.

(f) The further purpose of this article is to permit the four types of nonconformities (uses of land, structures, lots of record and sites) to continue until they cease or are removed, and to:

(1) *Uses of land.* (section 98-142) Eliminate nonconforming uses of land that are incompatible with and more intense than permitted uses in a particular zoning district, or to encourage their redevelopment into more compatible land uses.

(2) *Structures.* (section 98-143) Permit construction that was lawfully begun prior to the adoption or amendment of this Ordinance and diligently carried on until completion without change in the plans, construction or designated use of the development.

(3) *Lots of record.* (section 98-144) Address the circumstances under which lots of record may be developed that do not conform to current ordinance standards.

(4) *Sites.* (section 98-145) Encourage the upgrading of sites that were developed in compliance with the standards in force at the time of their construction, but which do not meet the current site design standards of this chapter.

(Ord. of 5-18-2009, § 3.101)

Sec. 98-142. Nonconforming uses of land.

All nonconforming uses of land that have been designated as "class A" by city action shall not be subject to the requirements of this section 98-142, but rather shall be subject to the provisions of section 98-146 (class A nonconforming designations). Nonconforming uses of land not designated "class A" shall be considered "class B" and shall be allowed to continue after the effective date of the ordinance from which the chapter derive or amendments thereto, subject to the requirements of this section 98-142.

(a) Class B nonconforming uses of land shall be allowed to continue after the effective date of this chapter or amendments thereto, subject to the following conditions:

(1) *Compliance with other applicable standards.* The owner, operator or person having beneficial use of land occupied by a class B nonconforming use of land shall demonstrate that the use is maintained in compliance with all applicable federal, state, county and city laws, ordinances, regulations and codes, other than the use regulations of this chapter for the district where the use is located. Failure to do so, or failure to bring the use into compliance with current laws, ordinances, regulations and codes within 180 days of their effective date, shall constitute grounds for the city to seek court approval to terminate or remove the use at the owner's expense.

(2) *Expansion prohibited.* The use shall not be enlarged, increased in intensity, extended to occupy a greater area of land or building floor area, or moved in whole or in part to any other portion of the lot or structure. No additional signage shall be permitted.

(3) *Additional structures prohibited.* No additional structures may be constructed in association with a class B nonconforming use of land. If a structure associated with a class B nonconforming use is removed, or damaged by any means to an extent that the repair cost is greater than the state equalized value of the property, the nonconformity shall be deemed removed and subsequent uses of such land shall conform to ordinance provisions for the district where it is located.

(4) *Cessation of class B nonconforming uses of land.* If the class B nonconforming use is replaced by a conforming use or ceases for a period of more than 30 days, the class B nonconforming use may not be resumed and subsequent uses of land shall conform to the use provisions for the district where it is located.

(b) *Determination that a use of land is nonconforming.* This section provides standards for determining whether a use of land is conforming, nonconforming or illegal in the district where it is located, as defined in Article XII. (Definitions). When there is a question or dispute over the status of a use, the zoning board of appeals shall have the authority to make such determinations, subject to the following procedure and standards:

(1) *Procedure.* The procedure for making such determinations shall be as follows:

a. *Public hearing.* Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in section 98-25 (public hearing procedures), at which time the owner, operator or person having beneficial use of the land in question shall be given an opportunity to present evidence and documentation about the status of the use of land.

b. *Determination.* Subsequent to the hearing, the zoning board of appeals shall make a determination with regard to whether the use of land is conforming, nonconforming or illegal in the district where it is located, and written notification provided to said owner, operator or person having beneficial use of the land in question.

(2) *Standards for determining that a use of land is nonconforming.* The zoning board of appeals shall determine that a use of land is nonconforming upon finding that the following statements (a - c) are true:

a. The use of land does not conform to the purpose and use regulations of the district where it is located, and the nonconformity cannot be resolved by means available under this chapter, such as Article II, Division 3 (Special Approval Uses).

b. The use of land is in compliance with all other applicable federal, state, county and city laws, ordinances, regulations and codes.

c. Evidence from a minimum of three (3) of the following sources demonstrates that the use of land was legally established prior to the effective date of adoption or amendment of the ordinance from which this chapter derives:

1. Local, county or state government files or records, including but not limited to permits, inspection reports, dated photographs or notarized statements of government officials, agents, representatives or employees.

2. Dated telephone directories, or similar dated records that provide information about the occupants or uses located on a street by address or lot number.

3. Utility records, including but not limited to providers of water, sewer, electric, natural gas or telecommunications service.

4. Dated advertising or other information published in a newspaper or magazine including but not limited to advertisements, articles, features or photographs that address the use of the land in question.

5. Dated aerial photos from Lenawee County, the Region 2 Planning Commission or other sources accepted by the zoning board of appeals.

6. Other relevant information, including but not limited to date-stamped photographs, diary or log entries, affidavits or notarized statements.

(3) *Standards for determining that a use of land is conforming.* The zoning board of appeals shall determine that a use of land is conforming upon finding that the use of land is in compliance with the use regulations of the district where it is located, including any required permits or special approvals.

(4) *Standards for determining that a use of land is illegal.* Any use of land that is not a conforming use in the district where it is located, or determined to be a nonconforming use of land, shall be considered an illegal use of land in the district that has been established in violation of this chapter.

(c) *Determinations that a nonconforming use of land has ceased.* The following is intended to provide reasonable standards for determining whether a nonconforming use of land has been removed, discontinued or otherwise ceased to occupy the land in question. When there is a question or dispute over whether a nonconforming use has ceased, the zoning board of appeals shall have the authority to make such determinations, subject to the following procedure and standards:

(1) *Procedure.* The procedure for making such determinations shall be as follows:

a. *Public hearing.* Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in section 98-25 (Public Hearing Procedures), at which time the owner, operator or person having beneficial use of the land in question shall be given an opportunity to present evidence and documentation about the status of the use of land.

b. *Determination.* Subsequent to the hearing, the Zoning Board of Appeals shall make a determination with regard to whether the nonconforming use of land has been removed, discontinued or otherwise ceased to occupy the land in question, and written notification provided to said owner, operator or person having beneficial use of the land in question.

(2) *Standards for determining that a nonconforming use of land has ceased.* The zoning board of appeals shall determine that a nonconforming use of land has been removed, discontinued or otherwise ceased to occupy the land in question upon finding that a minimum of three of the following six statements (a - f) are true:

a. Local, county or state government files or records show that the nonconforming use of land has ceased. Such evidence may include, but shall not be limited to permits, inspection reports, dated photographs or notarized statements of government officials, agents, representatives or employees.

b. Dated telephone directories, or similar dated records that provide information about the occupants or uses located on a street by address or lot number, show that the nonconforming use has ceased. Such evidence may include, but shall not be limited to entries that show the address associated with the use as vacant or occupied by another use, or show the telephone number associated with the use as disconnected or in use at another location.

c. Utility records, including, but not limited to providers of water, sewer, electric, natural gas or telecommunications service, show that the nonconforming use has ceased. Such evidence may include, but shall not be limited to records indicating that the address of the use is vacant or occupied by another use, the utility service associated with the use has been disconnected or the business, organization or individual associated with the use has moved to another location.

d. Dated advertising or other information published in a newspaper or magazine show that the nonconforming use of land has ceased. Such evidence may include, but shall not be limited to advertisements, articles, features or photographs that address the use of the land in question.

e. Dated aerial photos from Lenawee County, the Region 2 Planning Commission or other sources as accepted by the zoning board of appeals show that the nonconforming use of land has ceased.

f. Other relevant information shows that the nonconforming use of land has ceased. Such evidence may include, but shall not be limited to date-stamped photographs, diary or log entries, affidavits or notarized statements.

(Ord. of 5-18-2009, § 3.102)

Sec. 98-143. Nonconforming structures.

All nonconforming structures that have been designated as "class A" shall not be subject to the requirements of this section, but rather shall be subject to the provisions of section 98-146 (class A nonconforming designations). Nonconforming structures not designated "class A" shall be considered "class B" and shall be allowed to continue after the effective date of this chapter or amendments thereto, subject to the following conditions:

(a) *Expansion restricted.* No such structure may be enlarged or altered in a way that increases its nonconformity. Such structures may be enlarged or altered in a manner that does not increase its nonconformity. By way of example, a structure that does not conform to the front yard setback requirements, but does comply with the rear and side yard setback requirements of the zoning district in which it is located may be enlarged by adding onto the back or side of the structure, but could not be enlarged by adding on to the front of the structure.

(b) *Normal repairs and maintenance.* This article shall not prevent work required for compliance with the provisions of any building code in effect in the city, or Michigan housing laws regulating the maintenance of buildings or structures. Normal repair, maintenance or replacement of interior non-bearing walls, fixtures, wiring, plumbing or heating and cooling systems in Class B nonconforming structures may be permitted in accordance with applicable code requirements, provided that such improvements do not result in an enlargement of a nonconforming structure, and provided that the

cost of such improvements does not exceed the state equalized value of the property at the time such work is proposed.

(c) *Buildings under construction.* Nothing in this article shall require a change in the plans, construction or designated use of any building or structure for which construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and diligently carried on until completion. Construction shall include the placement of materials in a permanent manner or demolition and removal of an existing structure preparatory to rebuilding in accordance with an approved site plan.

(d) *Damaged or unsafe structures shall be removed.* Class B nonconforming structures that are declared to be physically unsafe by the building inspector, or otherwise damaged or destroyed by any means to an extent that the repair cost is greater than the state equalized value of the property shall not thereafter be restored, repaired or rebuilt except in complete conformance with the requirements of this chapter.

(Ord. of 5-18-2009, § 3.103)

Sec. 98-144. Nonconforming lots of record.

Existing lots of record, as defined in Article XII (Definitions), that are not in compliance with the dimensional requirements of this chapter shall only be used, developed or otherwise improved with principal or accessory structures in accordance with the following:

(a) *Division of lots of record.* A lot of record shall not be divided in a manner that would increase its nonconformity, cause an existing structure or site improvement to become nonconforming, or create one or more nonconforming lots.

(b) *Combination of nonconforming lots of record.* Where possible, nonconforming lots of record shall be combined to create lots that comply with the dimensional requirements of this chapter. Nothing in this chapter shall prohibit two or more nonconforming lots of record from being combined to create a parcel that does not meet one or more requirements of this chapter.

(c) *Use of nonconforming lots of record.* Use of a nonconforming lot of record shall be subject to the regulations of this chapter for the district where it is located.

(d) *Lots in the single family residential districts.* A single-family dwelling and customary accessory buildings may be erected in accordance with all applicable requirements of this chapter on a nonconforming lot of record in a RA-1, RA-2, RT, RM-1, RM-2, or OS-1 district, provided that all required yard dimensions and setbacks, other than minimum lot area or width, shall conform to the regulations for the district where the lot is located.

(Ord. of 5-18-2009, § 3.104)

Sec. 98-145. Nonconforming sites.

The purpose of this section is to encourage improvements to existing sites in the city that were developed before the site design standards of this chapter were established or amended. This section establishes standards for prioritizing improvements to existing sites that are intended to gradually bring the site into compliance with current zoning ordinance standards. Nonconforming sites may be improved or modified without a complete upgrade of all site elements, subject to the following conditions:

(a) A nonconforming site shall not be improved or modified in a manner that increases its nonconformity.

(b) The proposed site improvements shall resolve public safety deficiencies, including building and fire code violations, emergency access and pedestrian/vehicle conflicts.

(c) The proposed site improvements shall include exterior lighting, landscaping, screening and building improvements that are in reasonable proportion to the scale and construction cost of proposed building improvements, expansions or other improvements.

(d) The proposed site improvements shall include the installation, restoration or expansion of sidewalks within and through the site, where appropriate.

(e) A reasonable timeline for completion of site improvements to an existing nonconforming site may be approved as part of any plan approval. Failure to complete improvements in accordance with an approved timeline shall be deemed a violation of the approved site plan.

(Ord. of 5-18-2009, § 3.105)

Sec. 98-146. Class A nonconforming designation.

It is the intent of this section to recognize that certain nonconforming structures and uses of land may not have a significant adverse impact upon nearby properties or the public health, safety and welfare, and to allow the planning commission to establish a "class A" nonconforming status for these nonconforming structures or uses of land, subject to the following procedure and standards:

(a) *Procedure.* The procedure for considering all class A nonconforming designations shall be as follows:

(1) *Application.* Applications for consideration of a Class A designation for a nonconforming structure or use of land may be initiated by the city, or by the owner, operator or person having beneficial use of the lot occupied by the nonconforming structure or use of land. The application shall include the applicant's name, address and telephone numbers, and the reasons for the request.

(2) *Public hearing.* A public hearing shall be held for all requests for a Class A nonconforming designation in accordance with the procedures set forth in section 98-25 (Public Hearing Procedures).

(b) *Conditions for approval of a class A designation.* Subsequent to a public hearing, the planning commission may grant a class A designation upon finding that all of the following conditions exist:

(1) The structure or use of land is nonconforming as defined in this chapter.

(2) The nonconformity does not significantly depress the value of nearby properties.

(3) The nonconformity is not contrary to the public health, safety and welfare.

(4) No useful purpose would be served by strictly applying the requirements for a class B nonconformity under this chapter.

(c) *Effect of approval of a class A designation.* Class A nonconformities shall be permitted to be perpetuated and expanded in accordance with an approved site plan, subject to the provisions of this Section and any conditions of approval. Class A nonconforming structures shall be permitted to be perpetuated, expanded, improved or rebuilt if damaged or destroyed in accordance with an approved site plan, subject to the provisions of this Section and any conditions of approval.

(d) *Effect of denial of a class A designation.* An application for a class A designation that has been denied by the planning commission may not be appealed to the zoning board of appeals, but may be resubmitted for planning commission consideration after a minimum of 365 days have elapsed from the date of denial.

(e) *Cessation or removal of class a nonconforming structures or uses of land.*

(1) When a class A nonconforming structure is permanently removed, or when a class A nonconforming use of land is replaced by a conforming use, the designation shall be deemed

removed. Any subsequent structure or use of land shall conform to Ordinance provisions for the district where it is located.

(2) No class A nonconforming structure or use of land shall be resumed if it has been discontinued for six consecutive months or 18 months in any three-year period.

(f) *Rescinding approval of a class a designation.* Failure of the owner, operator or person having beneficial use of a lot occupied by a class A designated nonconforming structure or use of land to maintain or improve the site in accordance with the provisions of this section, an approved site plan or any conditions of approval shall be grounds for the planning commission to rescind the class A designation. Such action shall be subject to the following.

(1) *Public hearing.* Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in section 98-25 (public hearing procedures), at which time the owner, operator or person having beneficial use of land occupied by a Class A designated nonconforming structure or use of land shall be given an opportunity to present evidence in opposition to rescission.

(2) *Determination.* Subsequent to the hearing, the decision of the Commission with regard to the rescission shall be made and written notification provided to said owner, operator or person having beneficial use of land occupied by a class A designated nonconforming structure or use of land.

(g) *Existing residential dwellings.* Residential dwellings, which are so used and so existing in non-residential zoning districts before the effective date of adoption or amendment of this chapter, are hereby designated as class A nonconforming uses of land. Such dwellings and accessory structures may be used, repaired, expanded and replaced if destroyed, subject to the following conditions:

(1) Any expansion of the dwelling or accessory structures shall conform to all applicable yard dimensions, setbacks and other requirements specified in this chapter for the same type of residential dwelling or structure.

(2) If an existing structure is destroyed, any replacement dwelling or accessory structure shall conform to all applicable yard dimensions, setbacks and other requirements specified in this Ordinance the same type of residential dwelling or structure.

(3) The use of the dwelling and associated parcel of land shall be maintained in conformance with the use provisions specified in this Ordinance for the same type of residential dwelling or structure.

(4) The use, dwelling and accessory structures shall be maintained in conformance with all other applicable federal, state, county and city laws, ordinances, regulations and codes.

(h) *Existing two-family dwellings.* Two-family dwellings, which are so used and so existing in one-family residential zoning districts before the effective date of adoption or amendment of this Ordinance, are hereby designated as class A nonconforming uses of land. Such dwellings and accessory structures may be used, repaired, expanded and replaced if destroyed, subject to the following conditions:

(1) The two-family dwellings must be an existing use on the subject property at the time of this code amendment adoption.

(2) Only one entrance per two-family dwelling unit shall be visible from each public right-of-way.

(3) Must have the overall appearance of a single-family dwelling including, but not limited to, such items as: architectural design, roof design, garages and driveways.

(4) Any expansion of the dwelling or accessory structures shall conform to all applicable yard dimensions, setbacks and other requirements specified in this Ordinance for a single family dwelling.

(5) If an existing structure is destroyed, any replacement dwelling or accessory structure shall conform to all applicable yard dimensions, setbacks and other requirements specified in this Ordinance for a single family dwelling or structure.

(6) The use of the dwelling and associated parcel of land shall be maintained in conformance with the use provisions specified in this Ordinance for the same type of residential dwelling or structure.

(7) The use, dwelling and accessory structures shall be maintained in conformance with all other applicable federal, state, county and city laws, ordinances, regulations and codes.

(i) *Conditions of class A designation.* The planning commission may attach reasonable conditions to a class A nonconforming designation, including the following:

(1) *Signs.* If the application was initiated by the by the owner or person having beneficial use of the lot occupied by the nonconforming structure or use of land, the planning commission may require that all signs on the structure or land in question be brought into compliance with the city's sign regulations.

(2) *Plan for site improvements.* If the application was initiated by the by the owner or person having beneficial use of the lot occupied by the nonconforming structure or use of land, the planning commission may require that a site plan for improvements be submitted for review that addresses the priorities for site improvements listed in section 98-145 (nonconforming sites).

(3) *Other conditions.* The planning commission may attach conditions to the approval to assure that the structure or use of land does not become contrary to the purpose of this article and chapter, or the public health, safety and welfare.

(Ord. of 5-18-2009, § 3.106; Ord. No. 1-12, 3-19-2012)

Sec. 98-147. Substitution of nonconforming uses of land.

Upon petition, the planning commission may approve a request to substitute one nonconforming use of land for another nonconforming use of land on the same site. The planning commission shall hold a public hearing in accordance with the procedures set forth in section 98-25. (public hearing procedures) on such a request, and subsequent to a public hearing the planning commission may grant approval of such a request upon finding that all of the following conditions exist:

(a) *Appropriateness.* The proposed nonconforming use of land is equally appropriate or more appropriate to the district than the existing use. Where a nonconforming use of land is changed to a more conforming use, it shall not thereafter be changed to a less conforming use.

(b) *Signage.* Signage associated with the proposed nonconforming use of land shall be brought into compliance with City requirements.

(c) *Plan for site improvements.* A site plan has been submitted including improvements that are satisfactory to the planning commission. The commission may require improvements to landscaping, site design and layout, pedestrian access, building materials, screening, off-street parking, exterior lighting or other improvements as deemed necessary to protect surrounding uses.

(d) *Other conditions.* Other conditions may be attached to the approval to assure that the use of land does not become contrary to the public health, safety or welfare, or the spirit and purpose of this chapter.

(Ord. of 5-18-2009, § 3.107)

Sec. 98-148. Change of tenancy or ownership.

There may be a change of tenancy, ownership, or management of any existing nonconforming lot, structure, site, or use of land without any permit or approval by the city.

(Ord. of 5-18-2009, § 3.108)

Sec. 98-149. Appeals.

All appeals of actions, orders, requirements, permits or determinations made by the building official, planning commission, or duly authorized agents charged with the administration or enforcement of this article, other than class A nonconforming designations, shall be taken to the zoning board of appeals in accordance with Article II, Division 4 of this chapter.

(Ord. of 5-18-2009, § 3.109)

Sec. 98-150. Cessation of a nonconforming use of land by city action.

The elimination of class B nonconforming structures and uses of land shall be considered to be for a public purpose and for a public use. The city council shall have the authority to institute and prosecute proceedings for the condemnation of Class B nonconforming uses and structures under the power of eminent domain, in accordance with the General Law City Act, Public Act 3 of 1895 as amended. The city council may, at its discretion, acquire private property by purchase, condemnation or otherwise for the purpose of removing a class B nonconforming use or structure, provided that the cost of acquiring such private property be paid from general funds or assessed to a special district established for that purpose.

(Ord. of 5-18-2009, § 3.110)

Secs. 98-151—98-170. Reserved.

ARTICLE IV. ZONING DISTRICTS AND PERMITTED USES

DIVISION 1. GENERALLY

Sec. 98-171. Zoning districts established.

For the purposes of this chapter, the City of Tecumseh is divided into the following districts:

Symbol	Name
RA-1	One-Family Residential District
RA-2	One-Family Residential District
RT	Two Family Residential District
RM-1	Multiple-Family Residential District
RM-2	Multiple-Family Residential District
MH	Mobile Home Residential District

ERC	Environmental Residential Community
PRD	Planned Residential Development
PUD	Planned Unit Development
OS-1	Office-Service District
B-1	Local Business District
B-2	Central Business District
B-3	General Business District
I-C	Industrial-Commercial District
I-1	Industrial District
TRD	Technology, Research, and Development District

(Ord. of 5-18-2009, § 4.101)

Sec. 98-172. Zoning map and district boundaries.

(a) *Zoning map.* The boundaries of the zoning districts are established as shown on the zoning map. The map, all notations, references and other information shown thereon is as much a part of this chapter as if fully described in this section 98-172.

(b) *Certification.* The official zoning map shall be identified by the signature of the mayor attested by the city clerk, and bearing the seal of the city under the following words: "This is to certify that this is the official zoning map referred to in section 98-172 of the Zoning chapter of the City of Tecumseh, Michigan," together with the date of the adoption of this Ordinance. This map shall be deposited in the city clerk's vault when not in actual use.

(c) *Amendments.* No changes of any nature shall be made on the official zoning map or matter shown on the map except in conformity with the provisions set forth in section 98-172. Any unauthorized change of whatsoever kind by any person shall be considered in violation of this chapter and punishable as provided in this chapter.

(d) *District boundaries.*

(1) *Lot lines.* Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be constructed to be such boundaries.

(2) *Bodies of water.* Where the boundary of a district follows a stream, lake or other body of water, the boundary line shall be deemed to be located midway between opposite shores.

(3) *Subdivision boundaries.* Where the boundary of a district follows a subdivision boundary line, such boundary line shall be construed to be the district boundary line.

(Ord. of 5-18-2009, § 4.102)

Sec. 98-173. Zoning of rights-of-way.

All streets, alleys and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, alleys or railroad rights-of-way. Where the centerline of a street or alley serves as a district boundary, the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

(Ord. of 5-18-2009, § 4.103)

Sec. 98-174. Zoning of vacated areas.

Whenever any street, alley or other public way within the city is vacated by official governmental action and when the lands previously within the boundaries of the public way attach to and become a part of the land adjoining such street, alley or other public way, such lands shall automatically, and without further governmental action be subject to the same zoning regulations as are applicable to the land to which it attaches.

(Ord. of 5-18-2009, § 4.104)

Sec. 98-175. Zoning of annexed areas.

Any area annexed to the city shall immediately upon such annexation be automatically classified as an RA-1 district until a zoning map for the area has been adopted by the city council. The planning commission shall recommend appropriate zoning for such area within three months after the matter is referred to it by the city council.

(Ord. of 5-18-2009, § 4.105)

Sec. 98-176. Principal uses and conditional uses.

In all districts, no structure or land shall be used or occupied, except in with Article IV, Division 2 (Table of Permitted Land Uses by District), and as otherwise provided for in this chapter. Conditional uses may be permitted in accordance with Article IV, Division 2 (Table of Permitted Land Uses by District), subject to a public hearing and approval by the planning commission in accordance with the procedures and conditions defined in Article II, Division 3 (Special Land Uses).

(Ord. of 5-18-2009, § 4.106)

Sec. 98-177. Design and development regulations.

All principal permitted uses and conditional uses shall comply with any applicable requirements of this Ordinance and other city codes and ordinances. No structure shall be erected, reconstructed, altered or enlarged, nor shall permits or certificates of occupancy be issued, except in conformance with this chapter and other city codes and ordinances.

(Ord. of 5-18-2009, § 4.107)

Secs. 98-178—98-190. Reserved.

DIVISION 2. TABLE of PERMITTED USES BY DISTRICT

The following table lists the permitted and special land uses in each zoning district. Note that the MH and P-1 districts are not included in the following table. Please refer to Article V for uses permitted in the MH and P-1 Districts.

The permitted uses are separated into four categories:

- Residential uses
- Community and institutional uses

- Commercial, office and retail uses
- Industrial, transportation and utility uses

In the instance of a conflict or discrepancy between the table of permitted uses in this division and the zoning district summaries in Article IV, Division 3, the list of uses in this division shall prevail.

In the instance of a conflict or discrepancy between the table of permitted uses in this division and the table of permitted uses in the B-2 district in Article VI, Division 2, the list of uses in Article VI, Division 2 shall prevail.

(Ord. of 5-18-2009, Art. 4, Ch. 2)

Sec. 98-191. Residential uses.

Key:	■ Principal Permitted Use	□ Special Land use	[shaded] Use Not Permitted

USE		DISTRICT										DESIGN STANDARD
		RA	RT	R	OS	B-	B-	B-	I-C	I-1	TR	
RESIDENTIAL	Apartment			■	■							section 98-238.
	Assisted Living Facility			■	■	■	■	■				section 98-240
	Attached One-Family Dwelling Unit			■	■		■					section 98-238
	Bed and Breakfast	□	□		□	□	□					section 98-223
	Boarding and Rooming Dwellings			■								
	Detached One-Family Dwelling Unit	■	■	□	■							section 98-252
	Home Occupation	■	■	■	■							section 98-231
	Housing for the Elderly			■	■		□	■				section 98-234
	Kennel, Commercial	□	□						□			section 98-235
	Nursing/Convalescent Home			■	■	■	■	■				section 98-240
	State Licensed Res. Facility 6 or fewer residents	■	■		■							section 98-231
	7 or more residents	□	□		■							section 98-231

	Two-Family Dwelling		■	■	■							section 98-252
	Upper Story Dwelling Unit					■	■					section 98-255

*B-2 uses are included for reference only. Refer to Article VI, Division 2 for uses permitted in the B-2 district.

(Ord. of 5-18-2009, § 4.201)

Sec. 98-192. Community and institutional uses.

Key:	■ **Principal Permitted Use**	□ **Special Land use**	**[shaded] Use Not Permitted**

USE		DISTRICT										DESIGN STANDARD
		RA	RT	R-1	OS-1	B-1	B-2*	B-3	I-C	I-1	TR	
COMMUNITY and INSTITUTIONAL	Cemeteries	□	□									
	Child Care Center			□	■	■		■				section 98-225
	Colleges, Universities, or other institutions of higher learning	□	□		■	■		■				
	Community Center	■	■		■	■		■	■			
	Golf Course, Country Club	□	□									section 98-230
	Hospitals			□	■	■	□	■				section 98-232
	Municipal and Government Buildings and Uses	■	■		■	■	■	■	■	■	■	
	Nursery School	□	□	□	■	■		■				section 98-238
	Private and Institutional Recreation Areas	□	□									section 98-244
	Private Clubs and Lodge Halls				■	■	■	■				
	Public Institutions	■	■		■	■	■	■				
	Public Parks and Recreation Facilities	■	■	■	■	■	■	■	■	■	■	
	Religious Institutions	■	■		■	■	■	■	■	■	■	section 98-245
	School, primary or secondary, public or private	■	■		■							

	VocationalSchools				■		■	■	■	■	■	

*B-2 uses are included for reference only. Refer to Article VI, Division 2 for uses permitted in the B-2 district.

(Ord. of 5-18-2009, § 4.202; Ord. No. 01-21, § 1, 2-1-2021)

Sec. 98-193. Commercial, office and retail uses.

Key:	■ Principal Permitted Use	□ Special Land use	[shaded] Use Not Permitted

USE		DISTRICT										DESIGN STANDARD
		RA	RT	R	OS	B-	B-	B-	I-C	I-1	TR	
COMMERCIAL, OFFICE and RETAIL	Adult Regulated Uses								■	■		section 98-221
	Bakeries and Confectionaries					■	■	■	■			
	Bank/Credit Union				■	■	■	■				
	Banquet Hall/Conference Center						■	■				section 98-222
	Car Wash							□	□			section 98-224
	Clinic, medical or dental				■			■	□			
	Commercial Recreation large scale indoor						□	□	■	■		
	small scale indoor						■	■	■			
	outdoor							□	■			section 98-226
	Drive-In or Drive-Through Facility				□	□	□	□				section 98-227
	Funeral Homes		□		□			■				section 98-229
	Gallery, art, photography, etc.				■	■	■	■	■			
	Health or Exercise Clubs						■	■				
	Hotel or Motel						■	□				section 98-233
	Makerspace								■			
	Microbrewery, small winery, craft distillery								■			
	Office, professional				■		■	■	■	■	■	
	Office, medical				■		■	■				
	Personal Service Establishment				■	■	■	■				

	Pet Boarding Facility				■	■		■	■			section 98-242
	Plant Nursery							□	■			section 98-243
	Restaurant carry out					■	■	■	□			
	drive-in or drive-through					□	■	□				98-288
	sit down					■	■	■	□			
	Sidewalk café or outdoor patio					■	■	■	□			section 98-251
	Retail Sales less than 25,000 sq. ft. floor plate				□	■	■	■	□			section 98-246 (OS-1 District)
	greater than 25,000 sq. ft. floor plate							■				section 98-247
	outdoor					□	■	□				section 98-248
	Studio, dance, martial arts, music, etc.					■	■	■	■			
	Theatre, live performance						■	■	■			
	Theatre, movie 3 or fewer screens						■	■	■			
	4 or more screens							■	■			
	Trades Showroom					■	■	■				section 98-254
	Vehicle Fueling Station					□		■				section 98-256
	Vehicle Sales/Rental without Outdoor Display					■	■	■				
	with Outdoor Display							□	□			section 98-257
	Vehicle Service and Repair					□		□	□			section 98-258
	Veterinary Clinic				■	■	■	■				section 98-259

*B-2 uses are included for reference only. Refer to Article VI, Division 2 for uses permitted in the B-2 district.

(Ord. of 5-18-2009, § 4.203; Ord. No. 6-13, 12-2-2013; Ord. No. 01-21, § 1, 2-1-2021)

Sec. 98-194. Industrial, transportation and utility uses.

Key:	■ **Principal Permitted Use**	□ **Special Land use**	**[shaded] Use Not Permitted**

USE		DISTRICT										DESIGN STANDARD
		RA	RT	R	OS	B-1	B-2*	B-3	I-C	I-1	TR	
INDUSTRIAL, TRANSPORTATION AND UTILITY	Commercial Laundry and Central Dry Cleaning Plants								■	■		
	Contractor's Yard, Equipment and Materials Storage without outdoor storage								■	■		
	with outdoor storage								□	□		section 98-241
	Distribution Centers								□	■	□	
	Food Manufacturing									■	■	
	Heavy Equipment and Truck Repair								□	□		
	Incineration									□		
	Information processing centers										■	
	Iron, Steel, or Aluminum Foundry or Fabricating Plant, Smelting									□		section 98-237
	Landscaping Company or Nursery								■	■		Retail sales prohibited
	Light Assembly of Electronic Equipment								■	■	■	
	Lumber, Building and Farm Supply								□	□		
	Lumber Planing Mills									□		section 98-236
	Manufacturing, Assembly, or Production of physical products								■	■	■	
	Manufacturing or Refining of Chemicals and Plastics									□	□	section 98-237
	Manufacturing, Compounding, or Processing of pharmaceuticals, drugs, cosmetics, perfume, etc., except the refining of fats and oils								■	■	■	
	Manufacturing of corrosive acid or alkali, cement, lime, or plaster of Paris									□		section 98-237

	Materials Recovery and Recycling									□		
	Metal Plating, Buffing and Polishing									□	□	
	Outdoor Storage of Materials or Equipment								□	□		section 98-241
	Printing, Publishing and Allied Industries								■	■	■	
	Research, Development and Testing								■	■	■	
	Salvage Operations, including automobile wrecking or dismantling and junkyards									□		section 98-249
	Self-Storage Facilities								■	■	□	section 98-250
	Stamping Facilities									■	□	section 98-253
	Type A Industrial Hemp Facility										□	section 98-268
	Type B Industrial Hemp Facility										□	section 98-268
	Utility and Public Service Buildings with outdoor storage yard								■	■		section 98-241
	without outdoor storage yard	□	□	□	□	□	□	■	■	■	■	
	Warehousing and Storage								■	■	■	
	Wholesaling								■	■	■	
	Wireless Communication Facilities	□	□	□	□	□	□	□	□	□	□	section 98-260

*B-2 uses are included for reference only. Refer to Article VI, Division 2 for uses permitted in the B-2 district.

(Ord. of 5-18-2009, § 4.204; Ord. No. 1-13, 1-21-2013; Ord. No. 03-21, § 1, 4-5-21; Ord. No. 04-21, § 1, 5-3-2021; Ord. No. 05-21, § 1, 5-8-21)

Secs. 98-195—98-200. Reserved.

DIVISION 3. SCHEDULE OF REGULATIONS AND ZONING DISTRICT SUMMARIES

Sec. 98-201. Schedule of regulations summary table.

Key:*: Refer to District Summary Page—: No Regulation

USE DISTRICT	MINIMUM LOT		MAXIMUM HEIGHT		MINMUM SETBACKS (FEET)				FOOTNOTES and OTHER REGULATIONS
	AREA (sq. ft.)	WIDTH (feet)	STORIES	FEET	FRONT	SIDE (ONE)	SIDE (BOTH)	REAR	
RA-1	9,600	80	2	30	30*	8*	18	30	section 98-202
RA-2	7,200	70	2	30	30*	8*	16	30	section 98-203
RT	9,800	90	2	30	30*	9*	18	40	section 98-204
RM-1	*	—	2	25*	25	10*	20	30*	section 98-205
RM-2	*	—	4	45*	30	10*	20	40*	section 98-206
OS-1	—	—	2.5*	30*	20*	*	*	10*	section 98-207
B-1	—	—	2.5	30	10*	*	*	10	section 98-208
B-2	Refer to Article VI								
B-3	—	—	3	45	25*	*	*	10*	section 98-209
I-C	—	—	—	50	50*	12*	24	*	section 98-210
I-1	—	—	—	—	50*	12*	24	*	section 98-211
TRD	—	—	—	60	65*	15*	30	60*	section 98-212
PUD	Refer to Article V, Chapter 1								
PRD	Refer to Article V, Chapter 2								
ERC	Refer to Article V, Chapter 3								
MH	Refer to Article V, Chapter 7								

Refer to the district summaries in the following sections for specific dimensional requirements and exceptions applicable in each district.

(Ord. of 5-18-2009, § 4.301)

Sec. 98-202. RA-1—One-family residential district.

(a) *Statement of purpose.* The RA-1 district is designed to be composed of low-density residential home development. The regulations are intended to stabilize, protect and encourage the residential character of the district and prohibit activities not compatible with a residential neighborhood. Development is limited to single-family dwellings plus such other uses as schools, parks, churches and certain public facilities that serve residents of the district.

(b) *Permitted uses.* ([ ]: Use is subject to specific design standards.)

[1] *Principal permitted uses:*

- Community center
- Detached one-family dwelling unit [section 98-252]
- Home occupation [section 98-231]
- Municipal and government buildings and uses
- Public institutions

- Public parks and recreation facilities
- Religious institutions [section 98-245]
- Schools—Primary or secondary, public or private
- State licensed residential facilities—Six or fewer persons [section 98-241]

[2] *Special land uses:*

- Bed and Breakfast [section 98-223]
- Cemeteries
- Colleges, universities, and institutions of higher learning
- Commercial kennel [section 98-235]
- State licensed residential facilities—Seven or more persons [section 98-241]
- Utility and public service buildings—Without outdoor storage yards

(c) *Dimensional regulations.*

(1) *Lot standards:*

a. Minimum lot width: 80 feet.

b. Minimum lot area: 9,600 sq. ft.

c. Minimum floor area per unit: 1,200 sq. ft.

d. Minimum ground floor area per unit: 750 sq. ft.

(2) *Setbacks:*

a. Front yard: 30 feet[1].

b. Side yard (one): 8 feet[2]

c. Side Yard (total of two): 18 feet.

d. Rear Yard: 30 feet.

(3) *Building height:*

a. In stories: 2 Stories.

b. In feet: 30 Feet.

Dimensional regulations footnotes:

[1] *Established building line.* In the event there is an established building line along a street, the front yard setback shall be the established building line provided that in no case may the front yard setback be reduced to less than 20 feet.

[2] *Side street yard.* The side yard abutting on a street shall not be less than eight feet when there is a common rear yard. In the case of a rear yard abutting a side yard of an adjacent lot, the minimum side street yard setback shall be 30 feet.

(d) *Additional standards.*

(1) Accessory structures: Article VIII, Division 1.

(2) Dimensional provisions: Article VIII, Division 3.

(3) Landscaping: Article X.

(4) One-family clustering option:Article V, Division 5.

(5) Open space plan option: Article V, Division 4.

(6) RV storage: section 98-536.

(7) Signs: Article IX.

(8) Sustainable energy generation: Article VIII, Division 5.

(9) Site condominium option: Article V, Division 6.

(Ord. of 5-18-2009, § 4.302)

Sec. 98-203. RA-2—One-family residential district.

(a) *Statement of purpose.* The RA-2 district is designed to be composed of low-density residential home development. The regulations are intended to stabilize, protect and encourage the residential character of the district and prohibit activities not compatible with a residential neighborhood. Development is limited to single-family dwellings plus such other uses as schools, parks, churches and certain public facilities that serve residents of the district.

(b) *Permitted uses.* ([ ]: Use is subject to specific design standards.)

[1] *Principal permitted uses:*

- Community center
- Detached one-family dwelling unit [section 98-252]
- Home occupation [section 98-231]
- Municipal and government buildings and uses
- Public institutions
- Public parks and recreation facilities
- Religious institutions [section 98-245]
- Schools—Primary or secondary, public or private
- State licensed residential facilities—Six or fewer persons [section 98-241]

[2] *Special land uses:*

- Bed and Breakfast [section 98-223]
- Cemeteries
- Colleges, universities, and institutions of higher learning
- Commercial kennel [section 98-235]
- State licensed residential facilities—Seven or more persons [section 98-241]
- Utility and public service buildings—Without outdoor storage yards

(c) *Dimensional regulations.*

(1) *Lot standards:*

a. Minimum lot width: 70 feet.

b. Minimum lot area: 7,200 sq. ft.

c. Minimum floor area per unit: 900 sq. ft.

d. Minimum ground floor area per unit: 550 sq. ft.

(2) *Setbacks:*

a. Front yard: 30 feet[1].

b. Side yard (one): 8 feet[2].

c. Side yard (total of two): 16 feet.

d. Rear yard: 30 feet.

(3) *Building height:*

a. In stories: 2 Stories.

b. In feet: 30 feet.

Dimensional regulations footnotes:

[1] *Established building line.* In the event there is an established building line along a street, the front yard setback shall be the established building line provided that in no case may the front yard setback be reduced to less than 20 feet.

[2] *Side street yard.* The side yard abutting on a street shall not be less than eight feet when there is a common rear yard. In the case of a rear yard abutting a side yard of an adjacent lot, the minimum side street yard setback shall be 30 feet.

(d) *Additional standards.*

(1) Accessory structures: Article VIII, Division 1.

(2) Dimensional provisions: Article VIII, Division 3.

(3) Landscaping: Article X.

(4) One-family clustering option: Article V, Division 5.

(5) Open space plan option: Article V, Division 4.

(6) RV storage: Section 98-536.

(7) Signs: Article IX.

(8) Sustainable energy generation: Article VIII, Division 5.

(9) Site condominium option: Article V, Division 6.

(Ord. of 5-18-2009, § 4.303)

Sec. 98-204. RT—Two family residential district.

(a) *Statement of purpose.* The RT district is designed to provide sites for two-family dwelling structure and related uses that will generally serve as zones of transition between nonresidential districts and lower-density one-family residential districts.

(b) *Permitted uses.* ([ ]: Use is subject to specific design standards.)

[1] *Principal permitted uses:*

- Community center
- Detached one-family dwelling unit [section 98-252]
- Home occupation [section 98-231]
- Municipal and government buildings and uses
- Public institutions
- Public parks and recreation facilities
- Religious institutions [section 98-245]
- Schools—Primary or secondary, public or private
- State licensed residential facilities—Six or fewer persons [section 98-241]
- Two-family dwelling unit [section 98-252]

[2] *Special land uses:*

- Bed and Breakfast [section 98-223]
- Cemeteries
- Colleges, universities, and institutions of higher learning
- Commercial kennel [section 98-235]
- State licensed residential facilities—Seven or more persons [section 98-241]
- Utility and public service buildings—Without outdoor storage yards

(c) *Dimensional regulations.*

(1) *Lot standards:*

a. Minimum lot width: 90 feet.

b. Minimum lot area: 9,800 sq. ft.

c. Minimum floor area per unit: 750 sq. ft.

(2) *Setbacks:*

a. Front yard: 30 feet[1].

b. Side yard (one): 9 feet[2].

c. Side yard (total of two): 18 feet.

d. Rear yard: 40 feet.

(3) *Building height:*

a. In stories: 2 stories.

b. In feet: 30 feet.

Dimensional regulations footnotes:

[1.] *Established building line.* In the event there is an established building line along a street, the front yard setback shall be the established building line provided that in no case may the front yard setback be reduced to less than 20 feet.

[2] *Side street yard.* The side yard abutting on a street shall not be less than eight feet when there is a common rear yard. In the case of a rear yard abutting a side yard of an adjacent lot, the minimum side street yard setback shall be 30 feet.

(d) *Additional standards.*

(1) Accessory structures: Article VIII, Division 1.

(2) Dimensional provisions: Article VIII, Division 3.

(3) Exterior lighting: Article VIII, Division 2.

(4) Landscaping: Article X.

(5) One-family clustering option: Article V, Division 5.

(6) Open space plan option: Article V, Division 4.

(7) Parking: Article XI.

(8) Performance standards: Article VIII, Division 6.

(9) RV and commercial vehicle storage: Section 98-536.

(10) Signs: Article IX.

(11) Sustainable energy generation: Article VIII, Division 5.

(12) Site condominium option: Article V, Division 6.

(Ord. of 5-18-2009, § 4.304)

Sec. 98-205. RM-1—Multiple family residential district.

(a) *Statement of purpose.* The RM-1 multiple-family residential districts are designed to provide sites for multiple-family dwelling structures and other restricted uses that will generally serve as zones of transition between nonresidential districts and lower density one-family residential districts. Multiple family districts are further provided to serve the limited needs for apartment-style units in an otherwise low-density single-family community.

(b) *Permitted uses.* ([ ]: Use is subject to specific design standards.)

(1) *Principal permitted uses:*

- Apartment [section 98-238]
- Assisted living facility [section 98-240]
- Attached one-family dwelling unit [section 98-238]
- Boarding and rooming dwellings
- Home occupation [section 98-231]
- Housing for the Elderly [section 98-234]
- Nursing/Convalescent Home [section 98-240]
- Two-Family Dwelling Unit [section 98-252]

(2) *Special land uses:*

- Child care center [section 98-225]

- Detached one-family dwelling unit [section 98-252]
- Hospital [section 98-232]
- Nursery school [section 98-238]
- Utility and public service buildings—without outdoor storage yards

(c) *Dimensional regulations.*

(1) *Lot standards:*

a. Minimum Lot Width: None.

b. Maximum density: 10 units/acre

c. Minimum floor area per unit:

1. Efficiency: 400 sq. ft.

2. One-bedroom: 500 sq. ft.

3. Two-Bedroom: 700 sq. ft.

4. Three or more bedroom: 900 sq. ft.

(2) *Perimeter setbacks[1]:*

a. Front yard: 25 feet.

b. Side yard (one): 10 feet[2, 3].

c. Side yard (total of two): 20 feet.

d. Rear yard: 30 feet[2].

(3) *Interior setbacks[4]:*

a. Front yard: 20 feet.

b. Side yard: 20 feet.

c. Rear Yard: 40 feet.

(4) *Building height:*

a. In stories: 2 stories.

b. In feet: 25 feet[5].

Dimensional regulations footnotes:

[1] *Measurement.* Perimeter setbacks are measured from any property line or street right-of-way bounding the property on which the multiple family dwelling units are located.

[2] *Increased setback.* The side or rear yard for a use other than one, two, or multiple-family dwellings shall be not less than the height of the structure.

[3] *Side street yard.* The side yard abutting on a street shall not be less than ten feet when there is a common rear yard. In the case of a rear yard abutting a side yard of an adjacent lot, the minimum side street yard setback shall be 25 feet.

[4] *Measurement.* Interior setbacks are measured from any internal street, common area, or building located on the same property.

[5] *Height exception.* The height of any principal building may exceed the maximum permitted height by one foot if each perimeter yard setback is increased by one foot and each interior yard setback is increased by one half foot.

(d) *Additional standards.*

(1) Accessory structures: Article VIII, Division 1.

(2) Dimensional provisions: Article VIII, Division 3.

(3) Exterior lighting: Article VIII, Division 2.

(4) Landscaping: Article X.

(5) One-family clustering option: Article V, Division 5.

(6) Open space plan option: Article V, Division 4.

(7) Parking: Article X.

(8) Performance standards: Article VIII, Division 6.

(9) RV and commercial vehicle storage: Section 98-536.

(10) Signs: Article IX.

(11) Sustainable energy generation: Article VIII, Division 5.

(12) Site condominium option: Article V, Division 6.

(Ord. of 5-18-2009, § 4.305)

Sec. 98-206. RM-2—Multiple family residential district.

(a) *Statement of purpose.* The RM-2 multiple-family residential districts are designed to provide sites for higher density multiple-family dwelling structures and related uses that will be located in proximity to the central downtown business district of the city. The RM-2 districts are further provided to serve the limited needs for apartment-style dwelling units in an otherwise low-density single-family community.

(b) *Permitted uses.* ([ ]: Use is subject to specific design standards.)

(1) *Principal permitted uses:*

- Apartment [section 98-238]
- Assisted living facility [section 98-240]
- Attached one-family dwelling unit [section 98-238]
- Boarding and rooming dwellings
- Home occupation [section 98-231]
- Housing for the Elderly [section 98-234]
- Nursing/Convalescent Home [section 98-240]
- Two-Family Dwelling Unit [section 98-252]

(2) *Special land uses:*

- Child care center [section 98-225]
- Detached one-family dwelling unit [section 98-252]

- Hospital [section 98-232]
- Nursery school [section 98-238]
- Utility and Public Service Buildings—without outdoor storage yards

(c) *Dimensional regulations.*

(1) *Lot standards:*

a. Minimum Lot Width: None.

b. Maximum density: 10 units/acre

c. Minimum floor area per unit:

1. Efficiency: 400 sq. ft.

2. One-bedroom: 500 sq. ft.

3. Two-Bedroom: 700 sq. ft.

4. Three or more bedroom: 900 sq. ft.

(2) *Perimeter setbacks[1]:*

a. Front yard: 30 feet.

b. Side yard (one): 10 feet[2, 3].

c. Side yard (total of two): 20 feet.

d. Rear yard: 30 feet[2].

(3) *Interior setbacks[4]:*

a. Front yard: 20 feet.

b. Side yard: 20 feet.

c. Rear Yard: 40 feet.

(4) *Building height:*

a. In stories: 2 stories.

b. In feet: 45 feet[5].

Dimensional regulations footnotes:

[1] *Measurement.* Perimeter setbacks are measured from any property line or street right-of-way bounding the property on which the multiple family dwelling units are located.

[2] *Increased setback.* The side or rear yard for a use other than one, two, or multiple-family dwellings shall be not less than the height of the structure.

[3] *Side street yard.* The side yard abutting on a street shall not be less than ten feet when there is a common rear yard. In the case of a rear yard abutting a side yard of an adjacent lot, the minimum side street yard setback shall be 25 feet.

[4] *Measurement.* Interior setbacks are measured from any internal street, common area, or building located on the same property.

[5] *Height exception.* The height of any principal building may exceed the maximum permitted height by one foot if each perimeter yard setback is increased by one foot and each interior yard setback is increased by one half foot.

(d) *Additional standards.*

(1) Accessory structures: Article VIII, Division 1.

(2) Dimensional provisions: Article VIII, Division 4.

(3) Exterior lighting: Article VIII, Division 2.

(4) Landscaping: Article X.

(5) One-family clustering option: Article V, Division 5.

(6) Open space plan option: Article V, Division 4.

(7) Parking: Article XI.

(8) Performance standards: Article VIII, Division 6.

(9) RV and commercial vehicle storage: Section 98-536.

(10) Signs: Article IX.

(11) Sustainable energy generation: Article VIII, Division 5.

(12) Site condominium option: Article V, Division 6.

(Ord. of 5-18-2009, § 4.306)

Sec. 98-207. OS-1—Office service district.

(a) *Statement of purpose.* The OS-1 office service districts are designed to accommodate uses such as offices, banks and personal services that can serve as a transitional area between residential and commercial districts and to provide a transition between major thoroughfares and residential districts.

(b) *Permitted uses.* ([ ]: Use is subject to specific design standards.)

(1) *Principal permitted uses:*

- Apartment [section 98-238]
- Assisted living facility [section 98-240]
- Attached one-family dwelling Unit [section 98-238]
- Bank/credit union
- Child care center [section 98-225]
- Clinic, medical or dental
- Colleges, universities and institutions of higher learning
- Community center
- Detached one-family dwelling unit [section 98-252]
- Gallery—art, photography, etc.
- Home Occupation [section 98-231]

- Hospital [section 98-232]
- Housing for the elderly [section 98-234]
- Municipal and government buildings and uses
- Nursery school [section 98-238]
- Nursing/convalescent home [section 98-240]
- Office, medical or professional
- Personal service establishment
- Pet boarding facililty [section 98-242]
- Private clubs and lodge halls
- Public institutions
- Public parks and recreation facilities
- Religious institutions [section 98-245]
- Schools—primary or secondary, public or private
- State licensed residential facilities—all types [section 98-231]
- Two-Family dwelling unit [section 98-252]
- Veterinary clinic
- Vocational schools

(2) *Special land uses:*

- Bed and breakfast [section 98-223]
- Drive in or drive through facility [section 98-227]
- Funeral Home [section 98-229]
- Retail Sales - less than 20,000 sq. ft. floor plate [section 98-246]
- Utility and Public Service Buildings - without outdoor storage yards

(c) *Dimensional regulations.*

(1) *Setbacks:*

a. Front yard: 20 feet[1, 2].

b. Side yard: 0 feet[3, 4, 5].

c. Rear yard: 10 feet[6]

(2) Building height[7]:

a. In stories: 2.5 stories.

b. In feet: 30 feet.

Dimensional regulations footnotes:

[1] *Established building line.* In the event there is an established building line along a street, the front yard setback shall be the established building line provided that in no case may the front yard setback be reduced to less than 20 feet.

[2] *Projections.* Canopies and awnings with a maximum height of 12 feet and a minimum clearance of 8 feet from grade may project up to 6 feet into the required front yard.

[3] *Side street yard.* The side yard abutting on a street shall not be less than eight feet when there is a common rear yard. In the case of a rear yard abutting a side yard of an adjacent lot, the minimum side street yard setback shall be 20 feet.

[4] *Interior side yard.* No interior side yard setback is required unless the abutting zoning district is residential or structures facing interior side lot lines contain windows or other openings, in which case a 12-foot side yard setback is required.

[5] *Single family residential.* Single family residential dwelling units shall comply with the side yard setback requirements applicable in the RA-2 district.

[6] *Alleys.* Half the width of alleys at the rear of the lot may be considered in computing rear yard setbacks.

[7] *Height exceptions.* The city council may approve a height exception following a recommendation by the planning commission for developments on two acres or more where adequate site relationship to abutting zones or uses can be maintained.

(d) *Required conditions.*

(1) No interior display in an OS-1 district shall be visible from the exterior of the building.

(2) The outdoor storage of goods or material shall be prohibited.

(3) Warehousing or indoor storage of goods or material, beyond that normally incident to the uses permitted in this section, shall be prohibited.

(e) *Additional standards.*

(1) Accessory structures: Article VIII, Division 1.

(2) Dimensional provisions: Article VIII, Division 3.

(3) Exterior lighting: Article VIII, Division 2.

(4) Landscaping: Article X.

(5) One-family clustering option: Article V, Division 5.

(6) Open space plan option: Article V, Division 4.

(7) Parking: Article XI.

(8) Performance standards: Article VIII, Division 6.

(9) RV and commercial vehicle storage: Section 98-536.

(10) Signs: Article IX.

(11) Sustainable energy generation: Article VIII, Division 5.

(12) Site condominium option: Article V, Division 6.

(Ord. of 5-18-2009, § 4.307)

Sec. 98-208. B-1—Local business district.

(a) *Statement of purpose.* The B-1 local business districts are designed to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas.

(b) *Permitted uses.* ([ ]: Use is subject to specific design standards.)

(1) *Principal permitted uses:*

- Assisted living facility [section 98-240]
- Bakeries and confectionaries
- Bank/credit union
- Child care center [section 98-2]
- Colleges, universities and institutions of higher learning
- Community center
- Gallery—art, photography, etc.
- Hospital [section 98-232]
- Municipal and government buildings and uses
- Nursery school [section 98-228]
- Nursing/convalescent home [section 98-240]
- Personal service establishment
- Pet boarding facility [section 98-242]
- Private clubs and lodge halls
- Public institutions
- Public parks and recreation facilities
- Religious institutions [section 98-245]
- Restaurant—carry out, sit down, or sidewalk café [section 98-251]
- Retail sales—less than 20,000 sq. ft. floorplate
- Studio—dance, martial arts, music, etc.
- Trades showroom [section 98-254]
- Upper story dwelling unit [section 98-255]
- Vehicle Sales/Rental—without outdoor display
- Veterinary clinic

(2) *Special land uses:*>

- Bed and Breakfast [section 98-223]
- Drive-in or drive-through facility [section 98-227]
- Restaurant—drive-in or drive-through [section 98-228]
- Retail Sales—outdoor [section 98-248]
- Utility and public service buildings—without outdoor storage yards
- Vehicle fueling station [section 98-256]
- Vehicle Service and Repair [section 98-258]

(c) *Dimensional regulations.*

(1) *Setbacks:*

a. Front yard:

1. Minimum: 10 feet[1, 2].

2. Maximum: 25 feet.

b. Side yard: 0 feet[3, 4].

c. Rear yard: 10 feet[5]

(2) *Building height:*

a. In stories: 2.5 stories.

b. In feet: 30 feet.

Dimensional regulations footnotes:

[1] *Established building line.* In the event there is an established building line along a street, the front yard setback shall be the established building line provided that in no case shall the required front yard setback be less than ten feet.

[2] *Projections.* Canopies and awnings with a maximum height of 12 feet and a minimum clearance of 8 feet from grade may project up to 6 feet into the required front yard.

[3] *Side street yard.* The side yard abutting on a street shall not be less than eight feet when there is a common rear yard. In the case of a rear yard abutting a side yard of an adjacent lot, the minimum side street yard setback shall be 20 feet.

[4] *Interior side yard.* No interior side yard setback is required unless the abutting zoning district is residential or structures facing interior side lot lines contain windows or other openings, in which case a 12 foot side yard setback is required.

[5] *Alleys.* Half the width of alleys at the rear of the lot may be considered in computing rear yard setbacks.

(d) *Required conditions.*

(1) All business establishments in B-1 districts shall be retail or service establishments dealing directly with customers. All goods produced on the premises shall be sold at retail on the premises where produced.

(2) All business, servicing, processing and storage of goods, except for off-street parking or loading, shall be conducted entirely within an enclosed building.

(e) *Additional standards.*

(1) Accessory structures: Article VIII, Division 1.

(2) Development design standards: Article VII.

(3) Dimensional provisions: Article VIII, Division 3.

(4) Exterior lighting: Article VIII, Division 2.

(5) Landscaping: Article X.

(6) Parking: Article XI.

(7) Performance standards: Article VIII, Division 6.

(8) General provisions: Article VIII, Division 4.

(9) Signs: Article IX.

(10) Sustainable energy generation: Article VIII, Division 5.

(Ord. of 5-18-2009, § 4.308)

Sec. 98-209. B-3—General business district.

(a) *Statement of purpose.*The B-3 general business districts are designed to furnish goods and services in a vehicular-oriented environment. The range of uses permitted in the B-3 district are characterized by a diversity of businesses that are typically incompatible with pedestrian movement and that cater to passerby traffic on arterial roads.

(b) *Permitted uses.* ([ ]: Use is subject to specific design standards.)

(1) *Principal permitted uses:*

- Assisted living facility [section 98-240]
- Bakeries and confectionaries
- Bank/credit union
- Banquet hall/conference center [section 98-222]
- Child care center [section 98-225]
- Clinic, medical or dental
- Colleges, universities and institutions of higher learning
- Community center
- Commercial recreation—small scale indoor
- Funeral home [section 98-229]
- Gallery—art, photography, etc.
- Health or exercise club
- Hospital [section 98-232]
- Housing for the elderly [section 98-234]
- Micro brewery/winery
- Municipal and government buildings and uses
- Nursery school [section 98-238]
- Nursing/convalescent home [section 98-240]
- Office, medical or professional
- Personal service establishment
- Pet boarding facility [section 98-242]
- Private clubs and lodge halls
- Public institutions

- Public parks and recreation facilities
- Religious institutions [section 98-245]
- Restaurant—carry out, sit down, or sidewalk café [section 98-251]
- Retail Sales—less than 20,000 sq. ft. floorplate
- Retail Sales—greater than 20,000 sq. ft. floorplate [section 98-247]
- Studio—dance, martial arts, music, etc.
- Theatre - live performance or movie
- Trades showroom [section 98-254]
- Utility and public service buildings—without outdoor storage yards
- Vehicle fueling station [section 98-256]
- Vehicle sales/rental—without outdoor display
- Veterinary clinic
- Vocational school

(2) *Special land uses:*

- Car wash [section 98-224]
- Commercial recreation—large scale indoor
- Commercial recreation—outdoor [section 98-246]
- Drive-in or Drive-through facility [section 98-227]
- Hotel or motel [section 98-233]
- Plant nursery [section 98-243]
- Restaurant—drive-in or drive-through [section 98-228]
- Retail sales—outdoor [section 98-248]
- Vehicle sales/rental—with outdoor display [section 98-257]
- Vehicle service and repair [section 98-257]

(c) *Dimensional regulations.*

(1) *Setbacks:*

a. Front yard: 25 feet[1, 2, 3].

b. Side yard: 0 feet[4, 5].

c. Rear yard: 10 feet[6].

(2) *Building height:*

a. In stories: 3 stories.

b. In feet: 45 feet.

Dimensional regulations footnotes:

[1] *Established building line.* In the event there is an established building line along a street, the front yard setback shall be the established building line provided that in no case shall the required front yard setback be less than ten feet.

[2] *Front yard parking.* Parking is permitted in a required front yard; subject to a 10-foot wide greenbelt being provided between the parking area and the property line abutting a street or service drive.

[3] *Projections.* Canopies and awnings with a maximum height of 12 feet and a minimum clearance of 8 feet from grade may project up to six feet into the required front yard.

[4] *Side street yard.* The side yard abutting on a street shall not be less than 20 feet when there is a common rear yard. In the case of a rear yard abutting a side yard of an adjacent lot, the minimum side street yard setback shall be 30 feet.

[5] *Interior side yard.* No interior side yard setback is required unless the abutting zoning district is residential or structures facing interior side lot lines contain windows or other openings, in which case a 12 foot side yard setback is required.

[6] *Alleys.* Half the width of alleys at the rear of the lot may be considered in computing rear yard setbacks.

(d) *Additional standards.*

(1) Accessory structures: Article VIII, Division 1.

(2) Development design standards: Article VII.

(3) Dimensional provisions: Article VIII, Division 3.

(4) Exterior lighting: Article VIII, Division 2.

(5) Landscaping: Article X.

(6) Parking: Article XI.

(7) Performance standards: Article VIII, Division 6.

(8) General provisions: Article VIII, Division 4.

(9) Signs: Article IX.

(10) Sustainable energy generation: Article VIII, Division 5.

(Ord. of 5-18-2009, § 4.309; Ord. No. 6-13, 12-2-2013)

Sec. 98-210. I-C—Industrial-commercial district.

(a) *Statement of purpose.* The I-C industrial-commercial districts are designed to primarily accommodate wholesale activities, warehouses, industrial operations and commercial uses that have characteristics similar to industrial uses or that require outdoor storage or create effects which may be disruptive to activities in retail shopping areas. Residential and retail uses are prohibited in the I-C district. It is the intent of this district to encourage industrial uses and to protect the health and public safety by minimizing nuisances that can be created by industrial development.

(b) *Permitted uses.* ([ ]: Use is subject to specific design standards.)

(1) *Principal permitted uses:*

- Bakeries and confectionaries
- Commercial laundry and dry cleaning plants

- Commercial recreation—large scale indoor
- Commercial recreation—outdoor
- Commercial recreation—small scale indoor
- Community center
- Contractor's yard—without outdoor storage
- Gallery—art, photography, etc.
- Landscaping company or nursery—retail sales prohibited
- Light assembly of electronic equipment, industrial machines, and scientific equipment
- Makerspace
- Manufacturing, assembly or production—physical products, pharmaceuticals, drugs, cosmetics, perfume, etc. (except the refining of fats and oils)
- Microbrewery, small winery, craft distillery
- Municipal and government buildings and uses
- Office, professional
- Pet boarding facility [section 98-242]
- Plant nursery [section 98-243]
- Printing, publishing and allied industries
- Public parks and recreation facilities
- Religious institutions [section 98-245]
- Research, development and testing
- Self storage facilities [section 98-250]
- Studio—dance, martial arts, music, etc.
- Theater—live performance or movie
- Utility and public service buildings—with or without outdoor storage yards [section 98-241]
- Vehicle sales/rental—without outdoor display
- Veterinary clinic
- Vocational school
- Warehousing and storage
- Wholesaling

(2) *Special land uses:*

- Car wash [section 98-224]
- Clinic, medical or dental—when associated with on-site laboratories
- Commercial recreation—outdoor [section 98-226]
- Distribution centers

- Heavy equipment and truck repair
- Kennel, commercial [section 98-235]
- Lumber, building and farm supply
- Outdoor equipment and materials storage [section 98-241]
- Restaurant—carry out, sit down, or sidewalk café
- Retail sales—less than 25,000 square feet floor plate
- Retail sales—greater than 25,000 square feet floor plate [section 98-247—Retail sales, large floor plate]
- Vehicle sales/rental—with or without outdoor display [section 98-257]
- Vehicle service and repair [section 98-258]

(c) *Dimensional regulations.*

(1) *Setbacks:*

a. Front yard: 50 feet[1, 2, 3].

b. Side yard: 12 feet[4, 5, 6].

c. Rear yard: 10 feet[6].

(2) *Building height:*

a. In stories: —

b. In Feet: 50 feet.

Dimensional regulations footnotes:

[1] *Shallow lot.* In those instances where platted lots with a depth of 300 feet or less exist, the required front yard setback shall be 20 feet.

[2] *Front yard parking.* Parking is permitted in a required front yard, subject to a 10-foot wide greenbelt being provided between the parking area and the property line abutting a street or service drive.

[3] *Established building line.* In the event there is an established building line along a street, the front yard setback shall be the established building line provided that in no case shall the required front yard setback be greater than 10 feet.

[4] *Side street yard.* The side yard abutting on a street shall not be less than 12 feet.

[5] *Interior side yard.* No interior side yard setback is required unless the abutting zoning district is residential or structures facing interior side lot lines contain windows or other openings, in which case a 12-foot side yard setback is required.

[6] *Setback From residential districts.* A 20-foot wide greenbelt with a 4.5 foot tall decorative obscuring wall or a heavily-planted 40-foot wide greenbelt with a 6-foot tall chain link fence shall be provided on those sides of the property abutting a residential district.

(d) *Required conditions.*

(1) Not more than 25 percent of the floor area of the building used as office space may be used for the sale of the product manufactured on the site.

(e) *Additional standards.*

(1) Accessory structures: Article VIII, Division 1.

(2) Development design standards: Article VII.

(3) Dimensional provisions: Article VIII, Division 3.

(4) Exterior lighting: Article VIII, Division 2.

(5) Landscaping: Article X.

(6) Parking: Article XI.

(7) Performance standards: Article VIII, Division 6.

(8) General provisions: Article VIII, Division 4.

(9) Signs: Article IX.

(10) Sustainable energy generation: Article VIII, Division 5.

(Ord. of 5-18-2009, § 4.310; Ord. No. 01-21, § 1, 2-1-2021)

Sec. 98-211. I-1—Industrial district.

(a) *Statement of purpose.* The 1-1 industrial districts are designed so as to primarily accommodate wholesale activities, warehouses and industrial operations. In order to allow optimum service to activities of this nature, residential uses, uses incidental to residential development and most retail activities are prohibited from this district. It is the intent of this district to encourage the full utilization of the district under adequate standards of development, health and public safety, and to protect against the creation of nuisances.

Further, the purpose of the I-1 district is to 1) provide sufficient space, in appropriate locations, to meet the needs of the city's expected future economy for all types of manufacturing and related uses; 2)protect abutting residential districts by separating them from manufacturing activities, and by prohibiting the use of such industrial areas for new residential development; 3) promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation and other hazards, and from offensive noise, vibration, smoke, odor and other objectionable influences; and 4)protect the most desirable use of land in accordance with a well-considered plan; to protect the character and established pattern of adjacent development, and in each area to conserve the value of land and buildings and other structures, and to protect the city's tax revenue base.

(b) *Permitted uses.* ([ ]: Use is subject to specific design standards.)

(1) *Principal permitted uses:*

- Commercial laundry and dry cleaning plants
- Commercial recreation—large scale indoor
- Contractor's yard— without outdoor storage
- Distribution centers
- Landscaping company or nursery—retail sales prohibited
- Light assembly of electronic equipment, industrial machines, and scientific equipment
- Manufacturing, assembly or production—physical products, food, pharmaceuticals, drugs, cosmetics, perfume, etc. (except the refining of fats and oils)
- Municipal and government buildings and uses
- Office, professional

- Printing, publishing and allied industries
- Public parks and recreation facilities
- Religious institutions [section 98-245]
- Research, development and testing
- Self storage facilities [section 98-250]
- Stamping facilities [section 98-253]
- Utility and public service buildings—with or without outdoor storage yards [section 98-241]
- Vehicle sales/rental—without outdoor display
- Veterinary clinic
- Vocational school
- Warehousing and storage
- Wholesaling

(2) *Special Land Uses:*

- Adult regulated uses [section 98-221]
- Clinic, medical or dental—when associated with on-site laboratories
- Heavy equipment and truck repair
- Incineration
- Manufacturing or refining—chemicals, plastics, corrosive acid or alkali, cement, lime, or plaster of Paris [section 98-237]
- Materials recovery and recycling
- Metal foundries or smelting [section 98-237]
- Metal plating, buffing and polishing
- Lumber, building and farm supply
- Lumber planing mills [section 98-236]
- Outdoor equipment and materials storage [section 98-241]
- Salvage operations or junkyards [section 98-249]

(c) *Dimensional regulations.*

(1) *Setbacks:*

a. Front yard: 50 feet[1, 2, 3].

b. Side yard: 12 feet[4, 5, 6].

c. Rear yard: 10 feet[6]

(2) *Building height:*

a. In stories: —

b. In feet: 50 feet.

Dimensional regulations footnotes:

[1] *Shallow lot.* In those instances where platted lots with a depth of 300 feet or less exist, the required front yard setback shall be 20 feet.

[2] *Front yard parking.* Parking is permitted in a required front yard, subject to a ten-foot wide greenbelt being provided between the parking area and the property line abutting a street or service drive.

[3] *Established building line.* In the event there is an established building line along a street, the front yard setback shall be the established building line provided that in no case shall the required front yard setback be greater than ten feet.

[4] *Side street yard.* The side yard abutting on a street shall not be less than 12 feet.

[5] *Interior side yard.* No interior side yard setback is required unless the abutting zoning district is residential or structures facing interior side lot lines contain windows or other openings, in which case a 12-foot side yard setback is required.

[6] *Setback from residential districts.* A 20-foot wide greenbelt with a 4.5-foot tall decorative obscuring wall or a heavily-planted 40-foot wide greenbelt with a six-foot tall chain link fence shall be provided on those sides of the property abutting a residential district.

(d) *Additional standards.*

(1) Accessory structures: Article VIII, Division 1.

(2) Development design standards: Article VII.

(3) Dimensional provisions: Article VIII, Division 3.

(4) Exterior lighting: Article VIII, Division 2.

(5) Landscaping: Article X.

(6) Parking: Article XI.

(7) Performance standards: Article VIII, Division 6.

(8) General provisions: Article VIII, Division 4.

(9) Signs: Article IX.

(10) Sustainable energy generation: Article VIII, Division 5.

(Ord. of 5-18-2009, § 4.311; Ord. No. 03-21, § 1, 4-5-2021; Ord. No. 05-21, § 1, 5-3-2021)

Sec. 98-212. TRD—Technology, research and development district.

(a) *Statement of purpose.* The intent of a TRD technology, research and development district is for those facilities that serve the needs of commerce, industry and education. The primary characteristics for these types of uses are that they do not require outdoor storage of materials or vehicles, have little or no truck traffic, have little or no noise considerations, have little or no emissions of pollutants or chemicals that are detrimental to air or water quality, and do not produce any discernable heat or glare at lot lines. It is the intent of this article to encourage the full utilization of the district under adequate standards of development, health and public safety, and to protect against the creation of nuisances.

(b) *Permitted uses.* ([ ]: Use is subject to specific design standards.)

(1) *Principal permitted uses:*

- Food manufacturing

- Information processing centers
- Light assembly of electronic equipment, industrial machines, and scientific equipment
- Light manufacturing and processing occurring entirely within a building. Outdoor storage is prohibited.
- Manufacturing, assembly, or production of physical products
- Manufacturing, compounding, or processing of pharmaceuticals, drugs, cosmetics, perfume, etc., except the refining of fats and oils
- Municipal and government buildings and uses
- Offices
- Printing, publishing, and allied industries
- Public parks and recreation facilities
- Religious institutions [section 98-245]
- Research, development and testing
- Utility and public service buildings—without outdoor storage yard
- Vocational schools
- Warehousing and storage
- Wholesaling

(2) *Special land uses:*

- Distribution centers
- Manufacturing or refining of chemicals and plastics
- Metal plating, buffing, and polishing
- Self-storage facilities
- Stamping facilities
- Type A industrial hemp facility [section 98-268]
- Type B industrial hemp facility [section 98-268]

(c) *Dimensional regulations.*

(1) *Setbacks:*

a. Front yard: 25 feet[1, 2].

b. Side yard: 12 feet.

c. Rear yard 24 feet[3].

d. Natural Features: 25 feet[4].

(2) *Building height:*

a. In stories: —

b. In feet: 60 feet.

(3) *Building floorplate:*

a. Recommended minimum floorplate: 10,000 sq. ft.

Dimensional regulations footnotes:

[1] *Build to line.* At least 50 percent of the front facade of the building shall be located within 40 feet of the front property line.

[2] *Parking.* Parking lots shall not be located in between the building and the street. Parking is permitted in an interior side yard.

[3] *Setback from residential districts.* A 20-foot wide greenbelt with a 4.5 foot tall decorative obscuring wall or a heavily-planted 40-foot wide greenbelt with a six-foot tall chain link fence shall be provided on those sides of the property abutting a residential district.

[4] *Natural features setback.* The natural features setback is required from any wetland or woodland with a contiguous area of 0.5 acres, or any state regulated wetland.

(d) *Additional standards.*

(1) Accessory structures: Article VIII, Division 1.

(2) Development design standards: Article VII.

(3) Dimensional provisions: Article VIII, Division 3.

(4) Exterior lighting: Article VIII, Division 2.

(5) Landscaping: Article X.

(6) Parking: Article XI.

(7) Performance standards: Article VIII, Division 6.

(8) General provisions: Article VIII, Division 4.

(9) Signs: Article IX.

(10) Sustainable energy generation: Article VIII, Division 5.

(11) *Site layout and design:* The overall site layout and design of development sites and streets in the TRD district shall comply with the recommendations of the City of Tecumseh Business and Technology Campus Master Plan.

(12) *Design guidelines.* Development in the TRD district shall comply with applicable recommendations of the City of Tecumseh Business and Technology Campus Design Guidelines for landscaping; signs; building form, massing, aesthetics, and character; building materials and fenestration; building performance; and sustainability.

(Ord. of 5-18-2009, § 4.312; Ord. No. 1-13, 1-21-2013; Ord. No. 04-19, 6-3-2019; Ord. No. 04-21, § 1, 5-3-2021)

Secs. 98-213—98-220. Reserved.

DIVISION 4. DESIGN STANDARDS FOR SPECIFIC USES

Sec. 98-221. Adult regulated businesses.

(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) *Adult bookstore or video store* means an establishment having a substantial or significant portion of its stock in trade in video cassettes, discs or films or media recorded, pressed, engraved or prepared for playback and books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale, rental and/or display of such material.

(2) *Adult cabaret* means an establishment which features one or more dancers, strippers, male or female impersonators or similar entertainers, performers, wait staff or other persons who reveal or show specified anatomical areas of their bodies or who engage in, perform or simulate specified sexual activities.

(3) *Adult motion picture theater* means an enclosed building used for presenting motion picture films, videocassettes, cable television or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

(4) *Specified anatomical areas* means:

(a) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(5) *Specified sexual activities* means:

(a) Human genitals in a state of sexual stimulation or arousal.

(b) Acts of human masturbation, sexual intercourse or sodomy.

(c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(6) *Used,* in the definition of the term "adult motion picture theater" in this subsection, describes a continuing course of conduct of exhibiting specified sexual activities and specified anatomical areas in a manner which appeals to a prurient interest.

(b) *Purpose and intent.* It is determined necessary for the health, safety and welfare of the city to adopt this section pertaining to and regulating adult businesses for the following reasons:

(1) Many parents are concerned about the influence of pornographic entertainment outlets and businesses and have chosen the city to raise their families because of the absence of such adult businesses, save one which existed on the effective date of the ordinance from which this section derives.

(2) Location of and easy availability of adult businesses in close proximity to homes, apartments, schools, churches and public parks give an impression of legitimacy to such uses and have adverse effects upon children, established family relations, respect for marital relationships and the concept of nonaggressive consensual sexual relations.

(3) Location of adult businesses in close proximity to houses, apartments, schools, churches and public parks will draw persons who are not known in the community and will create police and safety problems in areas of the city which should be free of such problems.

(4) Property values in areas adjacent to adult businesses will decline, thus causing a blight upon both commercial and residential areas of the city.

(5) Location of adult businesses near or within residential neighborhoods and commercial areas of the city would be disruptive to youth programs such as Boy Scouts, Girl Scouts, Campfire Girls and church youth groups.

(6) Location of adult businesses in close proximity to residential uses, schools, churches, parks and other public facilities will cause a degradation of the community standard of morality. Pornographic material has a degrading effect upon the relationship between spouses.

(c) *Location.* An adult motion picture theater, adult bookstore or video store or adult cabaret shall not be located:

(1) Within 500 feet of any residential zoning district (RA-1, RA-2, RT, RM-1, RM-2, PRD, ERC, or RM).

(2) Within 500 feet of the property line of any public or private school, college or university, or of any nursery school, day nursery or child care center.

(3) Within 500 feet of the property line of any church or other religious facility or institution.

(4) Within 500 feet of any public park.

(5) Within 500 feet of any other adult motion picture theater, adult bookstore or video store, or adult cabaret.

The distances provided for in this subsection shall be measured by projecting a straight line, without regard for intervening buildings or structures, from the nearest point of the building, structure or tenant space within which the proposed use is to be located to the nearest point of the property line, specified use or zoning district boundary from which the proposed use is to be separated.

(d) *Zoning districts.* An adult motion picture theater, adult bookstore or video store, or adult cabaret shall be located only within an I-1 or I-C district.

(e) *Special use approval required.* An adult motion picture theater, adult bookstore or video store, or adult cabaret shall be permitted only by special land use approval granted by the city council after review and recommendation of the planning commission, and after public hearing pursuant to the discretionary decisions in Article III, Division 3 of this chapter pertaining to special and conditional land uses. The special land use shall be approved only if the following criteria are satisfied:

(1) There has been compliance with all provisions of this section and all other sections of this ordinance and the City Code of Ordinances.

(2) The establishment of an adult motion picture theater, adult bookstore or video store, or adult cabaret will not have a deleterious effect on the surrounding area or the city in general.

(3) There is compliance with the standards included in Article II, Division 3 of this chapter.

(Ord. of 5-18-2009, § 4.401)

Sec. 98-222. Banquet hall/conference center.

(a) *Area.* A parcel or lot size of not less than one acre shall be required.

(b) *Hotel facilities.* Such facility may be provided in conjunction with a hotel use.

(c) *Access.* The site shall abut a city major thoroughfare as designated on the comprehensive master plan and all access to the site shall be limited to and directly upon the thoroughfare.

(d) *Buildings.* All facilities for the conduct of activities shall be in one structure with the exception of dwelling facilities, including those of the operator/caretaker which may be located on the same zoning lot in a separate building. In no instance shall a lot or parcel once developed as a conference center be divided into additional lots or parcels without the approval of the city council.

(e) *Caretaker's residence.* In those instances where a separate dwelling is located on the site for the operator/caretaker, such dwelling shall be occupied only as a single-family dwelling.

(f) *Buffering from residential districts.* A continuous uninterrupted obscuring screening of suitable material at least six feet in height shall be provided along sides of the property zoned residential.

(Ord. of 5-18-2009, § 4.402)

Sec. 98-223. Bed and breakfast establishments and group retreat homes.

Bed and breakfast establishments and group retreat homes may be permitted as a subordinate use to single-family dwelling units subject to city licensing provisions and the following conditions:

(a) *Historic building.* The applicant must provide proof of historic significance of the dwelling unit. In making the determination, the planning commission shall reference the historic criteria developed and adopted by the historic preservation commission.

(b) *Residency.* For bed and breakfast establishments, the dwelling unit in which the operation takes place shall be the principal residence of the real property owner and operator, and the real property owner and operator shall live on the premises when the bed and breakfast establishment is active. For group retreat homes, the real property owner and operator is not required to live on the premises; however they shall be present for at least eight hours per day when the group retreat home is in operation.

(c) *Other applicable regulations.* Such dwellings shall meet all applicable codes and ordinances of the city, county and state.

(d) *Neighborhood character.* Buildings shall be suitable in character for the use proposed and shall not be cause for a change in character of the neighborhood.

(e) *Maximum number of rooms.* For bed and breakfast establishments, no more than six sleeping rooms shall be available for guests. For group retreat homes, no more than eight sleeping rooms shall be available for guests.

(f) *Kitchens and meals.* For bed and breakfast establishments, there shall be no separate cooking facilities provided. For group retreat homes, a microwave and sink shall be made available for use by guests. Bed and breakfast operations must serve breakfast only to guests and for no extra charge. Group retreat homes must serve all meals for no extra charge.

(g) *Emergency provisions.*

(1) Approved smoke detectors shall be provided in individual sleeping units and in common hallways.

(2) Emergency egress lighting to assure continued illumination for a duration of not less than one hour in case of emergency or primary power loss.

(3) An approved fire extinguisher in the common hallway accessible to all occupants.

(4) 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.

(5) No premises shall be utilized for a bed and breakfast operation unless there are at least two exits to the outdoors from such premises.

(h) *Occupancy.* Occupancy shall be of a transient nature for periods not to exceed one week in duration in any one month by any transient occupant. A guest registry indicating name, address, phone number and vehicle license number shall be kept indicating dates of arrival and departure of guests and shall be available to the city for inspection upon request and shall further be presented for inspecting at the time of annual license renewal.

(i) *Signs.* Signs must comply with the regulations of the zoning District in which the facility is located.

(j) *Demolition of existing buildings prohibited.* No building or structure shall be removed in order to allow for a bed and breakfast use, nor shall such a building or structure be removed in order to provide parking for such a use.

(k) *Parking.*

(1) All parking spaces shall be paved or graded to city standards with materials which maintain the historical character of the neighborhood.

(2) Off-street parking shall be provided based upon one space for each rental room and one space for the operator of the facility.

(3) If the applicant is unable to meet the criteria of this subsection (k), the applicant may request special consideration from the planning commission. The city's intent is not to encourage yards to be destroyed, landscaping removed or the integrity of the neighborhood altered in order to provide parking.

(4) In those instances where parking requirements cannot be met, the applicant may request special consideration from the planning commission. In such a case, the applicant shall submit an analysis of parking required and parking provided within a 300-foot radius of the subject parcel. After analyzing this data, the planning commission may lower the number of the required parking spaces based on the fact that sufficient off-street parking exists in the neighborhood.

(Ord. of 5-18-2009, § 4.403; Ord. No. 03-17, 9-5-2017)

Sec. 98-224. Car wash.

(a) *Setback.* All buildings shall have a front yard setback of not less than 50 feet.

(b) *Washing facilities.* All washing facilities shall be within a completely enclosed building.

(c) *Vacuuming and drying areas.* Vacuuming and drying areas may be located outside the building but shall not be in the required front yard and shall not be closer than 25 feet from any residential district.

(d) *Stacking space.* All cars required to wait for access to the facilities shall be provided space off the street right-of-way.

(e) *Access.* Ingress and egress points shall be located at least 60 feet from the intersection of any two streets.

(f) *Buffering from residential districts.* A four-foot-six-inch completely obscuring wall shall be provided where abutting to a residential district.

(Ord. of 5-18-2009, § 4.404)

Sec. 98-225. Child care center.

(a) *Licensing.* In accordance with applicable state laws, all child care centers shall be registered with or licensed by the state of michigan, and shall comply with the minimum standards outlined for such facilities.

(b) *Outdoor recreation area.* A minimum of 150 square feet of outdoor recreation area shall be provided and maintained per child at the licensed capacity of the child care center, provided that the overall area shall not be less than 5,000 square feet. The outdoor recreation area shall be suitably fenced, secured, and screened from abutting residential uses with a decorative opaque fence with a minimum height of four feet and a type b buffer in accordance with section 98-671. The planning commission may approve the use of off-site

outdoor recreational facilities to satisfy this requirement, in which case documentation citing state approval of such shall be provided.

(c) *Pick-up and drop-off.* Adequate areas shall be provided for employee parking and pick-up and drop-off of children or adults in a manner that minimizes pedestrian-vehicle conflicts and disruption of traffic flow on the public streets.

(d) *Access and frontage.* Child care centers shall have frontage on, and direct vehicle access to, a public street classified as a collector, minor arterial or arterial by the city's master plan, or county or state road authorities. Vehicle access to local streets shall be limited to secondary access where necessary for health and safety purposes.

(Ord. of 5-18-2009, § 4.405)

Sec. 98-226. Commercial recreation, outdoor.

commercial outdoor recreational space for amusement parks, miniature golf, golf driving ranges, athletic facilities and clubs and similar uses are subject to the following requirements:

(a) *Fencing.* Children's amusement parks must be fenced on all sides with a four-foot, six-inch wall or fence.

(b) *Loudspeaker systms.* No loudspeaker or public address system shall be used except by the written consent of the city council where it is deemed that no public nuisance or disturbance will be established.

(c) *Golf driving ranges.* When not completely enclosed, a barrier of netting shall be provided that will not allow the passage of the golf ball through it and to a height of 25 feet along the sides and rear of the property. The netting shall be maintained in a good state of repair and replaced when needed.

(Ord. of 5-18-2009, § 4.406)

Sec. 98-227. Drive-in and drive-through facility.

Any use or building that contains a drive-through facility that is designed to provide service to a patron who remains in their car shall comply with the following requirements:

(a) Drive-through uses must be built as an integral architectural element of the primary structure and use. Building materials shall be the same as those used in the primary structure. Drive-through facilities and structures separate from the primary structure are prohibited.

(b) Drive-through uses must be located to the rear or side of the primary structure, and set back a minimum of ten feet from the front building wall of the primary structure.

(c) Drive-through uses shall be configured such that glare from headlights is obstructed from shining into a public right-of-way or neighboring residential use.

(d) A four-foot-six-inch completely obscuring wall or fence must be provided where abutting or adjacent to a residential district. The height of the wall shall be measured from the surface of the ground.

(Ord. of 5-18-2009, § 4.407)

Sec. 98-228. Drive-in and drive-through restaurant.

Drive-in or drive-through restaurants are subject to the following requirements:

(a) *B-1 district requirements.*

(1) *Location.* The lot shall be located at an intersection of two streets, one of which is identified as a major thoroughfare.

(2) *Lot area.* The minimum lot size shall be 10,000 square feet.

(3) *Site access.* All ingress and egress points shall be on major thoroughfares and shall be located at least 60 feet from the intersection of any two streets.

(4) *Buffering from residential districts.* Where the lot abuts a residential district, a type B buffer strip and a fence shall be provided in accordance with section 98-671.

(5) *Trash receptacles.* All waste disposal areas, including containers, shall be screened with an obscuring wood or masonry wall from abutting residential properties and public streets.

(b) *B-3 district requirements.*

(1) *Access.* Ingress and egress points shall be located at least 60 feet from the intersection of any two streets.

(2) *Buffering from residential districts.* A four-foot-six-inch completely obscuring wall or fence must be provided where abutting or adjacent to a residential district. The height of the wall shall be measured from the surface of the ground.

(Ord. of 5-18-2009, § 4.408)

Sec. 98-229. Funeral homes.

(a) *Signs.* Signs must comply with the regulations of the zoning district in which the funeral home is located.

(b) *Dimensional requirements.* The funeral home shall comply with all height and setback requirements for the district in which such use is located.

(c) *Parking.* All parking areas and service areas shall be screened from view of abutting residential properties be screening landscaping not less than five feet in height and/or through the provision of a completely obscuring wall or fence not less than five feet in height.

(d) *Vehicle assembly area.* Adequate vehicle assembly area shall be provided such that vehicles in funeral processions will not impede the free movement of traffic on abutting or nearby public streets.

(e) *Caretaker's residence.* A caretaker's residence may be provided within the building of funeral homes or mortuary establishments.

(Ord. of 5-18-2009, § 4.409; Ord. No. 04-17, 9-5-2017)

Sec. 98-230. Golf courses and country clubs.

Golf courses, which may or may not be operated for profit, subject to the following conditions:

(a) *Access.* The site shall have access and frontage upon a public street. The site plan shall be laid out to achieve a relationship between the major thoroughfare and any proposed service roads, entrances, driveways and parking areas which will encourage pedestrian and vehicular traffic safety.

(b) *Relationship to adjacent residential districts.* Development features, including the principal and accessory buildings and structures, shall be located and related to minimize any potential adverse affects on adjacent property.

(c) *Setbacks.* All principal or accessory buildings shall be set back a minimum of 200 feet from any property line abutting residentially zoned lands. Exception: where topographic conditions are such that buildings would be screened from view, the planning commission may approve a modification to require a lesser setback.

(d) *Swimming pool fencing.* Whenever a swimming pool is to be provided, it shall be provided with a protective fence six feet in height; and entry shall be provided by means of a controlled gate.

(Ord. of 5-18-2009, § 4.410)

Sec. 98-231. Home occupations.

(a) *Required conditions.* Home occupations are permitted provided that the home occupation does not:

(1) Create a nuisance to the surrounding neighborhood.

(2) Become more than an incidental function of the use of the dwelling for residential purposes.

(3) Draw truck traffic other than a delivery by a truck no more frequently than an average of once a week.

(4) Change the outside appearance of the dwelling or be visible from the street.

(5) Generate traffic, parking, sewer or water use in excess of what is normal in the residential neighborhood.

(6) Create noise, vibration, glare, fumes or odors, or results in electrical interference, or becomes a nuisance.

(7) Result in outside storage or display.

(8) Employ anyone in the home other than the dwelling occupant.

EXCEPTION: State licensed residential facilities may employ one additional person that does not reside at the dwelling.

(9) Require exterior building alteration to accommodate the occupation.

(10) Occupy more than 25 percent of the ground floor area of the dwelling, or 50 percent of a detached garage.

(11) Require parking for customers that cannot be accommodated on the site and/or not exceeding one parking space at curbside on the street.

(12) Require delivery of goods or the visit of customers before 6:00 a.m. and after 8:00 p.m.

(13) Occur outside the dwelling unit or accessory buildings.

(b) *Home occupation permits.* Home occupation permits shall be limited to the applicant who legally resides in the residence, and shall be valid for a period of two years. Permits may be renewed following expiration of the two-year period.

(c) *State licensed residential facilities.* In addition to meeting all of the requirements of subsection (a), above, the following regulations apply to all state licensed residential facilities, as defined by this chapter and as licensed by the State of Michigan; and to all other managed or state licensed residential facilities.

(1) *Licensing.* In accordance with applicable state laws, all state licensed residential facilities shall be registered with or licensed by the State of Michigan, and shall comply with applicable standards for such facilities.

(2) *Separation requirements.* New state licensed residential facilities shall be located a minimum of 1,500 feet from any other state licensed residential facility, as measured between the nearest points on the property lines of the lots in question. The planning commission may permit a smaller separation between such facilities upon determining that such action will not result in an excessive concentration of such facilities in a single neighborhood or in the city overall.

(3) *Compatibility with neighborhood.* Any state licensed residential facility and the property included therewith shall be maintained in a manner consistent with the visible characteristics of the neighborhood in which it is located.

(4) *Group day care homes.* In addition to the preceding subsection, the following regulations shall apply to all group day care homes, as defined in this chapter.

a. Outdoor play area. A minimum of 150 square feet of outdoor play area shall be provided and maintained per child at the licensed capacity of the day care home, provided that the overall play area shall not be less than 5,000 square feet. The play area shall be located in the rear yard area of the group day care home premises and shall be suitably fenced and screened.

b. Pick-up and drop-Off. Adequate areas shall be provided for employee and resident parking, and pick-up and drop-off of children or adults, in a manner that minimizes pedestrian-vehicle conflicts and allows maneuvers without affecting traffic flow on the public street.

c Hours of operation. Group day care homes shall not operate more than 16 hours per day.

(Ord. of 5-18-2009, § 4.411)

Sec. 98-232. Hospital.

(a) *Operation.* Hospitals shall be general hospitals, excluding those for criminals and those solely for the treatment of persons who are mentally ill or have contagious disease.

(b) *Height.* Hospitals shall not exceed four stories.

(c) *Site area.* The site shall have a minimum area of five acres, and shall not be a lot of record.

(d) *Frontage.* The proposed site shall have at least one property line abutting a major thoroughfare. All ingress and egress to the off-street parking area, for guests, employees and staff, as well as any other uses of the facilities, shall be directly from a major thoroughfare.

(e) *Setbacks.* The minimum setback for any principal or accessory structure shall be 40 feet for all two-story structures. The minimum setback shall be increased by ten feet for every story above two.

(f) *Vehicle areas.* Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence six feet in height.

(Ord. of 5-18-2009, § 4.412)

Sec. 98-233. Hotel or motel.

(a) *Access.* Ingress and egress do not conflict with adjacent business uses.

(b) *Buffering from residential districts.* A four-foot-six-inch obscuring wall or fence must be provided where abutting or adjacent districts are zoned for residential use.

(c) *Cooking facilities.* No kitchen or cooking facilities are to be provided, with the exception of units for the use of the manager or caretaker.

(d) *Floor area.* Each unit shall contain not less than 250 square feet of floor area.

(e) *Occupancy.* Occupancy shall be of a transient nature. A guest registry, indicating name, address, phone' number, and vehicle license number, shall be kept indicating dates of arrival and departure of guests and shall be available to the city for inspection upon request. Accommodations for anyone person other than the operator/caretaker shall be for continuous periods not to exceed 14 days in any one month.

(Ord. of 5-18-2009, § 4.413)

Sec. 98-234. Housing for the elderly.

(a) *Minimum requirements.* Housing for the elderly shall comply with the following minimum requirements:

		INDEPENDENT	DEPENDENT
Density - Same As		RM-2	RM-2
Minimum Usable Floor Area:			
	One-Bedroom	500 sq. ft.	350 sq. ft.
	Two-Bedroom:	600 sq. ft.	450 sq. ft.
Height and Setback Requirements, Same As:		RM-2	RM-2
Off-Street Parking:			
	Residents:	1 space/unit	0.5 space/unit
	Guests:	0.25 space/unit	0.25 space/unit
Maximum Coverage:			
	Building:	30%	35%
	Parking:	15%	10%
Open Space:		60%	50%

(b) *Other review considerations.* Proposed elderly housing developments shall be evaluated in terms of their convenience and/or accessibility by residents to various commercial, office and service facilities. Consideration shall be given to the type of facilities proposed, resident needs, effective proximity to service facilities, and transportation services to these facilities.

(Ord. of 5-18-2009, § 4.414)

Sec. 98-235. Kennel, commercial.

(a) *I-C district requirements.*

(1) *Overnight accommodation of animals*. Animals are to be housed in an enclosed building from 7:00 p.m. until 8:00 a.m. of the next day.

(2) *Proximity to residential districts.* Any kennel that abuts or is adjacent to a residential district shall comply with the requirements for a commercial kennel located in a residential district.

(b) *Residential district requirements.*

(1) *Minimum site area.* Such activity shall be permitted only on a parcel of land not less than five acres in area and provided, further, that such parcel shall not abut or be adjacent to any lot or parcel which is part of a recorded residential subdivision.

(2) *Enclosures.* All animals shall be kept in pens or cages designed, constructed and maintained so as to be harmonious and appropriate in appearance with the character of the general area in which located, and such use will not affect the character of the same area in a negative way.

(3) *Enclosure setbacks.* All pens or cages shall be located not less than 100 feet from any property line and all animals shall be kept therein or within a building. No animal shall be allowed to run at large.

(4) *Noise and odor.* Such activity shall be conducted so as not to be detrimental to any person, property or the general welfare by reason of excessive noise or odor.

(5) *Nuisance prohibited.* The keeping of the animals described in this subsection shall not constitute a nuisance to persons living in the surrounding area. Upon receipt of a written complaint filed by a neighbor with the city stating the animals constitute a nuisance, the zoning board of appeals shall hold a hearing with notice to all property owners within 300 feet of the property where the animals are kept. The zoning board of appeals shall determine if in fact the animals do constitute a nuisance.

If the zoning board of appeals determines that the animals have and will likely continue to constitute a nuisance, the animals shall not be kept on the property after the date set by the zoning board of appeals. If, in the opinion of the zoning board of appeals, there is reason to believe that reasonable measures will be taken to alleviate the nuisance associated with the animals, the zoning board of appeals may issue a permit, renewable yearly, for the keeping of such animals with or without restrictions. If a hearing is held and a determination is made, the matter may not be reviewed again on a complaint of a neighbor unless there has been a change of circumstances.

(6) *Remedy.* No person shall allow animals under such person's control or ownership to constitute a nuisance. The violation of this subsection may be prosecuted in the district court or may be enjoined in the circuit court. Notwithstanding anything to the contrary in this ordinance, this subsection shall not be a limitation on, lessen the effect of, or interfere with any other city ordinance pertaining to animals, and the enforcement of it.

(Ord. of 5-18-2009, § 4.415)

Sec. 98-236. Lumber or planing mills.

Such uses shall be completely enclosed within a building and located in the interior of the I-1 district such that no property line forms the exterior boundary of the I-1 district.

(Ord. of 5-18-2009, § 4.416)

Sec. 98-237. Manufacturing.

Heavy industrial uses that include noxious or disruptive characteristics shall be located not less than 400 feet from any residential district.

(Ord. of 5-18-2009, § 4.417)

Sec. 98-238. Multiple family development

(a) Multiple-family developments on parcels of ten acres or more shall comply with the following requirements:

(1) The development is designed compatible with adjacent land uses and the natural environment.

(2) The development is within the capacities of public services and facilities it will use and affect.

(3) A recreational area shall be provided at a rate of 300 square feet for every dwelling unit, and shall not be less than 30,000 square feet in area. Such recreation area shall be located in a place conducive to safe, uninterrupted recreation and shall have facilities, equipment or apparatus suited to the life styles of anticipated residents. Required yards shall not be utilized in computing square footage of recreation space.

(b) Attached one-Family dwelling unit design standards.

(1) *Individual entrances required.* All dwelling units shall have entrances that are directly accessible from the exterior of the building that include a minimum 30 sq. ft. unenclosed porch. No unit shall gain access from an interior hallway within a building. The primary exterior entrance to all units shall face a street with a connection leading from the roadside sidewalk to the front entrance of the building.

(2) *Maximum number of units.* No attached unit building shall contain more than six dwelling units.

(3) *Stacked flats prohibited.* In no case shall stacked flats be permitted in a mixed residential development. All attached units shall be separated by common vertical walls. In no case shall dwelling units be separated by a common horizontal wall.

(4) *Design features.* Any street-facing facade that is visible from a public right-of-way or private road easement shall include features such as, but not limited to columns, cornices, pediments, articulated bases, and fluted masonry covering a minimum of ten percent of the exterior wall area.

(5) *Garages.* Garage doors may not comprise more than 35 percent of the width of any facade facing a public or private street. Garages may not protrude more than six feet closer to the street than the front door of the unit they are accessory to.

(6) *Architectural requirements.*

(a) All walls that face a street other than an alley shall contain a minimum of 25 percent of the wall area in windows or doors (gabled roof areas are excepted).

(b) Windows shall be provided with trim detailing or shall be recessed. Windows shall not be flush with the exterior wall treatment. Windows shall be provided with an architectural surround at the jamb.

(c) Exterior finishes shall primarily consist of natural, durable materials such as brick or stone. Wood or vinyl siding may not consist of more than 33 percent of the wall area of any facade elevation (including gable ends). EIFS or stucco may not cover more than ten percent of the area of any facade elevation.

(Ord. of 5-18-2009, § 4.418)

Sec. 98-239. Nursery schools.

A minimum of 100 square feet of outdoor play area shall be provided for each child cared for at maximum occupancy of the nursery school. Such play space shall have a total minimum area of at least 1,000 square feet and shall be fenced and screened from any adjoining land with landscape plantings.

(Ord. of 5-18-2009, § 4.419)

Sec. 98-240. Nursing homes.

(a) *Height.* Nursing homes shall have a maximum height of three stories or 40 feet.

(b) *Setback.* No building shall be closer than 40 feet to any property line abutting a single family residential district.

(Ord. of 5-18-2009, § 4.420)

Sec. 98-241. Outdoor equipment or materials storage.

(a) *Screening.* That portion of the land used for open storage facilities for materials or equipment shall be totally obscured by a wall on those sides abutting residential, office or business districts, and on any yard abutting a public thoroughfare. The extent of such a wall may be determined by the planning commission on the basis of usage. Such a wall shall not be less than six feet in height and may, depending upon land usage, be required to be eight feet in height and shall be subject further to the requirements of article I of this chapter and subject to front yard set back requirements of the district.

(b) *Landscaping.* Shrub planting shall be installed abutting the wall on those sides exposed to public view within six months from the date of issuance of a certificate of occupancy. All planting plans shall meet the requirements of Article X and shall be subject to the approval of the planning commission.

(c) *Inspection and maintenance.* Planting areas shall be subject to yearly inspection for maintenance and for compliance with the intent of this section.

(Ord. of 5-18-2009, § 4.421)

Sec. 98-242. Pet boarding facility.

A pet boarding facility is a business for the temporary boarding and care of common household pets generally during daytime hours, but in some cases including overnight boarding. Pet boarding facilities may provide related services such as grooming or training, but no animals may be bred or sold at a pet boarding facility unless the pet boarding facility is accessory to a principal retail use. Pet boarding facilities are subject to the following requirements:

(a) A maximum of 10 percent of the gross floor area of the building or lease space may be used for retail sales of goods related to pets.

(b) Pets may be boarded at the facility for a maximum of 168 continuous hours (one week).

(c) On-site vehicular circulation shall be configured to accommodate vehicles within the boundaries of the site. In no case shall vehicles awaiting drop-off or pick-up of a pet be allowed to encroach onto a public or private street.

(d) Any pets being boarded overnight shall be confined to the building from the hours of 9 pm until 6:30 am.

(e) Pet boarding facilities shall be constructed, maintained, and operated so that the sounds and smell of animals cannot be discerned outside of the building. Outdoor runs shall be maintained so that no odors are discernable from adjacent properties.

(f) Outdoor runs where pets will be permitted either on or off-leash shall be set back a minimum of 100 feet from any adjacent residentially zoned or used land. The 100-foot setback notwithstanding, outdoor runs shall be located as far as practicable from any adjacent residential zoning district. Any

outdoor runs where pets will be permitted off-leash shall be surrounded by a minimum 54-inch tall fence. If the fence will be visible from any adjacent residential district or road right-of-way, the fence shall be decorative in nature.

(g) Outdoor runs shall be fully enclosed with a decorative fence.

(h) The planning commission may require a landscaped buffer or solid wall to be provided between the outdoor run and any adjacent residential district if the location of the proposed outdoor run could negatively impact adjacent or nearby residentially zoned or used land.

(Ord. of 5-18-2009, § 4.422)

Sec. 98-243. Plant nursery.

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:

(a) *Outdoor storage and display.* The storage and/or display of any materials and/or products shall meet all setback requirements for a structure in the zoning district.

(b) *Parking and loading.* All loading and parking shall be provided off-street.

(c) *Storage of loose materials.* The storage of any soil, fertilizer or other loose, unpackaged materials shall be contained so as to prevent any affects on adjacent uses.

(Ord. of 5-18-2009, § 4.423)

Sec. 98-244. Private recreational facilities.

Private recreational areas and institutional recreation centers when not operated for profit, nonprofit swimming pool club, all subject to the following conditions:

(a) *Property owner consent required.* As a condition to the original granting of such permit and the operation of such nonprofit swimming pool club, as a part of such application, the applicant shall obtain from 100 percent of the freeholders residing or owning property, within a 150-foot radius, immediately adjoining any property line of the site proposed in this subsection for development; a written statement or waiver addressed to the city council recommending that such approval be granted. Also, approval from 51 percent of the homeowners within 1,000 feet shall be received in writing.

(b) *Site location.* In those instances where the proposed site is not to be situated on a lot of record, the proposed site shall have one property line abutting a major thoroughfare; and the site shall be so planned as to provide ingress and egress directly on to the major thoroughfare.

(c) *Setbacks.* Front, side and rear yards shall be at least 75 feet wide, except on those sides adjacent to nonresidential districts, and shall be landscaped in trees, shrubs, grass and terrace areas. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except for required entrance drives and those walls and/or fences used to obscure the use from abutting residential districts.

(d) *Building height.* Buildings erected on the premises shall not exceed one story or 16 feet in height.

(e) *Swimming pool fencing.* Whenever a swimming pool is constructed under this chapter, the pool area shall be provided with a protective fence six feet in height; and entry shall be provided by means of a controlled gate.

(f) *Parking.* Off-street parking shall be provided so as to accommodate at least one-fourth of the member families and/or individual members. Bylaws of the organization shall be provided to the planning commission in order to establish the membership involved in computing parking requirements.

(g) *Utilities.* All storm and sanitary sewer plans shall be provided and shall be reviewed and approved by the city engineer prior to the issuance of a building permit.

(h) *Site layout.* The off-street parking and general site layout and its relationship to all adjacent lot lines shall be reviewed by the planning commission, who may impose any reasonable restrictions or requirements so as to ensure that contiguous residential areas will be adequately protected.

(Ord. of 5-18-2009, § 4.424)

Sec. 98-245. Religious institutions.

(a) *Access.* The site shall be so located as to provide for ingress to and egress from the site directly onto an arterial, minor arterial, or collector street as defined in the City of Tecumseh Comprehensive Plan.

(b) *Setbacks.* The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than 15 feet.

(c) *Building height.* Buildings of greater than the maximum height allowed in the zoning district may be allowed provided front, side and rear yards are increased above the minimum requirements by one foot for each foot of building that exceeds the maximum height allowed.

(Ord. of 5-18-2009, § 4.425)

Sec. 98-246. Retail sales in the OS-1 district.

Retail businesses which supply commodities on the premises and personal services establishments which perform services on the premises, may operate as conditional uses in the OS-1 district and if the use will be compatible with surrounding uses, subject to the following conditions:

(a) *Existing buildings.* Only existing nonresidential building shall be used. The existing building shall not be enlarged nor shall new structure be constructed for the uses.

(b) *Outdoor storage prohibited.* All storage on the property shall be kept within an enclosed building.

(c) *Compatibility with neighboring uses.* The planning commission may stipulate hours of operation and any other appropriate conditions to make the use compatible with the surrounding land uses.

(Ord. of 5-18-2009, § 4.426)

Sec. 98-247. Retail sales, large floor plate.

The architectural guidelines listed below are intended to encourage design alternatives to corporate franchise prototypes, and to reinforce the community identity of the City of Tecumseh. These guidelines are not intended to discourage creativity or innovation; therefore, the planning commission may waive any or all of the guidelines listed below for a project of particular architectural merit.

(a) *Architectural design standards.* Facades should be articulated to reduce the massive scale and the monotony of long, unbroken horizontal and vertical planes of large buildings. Detail features should be crafted to provide visual interest and pedestrian scale that will be consistent with the streetscape and the community identity of Tecumseh.

(1) Horizontal facades greater than 100 feet in length shall incorporate wall plane projections or recesses having a depth of at least three % of the length of the facade and extending at least twenty percent of the length of the facade. No uninterrupted length of any facade shall exceed 100 horizontal feet.

(2) Ground floor facades that face streets or public ways shall have arcades, display windows, entry areas, foyers, awnings, or other such features along a minimum of 40 percent of their horizontal length.

(3) Vertical variations in roof lines shall be incorporated to add visual interest and reduce the monotony and mass of large non-residential buildings. Roof features should complement the character of surrounding properties. At least one (1) of the following roof forms shall be incorporated into the design of each large non-residential building:

a. Sloping roof planes, with an average slope equal to, or greater than, six inches of vertical rise for every 12 inches of horizontal run;

b. Parapets or other architectural devices shall be incorporated to conceal flat roofs and rooftop mechanical and ventilation equipment;

c. Overhanging eaves, extending no less than 18 inches past the supporting walls.

(4) Entryway design elements and variations should give orientation and pleasing character to the building. Each principal building on a site shall have clearly defined, highly visible customer entrances. Large non-residential buildings shall provide design elements, such as archways or glass that will allow for one additional entryway for every 25,000 square feet of gross floor area on a single floor or fraction thereof, so that the building will have future re-use potential for multiple commercial or industrial tenants. Entryway design shall include a minimum of four of the following elements:

a. Canopies or porticos.

b. Overhangs.

c. Recesses and/or projections.

d. Arcades.

e. Raised corniced parapets over the door.

f. Peaked roof forms.

g. Arches.

h. Outdoor patios.

i. Display windows.

j. Architectural details such as tile work and moldings which are integrated into the building structure and design.

k. Integral planters or wing walls that incorporate landscaped areas and/or places for pedestrians to sit.

(b) *Pedestrian amenities.* Large non-residential retail establishments shall provide for pedestrian and bicycle accessibility within the site and provide for appropriate connections to points outside of the site.

(1) Sidewalks shall be provided along the full length of the building along any facade featuring a customer entrance.

(2) At a minimum, walkways shall connect focal points of pedestrian activity, such as transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials.

(3) All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety.

(Ord. of 5-18-2009, § 4.427)

Sec. 98-248. Retail sales, outdoor.

Retail sales area accessory to a retail sales use in a principal building may be permitted, provided that the outdoor sales space does not exceed 2,500 sq. ft. in area in the B-1 district. There is no specific area limitation in the B-3 district.

(Ord. of 5-18-2009, § 4.428)

Sec. 98-249. Salvage operations and junkyards.

Junkyards and places so called for the dismantling, wrecking and disposing of the junk and/or refuse material of agricultural and automotive vehicles may be permitted in the I-1 district subject to the following standards:

(a) *Permits.* Permits or licenses for one-year periods upon authorized inspection and approval of the building inspector, whose approval shall be based on the performance standards set forth in Article VIII, Division 4.

(b) *Setbacks.* Such operations shall be located a minimum of 300 feet from the border of any I-1 district.

(Ord. of 5-18-2009, § 4.429)

Sec. 98-250. Self storage facilities.

(a) *Building spacing.* Buildings shall be spaced not less than 30 feet apart on those sides having entrance doors.

(b) *Storage of recreational vehicles and equipment.* The outdoor storage of recreation equipment accessory to mini-warehouses or storage buildings may be permitted provided such storage area is enclosed with a security fence not less than six feet high. The outdoor storage area shall be provided with obscuring plant materials or obscuring fence materials to a height of six feet on those sides visible from public streets or any residential area. Obscuring materials in fences shall not include plastic strips.

(c) *Caretakers' residence.* Caretakers residences are permitted in conjunction with a self storage facility.

(Ord. of 5-18-2009, § 4.430)

Sec. 98-251 Outdoor dining.

In the interest of promoting business by increasing activity and improving the general business climate, the city manager or his designee may issue revocable permits to businesses that apply for a permit to operate a sidewalk café as an extension of or compatible with the existing business on a portion of a city sidewalk adjacent to the business, or an outdoor dining patio located elsewhere on the site. The permit may be issued under the following terms and conditions:

(a) *Sidewalk cafés.*

(1) *Conditions.* Sidewalk café permits shall be issued if the city manager or designee determines the occupancy will not:

a. Interfere with the use of the street for pedestrian or vehicular travel.

b. Unreasonably interfere with the view of, access to or use of property adjacent to the street.

c. Reduce any sidewalk width to less than six feet.

d. Interfere with street cleaning or snow removal activities.

e. Cause damage to the street or to sidewalks, trees, benches, landscaping or other objects lawfully located there.

f. Cause a violation of any state or local laws.

g. Be principally used for off-premises advertising.

h. Be attached to or reduce the effectiveness of or access to any utility pole, sign or other traffic control device.

i. Cause increased risk of theft or vandalism.

j. Be in or adjacent to property zoned exclusively for residential purposes.

(2) *Enclosure.* All businesses selling food or beverages to be consumed in a public sidewalk area adjacent to the business shall enclose the area with a temporary structure approved by the building inspector. Prior to approval, written plans shall be submitted to the building inspector. All construction shall conform to existing building codes and regulations of the city and shall not be permanent. Such plans shall also include the location of adequate trash receptacles.

(3) *Liability insurance.* Prior to the issuance of a sidewalk cafe permit, the applying business must provide the city with a certificate of liability insurance in an amount to be determined solely by the city. The certificate of insurance must be in effect for at least the period of the permit to be issued. In addition, the applying business shall, by written agreement with the city, indemnify and hold harmless the city from all claims or damages incident to the establishment and operation of a sidewalk café.

(4) *Fee.* Prior to the issuance of a sidewalk café permit, a fee set from time to time by resolution of the city council shall be paid by the requesting business for the period of the permit.

(5) *Period.* The period of a sidewalk café permit shall not exceed 180 days. The dates and duration shall be specified on the permit. The permit shall be subject to immediate revocation for failure to properly maintain the area being used as a sidewalk café, or for any other violation of this chapter.

(b) *Outdoor dining areas.*

(1) No music or other noises generated by the operation of the outdoor dining area shall be audible on adjacent properties.

(2) Outdoor dining areas are exempt from city parking regulations, and shall not be included in calculations for minimum parking requirements.

(Ord. of 5-18-2009, § 4.431)

Sec. 98-252. Single family dwelling units.

(a) All dwelling units shall be reviewed by the building inspector subject to the following conditions:

(1) Dwelling units shall conform to all applicable city codes and ordinances. Any such local requirements are not intended to abridge applicable state or federal requirements with respect to the construction of the dwelling.

(2) Dwelling units shall be permanently attached to a perimeter foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the dwelling, a perimeter wall shall also be constructed. Any such perimeter wall shall be constructed of durable materials and shall also meet all local requirements with respect to materials, construction and necessary foundations below the frostline. Any such wall shall also provide an appearance which is compatible with the dwelling and other homes in the area.

(3) Dwelling units shall be provided with exterior finish materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

(4) Dwelling units shall be provided with roof designs and roofing materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

(5) Dwelling units shall be provided with an exterior building wall configuration which represents an average width-to-depth or depth-to-width ratio which does not exceed 3:1, or is in reasonable conformity with the configuration of dwelling units on adjacent properties or in the surrounding residential neighborhood.

(6) The dwelling shall contain storage capability in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less.

(7) Any such home shall be anchored by an anchoring system approved by the city.

(b) The building inspector may request a review by the planning commission of any dwelling unit with respect to the design requirements of this Section. The building inspector or planning commission shall not seek to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential uses and the city at large.

In reviewing any such proposed dwelling unit, the building inspector may require the applicant to furnish such plans, elevations and similar documentation as it deems necessary to permit a complete review and evaluation of the proposal. When comparing the proposed dwelling unit to similar types of dwelling areas, consideration shall be given to comparable types of homes within 300 feet. If the area within 300 feet does not contain any such homes, the nearest 25 similar type dwellings shall be considered.

(Ord. of 5-18-2009, § 4.432)

Sec. 98-253. Stamping.

Manufacturing of products using stamping facilities or procedures shall not create vibration beyond the property line of such manufacturing facility.

(Ord. of 5-18-2009, § 4.433)

Sec. 98-254. Trades showrooms.

Offices and showrooms of plumbers, electricians, decorator or similar trades are subject to the following requirements:

(a) *Workshop space.* Not more than 25 percent of the floor area of the building or part of the building occupied by the establishment is used for making, assembling, remodeling, repairing, altering, finishing or refinishing its products or merchandise.

(b) *Appearance from street.* The ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices or display.

(c) *Outdoor storage prohibited.* All storage of materials shall be within the confines of the building or part of the building occupied by the establishment.

(Ord. of 5-18-2009, § 4.434)

Sec. 98-255. Upper-story dwelling units.

To encourage and provide for the economic vitality of the central business district, residential occupancy shall be permitted in buildings of two stories in height or greater, subject to the following conditions:

(a) *Ground level residence prohibited.* No dwelling unit shall occupy any portion of the building at ground level or below ground level. Businesses may occupy any number of total floors.

(b) *Mixed uses on same floor.* In those instances where residential uses are proposed to occupy the same floor as a business use, the planning commission shall review such mixed use and may approve such mixed use based on findings that compatibility of the business with residential occupancy will occur. Such findings may include but are not limited to:

(1) Compatible hours of operation.

(2) Noise of operation or occupancy that would be detrimental to the business operation or vice versa.

(3) Excessive foot traffic.

(c) *Minimum floor area.* Each dwelling unit shall have a minimum floor area as follows:

UNIT TYPE	MINIMUM FLOOR AREA
Efficiency Unit	400 sq. ft.
One-Bedroom Unit	500 sq. ft.
Two-Bedroom Unit	650 sq. ft.
Three-Bedroom Unit	800 sq. ft.

(d) *Parking.* Off-street parking shall be provided in accordance with Article XI of this chapter and shall be provided in designated off-street parking areas within 1,320 feet of the dwelling unit they are to serve.

(Ord. of 5-18-2009, § 4.435)

Sec. 98-256. Vehicle fueling stations.

Automobile service station for sale of gasoline, and oil, and not including repair, and subject to the following:

(a) *Ingress and egress.* The curb cuts for ingress and egress to a service station shall not be permitted at such locations that will tend to create traffic hazards in the immediately adjacent streets. Entrances shall be no less than 25 feet from a street intersection (measured from the roadway) or from adjacent residential property and subject to other ordinances of the city.

(b) *Area.* The minimum lot area shall be 10,000 square feet, and so arranged that ample space is available for motor vehicles which are required to wait.

(c) *Buffering from residential districts.* There shall be provided, on those sides abutting or adjacent to a residential district, a four-foot six-inch completely obscuring wall or fence. The height of the wall or fence shall be measured from the surface of the ground.

(d) *Restroom doors.* All restroom doors shall be shielded from adjoining residential property.

(Ord. of 5-18-2009, § 4.436)

Sec. 98-257. Vehicle sales/rental, outdoor.

Outdoor sales space for exclusive sale of new or used automobiles, trucks, motor homes or house trailers subject to the following:

(a) *Access.* Ingress and egress to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.

(b) *Buffering from residential districts.* A four-foot-six-inch obscuring wall or fence must be provided when abutting or adjacent districts are zoned for residential use.

(c) *Repair and refinishing prohibited.* No major repair or major refinishing shall be done outside of a building.

(Ord. of 5-18-2009, § 4.437)

Sec. 98-258. Vehicle service and repair.

Automotive service businesses such as mechanic's shops, muffler shops, shock absorber replacement shops, brake shops, lube shops, tire stores, undercoating shops, subject to the following conditions:

(a) *Access.* Access to such use shall be directed to a major or collector street or shall be to a minor street which has direct access to an abutting major or collector street.

(b) *Outdoor storage.* Outdoor storage of parts or materials shall be prohibited unless stored in proper containers or in a completely enclosed building but excluding prefabricated storage sheds. Outdoor overnight parking of vehicles awaiting service shall be prohibited.

(c) *Customer parking.* Areas for off-street parking required for customers' use shall not be utilized for parking of vehicles awaiting service.

(d) *Outdoor repair limited.* All vehicle servicing or repair, except minor repairs such as but not limited to tire changing and headlight changing shall be conducted within a building.

(e) *Parts containers.* Suitable containers shall be provided and utilized for the disposal of used parts, and such containers shall be screened from public view.

(f) *Buffering from residential districts.* A six-foot obscuring wall shall be provided and maintained on those property lines adjacent to or abutting a residential district.

(Ord. of 5-18-2009, § 4.438)

Sec. 98-259. Veterinary clinics.

Small animal walk areas shall be provided in an area other than public street rights-of-way or sidewalk areas. Outdoor areas, including animal walk areas, shall be cleaned and maintained at all times.

(Ord. of 5-18-2009, § 4.439)

Sec. 98-260. Wireless communication.

(a) *Purpose.* The purpose of this section is to provide a process and to set standards for the construction, expansion and modification of wireless communications facilities (WCF), to protect the historic, scenic and visual character of the City, and to comply with federal laws and regulations regarding wireless communications facilities and to provide reasonable access.

(b) *Applicability.* This section applies to all construction, Expansion, Modification, maintenance, and operation of wireless communications facilities except:

(1) *Emergency WCF.* Temporary wireless communications facilities for emergency communications by public officials.

(2) *Maintenance or repair.* Maintenance or repair of a WCF and related equipment provided that there is no change in the height or any other dimension of the facility.

(3) *Temporary wireless communications facility.* Temporary WCF, in operation for a maximum period of seven days.

(4) *Antenna as accessory uses.* An antenna, other than parabolic dish antenna greater than five (5) feet in diameter, that receives only and is accessory to a permitted use, that is, related to such use but clearly incidental and subordinate.

(c) *Approval authority.* No person or agency shall construct or expand a WCF without approval of the building inspector, planning commission, or the city council as follows:

(1) Approval by the building inspector is required for:

a. A WCF not exceeding 65 feet in height used for licensed amateur ("ham") radio, which is not additionally licensed or used for any commercial purpose other than by the licensed amateur radio operator, and when there is no other WCF on the parcel on which the new WCF is to be located.

b Co-location on an existing WCF that does not increase the height of the support structure.

c. A disguised WCF not exceeding 35 feet in height.

d. A hidden WCF.

(2) Approval by the planning commission is required for construction of a new wcf monopole structure on public property owned by the City, school district, or on any property located in the I-1 or I-C district.

(3) Special land use approval by the city council is required for construction of any new monopole WCF in any zoning district other than the I-1 or I-C district.

(d) *Application requirements.* Applicants seeking approval for an WCF shall submit all applicable materials from the following list, as identified by the Building Inspector:

(1) A copy of the FCC license for the facility, or the license to operate within an assigned geographic area including the City of Tecumseh.

(2) A signed statement from the owner or operator of the facility attesting that the facility complies with and will comply with FCC regulations.

(3) A map showing the location of all existing and approved WCFs within a four mile radius of the proposed WCF.

(4) A written statement of the need for a WCF at the particular location. The statement should also describe reasonably anticipated expansion plans for the WCF, and reasonably anticipated changes of technology and their effect on expansions of the proposed facility.

(5) Evidence demonstrating that no existing building, site, or structure or more preferred support structure as identified in subsection 98-260(e)(1), below.

(e) *Wireless telecommunicaiton facility support structure standards.*

(1) *Limitation on new support structures.* It is the city's policy to minimize the proliferation of new wireless telecommunication facility support structures in favor of collocation of such facilities on existing structures. No new wireless telecommunication facility support structures shall be constructed unless the applicant for the new structure demonstrates, and the planning commission finds, that collocation on an existing structure is not adequate or is not reasonably feasible.

New WCF facilities must be located according to this list of preference, from most preferred to least preferred. A new WCF facility will not be approved unless the applicant can demonstrate to the satisfaction of the review authority that all of the more preferred WCFs are not practical.

a. Hidden WCFs.

b. Co-location on an existing support structure.

c. Disguised WCFs.

d. Location on existing structures.

e. Ground mounted WCFs.

f. New monopole WCF.

(2) *Monopole design required.* All WCF support structures, unless otherwise provided, shall have a monopole, unipole or similar non-lattice, single vertical structure design and shall be further designed to accommodate at least four wireless telecommunication arrays of antennas or panels. The applicant shall submit an affidavit by a design engineer registered in the state attesting that the support structure can support at least four wireless telecommunication arrays of antennas or panels. The site plan for any new support structure shall expressly state that the support structure shall be erected and available for collocation, and shall also show the proposed location of the applicant's and co-locators' equipment shelters and related facilities.

(3) *Maximum height.* WCFs shall not exceed 185 feet in height, as measured from the average grade at the base of the support structure to the top of the antenna or panel. In no case shall the height exceed any applicable height limitation established by county, state or federal regulations.

(4) *One support structure per lot.* Except in the I-1 or I-C zoning district, not more than one WCF support structure may be located on a single lot.

(5) *Location on lot.* If located on the same lot as another permitted use, a ground mounted or monopole WCF shall not be located in a front yard or side yard abutting a street.

(6) *Setbacks.* Ground mounted and monopole WCFs shall be set back from the lot line a distance not less than one-half of its height or 65 feet, whichever is greater. However, when wireless telecommunication facilities are located on premises abutting residentially zoned or used land, the minimum setback from

the lot line abutting the residentially zoned lot shall be equal to the height of the facility. All setbacks shall be measured from the edge of the WCF support structure.

(7) *Signs.* No sign shall be attached to or displayed on a WCF other than signs required by federal, state, or local law. No signals or lights or other means of illumination shall be permitted on a facility unless required by state or federal law or regulation. The facility shall have a neutral color intended to blend with the surroundings.

(8) *Equipment shelters.* If the wireless telecommunication facility is located on a site which is already improved with another building or structure, and an equipment shelter is proposed, the equipment shelter shall be constructed with exterior facade materials similar to the principal building or structure on the site. Equipment shelters and accessory structures are limited to uses associated with the WCF and may not be located closer than 30 feet to any property line.

(9) *Fence.* A minimum six-foot tall decorative fence shall be provided surrounding the WCF equipment enclosure.

(10) *Screening.* Monopole and ground mounted WCFs, including the related equipment and required fence, shall be substantially screened from view from abutting properties. The screening shall consist of evergreen plant materials with a minimum height of 6 feet at planting, planted in such a manner to create an opaque screen within three years of planting. Existing vegetation that will be preserved may be used to satisfy the screening requirement with the consent of the reviewing authority.

(11) *Disguised WCFs.* A disguised WCF made to appear as an unrelated object such as a tree, steeple, or flagpole shall be sufficiently realistic in size and proportion to adjacent features as to be reasonably perceived as the intended object. The disguise must encompass the entirety of the WCF including its base facilities or, alternately, the base facilities may be isolated from the WCF in a separate building not closely associated with the disguised WCF. For the purposes of determining compliance with this Ordinance, the disguised WCF shall be treated identically as the object which it is intended to be recognized would be.

(12) *General requirements.*

a. All towers shall be equipped with an anti climbing device to prevent unauthorized access.

b. The plans of the tower construction shall be in conformance with all local and state building codes, Federal Aviation Administration, and Federal Communications Commission design standards and stamped by a registered structural engineer to verify the conformance.

c. Towers in excess of 100 feet in height above grade level shall be prohibited within a two-mile radius of a public airport or a one-half-mile radius of a helipad.

d. Metal towers shall be constructed of or treated with corrosive-resistant materials.

e. Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable statutes, regulations and standards.

f. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points unless buried underground.

g. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned or leased by the applicant.

h. The base of the tower shall occupy no more than 500 square feet.

i. Towers shall not be artificially lighted unless required by the Federal Aviation Administration.

j. On-site vegetation shall be preserved to the maximum extent practicable.

k. The antenna or tower shall not be used for display of an advertisement or identification of any kind, except for emergency purposes.

l. Structures shall be subject to any state and federal regulations concerning nonionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard; or the tower or antenna shall be removed. Cost for testing and verification shall be borne by the operator/owner of the antenna.

(f) *Co-location.*

(1) *Existing structures.* Wireless telecommunication antennas or panels may be installed on existing buildings or structures provided such antennas or panels, and their supporting structure, do not exceed the height limitation set forth in subsection (e)(3) of this section.

(2) *Exemption from setbacks.* Any wireless telecommunication antenna or panel mounted on an existing building or structure which does not increase the height of the building or structure shall be exempt from the setback requirements of subsection (e)(6) of this section.

(g) *Wireless telecommunication facilities located in one-family residential zones.* Wireless telecommunication facilities located in one-family residential zonesif permitted, shall meet one of the following requirements:

(1) *Existing non-residential building.* The WCF shall be mounted directly onto an existing, non-residential building in a manner that does not increase the height of the building. The facility shall consist of material or color which is compatible with the exterior treatment of the building;

(2) *Existing non-residential structure.* The WCF shall be located on an existing, non-residential support structure, pole or tower such as a public or private utility tower, pole or structure, but not on a building. Such facility shall consist of a material or color which is compatible with the tower, pole or structure. Antennas or panels may extend above the top of the tower, pole or structure not more than 30 feet; however, the height to the top of the antenna or panel may not exceed 185 feet; or

(3) *New support structure on public property.* The WCF shall be located on a new support structure situated on public property. Any facility located on public property which is used for passive recreation shall be designed to minimize the conspicuousness of the facility (e.g., utilizing camouflaged or stealth designed poles or existing environmental features as screening). All such facilities located on public property shall meet the setback requirements of this section. The use of guy wires is prohibited in residential districts.

(h) *Abandonment.*

(1) A WCF that is inactive for 12 consecutive months shall be considered abandoned. The building inspector shall notify the owner of the abandoned facility in writing and order removal of the facility within 90 days of receipt of the written notice. The owner of the facility shall have 30 days from receipt of the written notice to demonstrate to the building inspector that the facility has not been abandoned.

(2) If the owner fails to demonstrate that the WCF is in active operation, the owner shall have 60 days to remove the facility, including all above ground structures, equipment, foundations (to a depth of 12 feet below grade), and utilities constructed specifically to serve the WCF. The land shall be returned to a condition as near to the original pre-construction condition as possible. If the facility is not removed during this time period, the city is permitted to remove the facility at the owner's expense.

(3) If a surety has been given to the City for removal of the WCF, the owner of the WCF is permitted to apply for release of the surety when the WCF and related equipment are removed to the satisfaction of the building inspector.

(i) *Definitions.* The following terms, as used in this section, shall have the following meaning:

(1) *Active operation.* The continuous transmitting or receiving of radio frequency signals.

(2) *Co-location.* The use of a support structure or an alternative support structure by more than one wireless service provider.

(3) *Disguised WCF.* A WCF made and designed to appear to be an object recognized as other than a WCF.

(4) *Ground mounted WCF.* A WCF which is mounted to the ground, and which has a mast or similar structure and not a lattice tower or guy tower and is less than 50 feet in height.

(5) *Hidden WCF.* A WCF that is fully hidden from view when contained within an existing structure unrelated to a WCF, such as a building, wall, or roof.

(6) *Monopole WCF.* A WCF with a monopole support structure.

(7) *Support structure.* Any built structure, including guy wires and anchors if used, to which antennas and associated hardware are mounted.

(8) *Wireless communication facility (WCF).* Any structure, antenna, tower, or other device that provides voice, data, radio, or television transmission, personal wireless service, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio and enhanced special mobile radio communications, common carrier wireless exchange access services, common carrier wireless exchange phone services and personal communications services or pager services. The definition of WECF includes personal wireless services facilities as that term may be defined in Title 47, United States Code, Section 332(c)(7)(c), as it may be amended now or in the future.

(Ord. of 5-18-2009, § 4.440)

Sec. 98-261. Reserved.

Sec. 98-262. Apartments.

Apartments are required to conform to the specific design guidelines for apartments in the Downtown Housing and Adaptive Reuse Sub-Area Plan of Tecumseh's Comprehensive Master Plan. Additionally, buildings are required to comply with the architectural standards in the tables below:

NUMERICAL PARAMETERS

	WIDTH	HEIGHT	HEIGHT TO WIDTH RATIO	DEPTH	LATERAL SPACING	DEPTH OF RECESS	EXTENT OF PROJECTION
Building size	40' to 75'	Max. 40'	.5 to 1	Max. 140'	Refer to Schedule of Regulations	Max. 25' wide x 60' deep forecourt	n/a
Brick Coursing	8" to 8.25"	2.66" (Three courses = 8")	.3333 +/-	4"	n/a	Best practices	Best practices

Window Units	32" to 36"	56" to 72"	1.6 to 2.25	n/a	Divisible by ½ masonry unit size (or by 4")	4" to 8"	n/a
Window Units; Special Emphasis or Application	Unrestricted	Unrestricted	1.6 to 2.25	n/a	Divisible by ½ masonry unit size (or by 4")	4" to 8"	n/a
Individual Windows Units within Window Groups	20" to 36"	54" to 72"	2.0 to 3.0	n/a	3½" to 4" between window units; not factory grouped	4" to 8"	n/a
Sills	Corresponding to masonry opening	5.33" to 8"	Unregulated	To meet window unit	n/a	To meet window unit	1" to 1½"
Ext. Doors	36"	80" to 84"		n/a	Min. 25'	Min. 8"	n/a
Ext. Doorways	48" to 168"	Max. 1½ stories	Unregulated	Unregulated	Min. 25'	Min. 8"	Unregulated
Building Cornice	Corresponding to building width	Min. 12"	Unregulated	n/a	n/a	n/a	Min. 4"

ALLOWABLE MATERIALS

	BRICK	TERRA COTTA	SANDSTONE	LIMESTONE	FORMED CONCRETE	MARBLE	OTHER
Building Wall	X		X			X	Portland Cement Stucco
Accents		X	X	X	X	X	Limestone
Window and Door Heads	Soldier Course	X	X	X	X		Limestone
Window Sills	Soldier Course	X	X	X	X	X	Limestone
Columns	X	X	X	X	X		Limestone

Planning commission may waive the above requirements finding one of the following standards have been met:

(1) The architectural design of the proposed structure is consistent with the character of the surrounding area.

(2) The architectural design otherwise meets the building design standards of the B-2 district, section 98-434.

(3) The project is an adaptive reuse of an existing structure and the architectural design brings the building more into compliance with the building design standards of the B-2 district.

(Ord. No. 02-19, 3-18-2019)

Sec. 98-263. Carriage house/accessory dwelling unit.

Carriage houses/accessory dwelling units are required to conform to the specific design guidelines for carriage houses in the Downtown Housing and Adaptive Reuse Sub-Area Plan of Tecumseh's Comprehensive Master Plan. Additionally, buildings are required to comply with the architectural standards in the tables below:

NUMERICAL PARAMETERS

	WIDTH	HEIGHT	HEIGHT TO WIDTH RATIO	DEPTH	LATERAL SPACING	DEPTH OF RECESS	EXTENT OF PROJECTION
Building Size	20' to 25'	See zoning definitions	.5 to 1.2	20 to 25'	Refer to Schedule of Regulations	n/a	n/a
Brick Coursing	8" to 8.375"	2.66" (Three courses = 8")	.3333 +/-	4"	n/a	Best practices	Best practices
Window Units	32" to 36"	56" to 72"	1.6 to 2.25	n/a	Divisible by ½ masonry unit size (or by 4")	Consult manufacturer	n/a
Window Units; Special Emphasis or Application	Unrestricted	Unrestricted	1.6 to 2.25	n/a	Divisible by ½ masonry unit size (or by 4")	Consult manufacturer	n/a
Individual Windows Units within Window Groups	20" to 36"	54" to 72"	2.0 to 3.0	n/a	3½" to 4" between window units; not factory grouped	Consult manufacturer	n/a
Sills	Corresponding to masonry opening or window unit size	1½" to 2", or 5.33333" masonry.	Unregulated	To meet window unit	n/a	To meet window unit	1" to 1½"
Ext. Doors	36"	80" to 84"		n/a	Min. 15'	n/a	n/a

Window Trim (non-masonry structures)	Min. 3½" (5½" at top)	Corresponding to window	n/a	5/4 lumber	n/a	Consult manufacturer	n/a
Building Trim (non-masonry structures)	Min. 3½" vertical; 5½" horiz.	Unregulated	n/a	5/4 lumber	n/a	As required by design	n/a

ALLOWABLE MATERIALS

	BRICK	TERRA COTTA	SANDSTONE	LIMESTONE	FORMED CONCRETE	BEVELED CEDAR SIDING	OTHER
Building Wall	X		X			X	Portland Cement Stucco/Cement Board*
Accents	X	X	X	X	X		
Window and Door Trim*	Soldier Course	X	X	X	X		Cedar
Window Sills*	Soldier Course	X	X	X	X		Cedar
Columns	X	X	X	X	X		Wood

*Cement siding and wood trim installed smooth-side out. Visible wood-grain embossing or rough-sawn surfaces prohibited.

Planning commission may waive the above requirements finding one of the following standards have been met:

(1) The architectural design of the proposed structure is consistent with the character of the surrounding area.

(2) The architectural design otherwise meets the building design standards of the B-2 district, section 98-434.

(3) The project is an adaptive reuse of an existing structure and the architectural design brings the building more into compliance with the building design standards of the B-2 district.

(Ord. No. 02-19, 3-18-2019)

Sec. 98-264. Duplex/two-family dwelling unit.

Duplexes/Two-family dwelling units are required to conform to the specific design guidelines for duplexes in the Downtown Housing and Adaptive Reuse Sub-Area Plan of Tecumseh's Comprehensive Master Plan. Additionally, buildings are required to comply with the architectural standards in the tables below:

NUMERICAL PARAMETERS

	DUPLEX TYPE	WIDTH	HEIGHT	HEIGHT TO WIDTH RATIO	DEPTH	LATERAL SPACING	DEPTH OF RECESS	EXTENT PROJECT
Building Size	Stacked	20' to 55'	See zoning definitions	.5 to 1.2	Max. 65'	Refer to Building Form Regulations	n/a	n/a
	Adjacent	32' To 45'						
Brick Coursing	Stacked	8" to 8.375"	2.66" (Three courses = 8")	.3333 +/-	4"	n/a	Best practices	Best practice
	Adjacent							
Window Units	Stacked	32" to 36"	56" to 72"	1.6 to 2.25	n/a	Divisible by ½ masonry unit size (or by 4")	Consult manu-facturer	n/a
	Adjacent							
Window Units; Special Emphasis or Application	Stacked	Un-restricted	Un-restricted	1.6 to 2.25	n/a	Divisible by ½ masonry unit size (or by 4")	Consult manu-facturer	n/a
	Adjacent							
Individual Windows Units within Window Groups	Stacked	20" to 36"	54" to 72"	2.0 to 3.0	n/a	3½" to 4" between window units; not factory grouped	Consult manu-facturer	n/a
	Adjacent							
Sills	Stacked	Corresponding to masonry opening or window unit size	1½" to 2", or 5.33333" masonry	Unregulated	To meet window unit	n/a	To meet window unit	1" to 1½
	Adjacent							
Ext. Doors	Stacked	36"	80" to 84"		n/a	Un-regulated	n/a	n/a
	Adjacent					Min. 15'		
Window Trim (non-masonry structures)	Stacked	Min. 3½" (5½" at top)	Corresponding to window	n/a	5/4 lumber	n/a	Consult manu-facturer	n/a
	Adjacent							
Building Trim (non-masonry structures)	Stacked	Min. 3½" vertical trim; 5½" horizontal trim	Un-regulated	n/a	5/4 lumber	n/a	As required by design	n/a
	Adjacent							

ALLOWABLE MATERIALS

	DUPLEX TYPE	BRICK	TERRA COTTA	SAND-STONE	LIME-STONE	FORMED CONCRETE	BEVELED CEDAR SIDING	OTHER
Building Wall	Stacked	X		X			X	Portland Cement Stucco/Cement Board*
	Adjacent							
Accents	Stacked	X	X	X	X	X		
	Adjacent							
Window and Door Trim*	Stacked	Soldier Course	X	X	X	X		Cedar
	Adjacent							
Window Sills*	Stacked	Soldier Course	X	X	X	X		Cedar
	Adjacent							
Columns	Stacked	X	X	X	X	X		Wood
	Adjacent							

*Cement siding and wood trim installed smooth-side out. Visible wood-grain embossing or rough-sawn surfaces prohibited.

Planning commission may waive the above requirements finding one of the following standards have been met:

(1) The architectural design of the proposed structure is consistent with the character of the surrounding area.

(2) The architectural design otherwise meets the building design standards of the B-2 district, section 98-434.

(3) The project is an adaptive reuse of an existing structure and the architectural design brings the building more into compliance with the building design standards of the B-2 district.

(Ord. No. 02-19, 3-18-2019)

Sec. 98-265. Fourplex/four-family dwelling unit.

Fourplexes/four-family dwelling units are required to conform to the specific design guidelines for fourplexes in the Downtown Housing and Adaptive Reuse Sub-Area Plan of Tecumseh's Comprehensive Master Plan. Additionally, buildings are required to comply with the architectural standards in the tables below:

NUMERICAL PARAMETERS

	WIDTH	HEIGHT	HEIGHT TO WIDTH RATIO	DEPTH	LATERAL SPACING	DEPTH OF RECESS	EXTENT OF PROJECTION

Building Size	40' to 75'	Max. 40'	.5 to 1	Max. 140'	Refer to Schedule of Regulations	Max. 25' wide x 60' deep forecourt	n/a
Brick Coursing	8" to 8.25"	2.66" (Three courses = 8")	.3333 +/-	4"	n/a	Best practices	Best practices
Window Units	32" to 36"	56" to 72"	1.6 to 2.25	n/a	Divisible by ½ masonry unit size (or by 4")	4" to 8"	n/a
Window Units; Special Emphasis or Application	Unrestricted	Unrestricted	1.6 to 2.25	n/a	Divisible by ½ masonry unit size (or by 4")	4" to 8"	n/a
Individual Windows Units within Window Groups	20" to 36"	54" to 72"	2.0 to 3.0	n/a	3½" to 4" between window units; not factory grouped	4" to 8"	n/a
Sills	Corresponding to masonry opening	5.33" to 8"	Unregulated	To meet window unit	n/a	To meet window unit	1" to 1½"
Ext. Doors	36"	80" to 84"		n/a	Min. 25'	Min. 8"	n/a
Ext. Doorways	48" to 168"	Max. 1½ stories	Unregulated	Unregulated	Min. 25'	Min. 8"	Unregulated
Building Cornice	Corresponding to building width	Min. 12"	Unregulated	n/a	n/a	n/a	Min. 4"

ALLOWABLE MATERIALS

	BRICK	TERRA COTTA	SANDSTONE	LIMESTONE	FORMED CONCRETE	MARBLE	OTHER
Building Wall	X		X				Portland Cement Stucco
Accents	X	X	X	X	X		
Window and Door Heads	Soldier Course	X	X	X	X		

Window Sills	Soldier Course	X	X	X	X		
Columns	X	X	X	X	X		

Planning commission may waive the above requirements finding one of the following standards have been met:

(1) The architectural design of the proposed structure is consistent with the character of the surrounding area.

(2) The architectural design otherwise meets the building design standards of the B-2 district, section 98-434.

(3) The project is an adaptive reuse of an existing structure and the architectural design brings the building more into compliance with the building design standards of the B-2 district.

(Ord. No. 02-19, 3-18-2019)

Sec. 98-266. Live/work unit.

Live/work units are required to conform to the specific design guidelines for live/work units in the Downtown Housing and Adaptive Reuse Sub-Area Plan of Tecumseh's Comprehensive Master Plan. Additionally, buildings are required to comply with the architectural standards in the tables below:

NUMERICAL PARAMETERS

	WIDTH	HEIGHT	HEIGHT TO WIDTH RATIO	DEPTH	LATERAL SPACING	DEPTH OF RECESS	EXTENT OF PROJECTION
Building Size	16' to 125'	Max. 45'	.167 to 2	125' (Unit square footage limited by building code)	See item 8. above	Max. 9"; starting min. 15" above grade	Max. 5' for balconies
Brick Coursing	8" to 8.375"	2.66" (Three courses = 8")	.3333 +/-	4"	n/a	Best practices	Best practices
Window Units	32" to 48"	56" to 120"	1.6 to 2.4	n/a	Increments of 4" (or ½ masonry unit size)	4" to 8"	n/a
Window Units; Special Emphasis	Unrestricted	Unrestricted	1.6 to 2.25	n/a	Increments of 4" (or ½ masonry unit size)	4" to 8"	n/a

or Application							
Individual Windows Units within Window Groups	20" to 36"	54" to 120"	2.0 to 3.0	n/a	3½" to 4" between units; not factory grouped	4" to 8"	n/a
Sills	Corresponding to masonry opening	5.33" to 8" thick. Ht. = 54" to 60" at sidewalk	Unregulated	To meet window unit	n/a	To meet window unit	1" to 1½"
Ext. Doors	36"	84" to 108"		Min. 1"	Min. 20'; max. 80'	8"	n/a
Ext. Doorways	7' to 10'	One story, including transom	Unregulated	Min. 3'	Min. 20', lot width permitting	Min. 3' (doorway)	Unregulated
Building Cornice	Corresponding to building width	Min. 12"	Unregulated	n/a	n/a	n/a	Min. 8"

ALLOWABLE MATERIALS

	BRICK	TERRA COTTA	SANDSTONE	LIMESTONE	FORMED CONCRETE	MARBLE	OTHER
Building Wall	X		X				Portland Cement Stucco
Accents	X	X	X	X	X		
Window and Door Heads	Soldier Course	X	X	X	X		
Window Sills	Soldier Course	X	X	X	X	X	
Columns	X	X		X	X	X	Steel

Planning commission may waive the above requirements finding one of the following standards have been met:

(1) The architectural design of the proposed structure is consistent with the character of the surrounding area.

(2) The architectural design otherwise meets the building design standards of the B-2 district, section 98-434.

(3) The project is an adaptive reuse of an existing structure and the architectural design brings the building more into compliance with the building design standards of the B-2 district.

(Ord. No. 02-19, 3-18-2019)

Sec. 98-267. Triplex/three-family dwelling unit.

Triplex/three-family dwelling units are required to conform to the specific design guidelines for triplexes in the Downtown Housing and Adaptive Reuse Sub-Area Plan of Tecumseh's Comprehensive Master Plan. Additionally, buildings are required to comply with the architectural standards in the tables below:

NUMERICAL PARAMETERS

	WIDTH	HEIGHT	HEIGHT TO WIDTH RATIO	DEPTH	LATERAL SPACING	DEPTH OF RECESS	EXTENT OF PROJECTION
Building Size	20' to 55'	See zoning definitions	.5 to 1.2	Max. 85'	Refer to Schedule of Regulations	n/a	n/a
Brick Coursing	8" to 8.25"	2.66" (Three courses = 8")	.3333 +/-	4"	n/a	Best practices	Best practices
Window Units	32" to 36"	56" to 72"	1.6 to 2.25	n/a	Divisible by ½ masonry unit size (or by 4")	Consult manufacturer	n/a
Window Units; Special Emphasis	Unrestricted	Unrestricted	1.6 to 2.25	n/a	Divisible by ½ masonry unit size (or by 4")	Consult manufacturer	n/a
Individual Windows Units within Window Groups	20" to 36"	54" to 72"	2.0 to 3.0	n/a	3½" to 4" between window units; not factory grouped	Consult manufacturer	n/a
Sills	Corresponding to masonry opening or window unit size	1½" to 2", or 5.33333" masonry	Unregulated	To meet window unit	n/a	To meet window unit	1" to 1½"
Ext. Doors	36"	80" to 84"		n/a	Min. 20'	n/a	n/a
Window Trim (non-masonry structures)	Min. 3½" (5½" at top)	Corresponding to window	n/a	5/4 lumber	n/a	Consult manufacturer	n/a
Building Trim (non-masonry structures)	Min. 3½" vertical; 5½" horiz.	Unregulated	n/a	5/4 lumber	n/a	As required by design	n/a

ALLOWABLE MATERIALS

	BRICK	TERRA COTTA	SANDSTONE	LIMESTONE	FORMED CONCRETE	BEVELED CEDAR SIDING	OTHER
Building Wall	X		X			X	Portland Cement Stucco/Cement Board*
Accents	X	X	X	X	X		
Window and Door Trim*	Soldier Course	X	X	X	X		Cedar
Window Sills*	Soldier Course	X	X	X	X		Cedar
Columns	X	X	X	X	X		Wood

*Cement siding and wood trim installed smooth-side out. Visible wood-grain embossing or rough-sawn surfaces prohibited.

Planning commission may waive the above requirements finding one of the following standards have been met:

(1) The architectural design of the proposed structure is consistent with the character of the surrounding area.

(2) The architectural design otherwise meets the building design standards of the B-2 district, section 98-434.

(3) The project is an adaptive reuse of an existing structure and the architectural design brings the building more into compliance with the building design standards of the B-2 district.

(Ord. No. 02-19, 3-18-2019)

Sec. 98-268. Industrial hemp facilities.

The following standards shall apply to all industrial hemp facilities, unless noted as applying specifically to type A or type B facilities:

(a) *Odor control plan.* The operator of an industrial hemp facility shall prepare an odor control plan specifying the engineering and administrative controls the facility will use to the migration of odors generated from handling, processing, and storing industrial hemp, and/or migration of odors generated from the materials identified in subsection (e) below. The odor control plan shall be stamped by a mechanical engineer, or other qualified professional, registered by the State of Michigan, certifying the adequacy of the proposed ventilation and odor control system to perform the required mitigation. The odor control plan shall be prepared using industry-specific best control technologies and management practices for each odor source in the facility and shall include, at minimum:

(1) A facility floor plan, with location of odor producing activities specified. Relevant information shall include, but is not limited to, the location of doors, windows, ventilation systems, odor control systems, and odor sources.

(2) Specific odor-producing activities, describing the processes that will take place at the facility and the sources of the odors associated with, but not limited to, vegetative flowering, processing, drying and storage.

(3) For each source of an odor, including but not limited to handling, processing, and storage of industrial hemp and/or from the materials identified in subsection (e) below, specify the administrative processes and technologies the facility will use, including:

a. A description of proposed actions or technologies for each odor producing activity, including the number of products proposed to be used and product names, provided by the manufacturer or supplier of the technology;

b. Description of the calculating formulas provided by the manufacturer or supplier of the technology and/or mechanical engineer, to size the proposed odor control technologies for the specific use and odor sources to be controlled within the facility;

c. Maintenance and replacement schedule of key system components, provided by the manufacturer or supplier of the technology and/or mechanical engineer;

d. Building management activities intended to isolate odor-producing activities from the other areas of the buildings;

e. Staff training procedures, including organizational responsibilities and the roles/titles of staff members who shall be trained about odor control;

f. Recordkeeping systems and forms describing what records will be maintained by the facility operator;

g. Description of daily standard operating procedures to verify that odor control systems are operational;

h. Evidence that ventilation and odor controls are operational, sufficient to effectively mitigate odors for all sources consistent with accepted and available industry-specific best control technologies designed to effectively mitigate odors;

(b) *Traffic management plan.* The operator of an industrial hemp facility shall prepare a traffic management plan detailing the number and timing of delivery vehicles and logistical traffic flowing from the property, including all routes used in and out of the city.

(c) *Operational management plan.* The operator of an industrial hemp facility shall prepare an operational management plan detailing the number of employees and hours of operation.

(d) *Security and safety plan.* The operator of an industrial hemp facility shall prepare a security and safety plan detailing site security operations, video surveillance, and access by City of Tecumseh Police and Fire, subject to approval by city administration.

(e) *Hazardous materials and waste management plan.* The operator of an industrial hemp facility shall prepare a hazardous materials and waste management plan detailing all hazardous and noxious materials used in industrial processing with storage locations and disposal details. Type B facilities shall be required to provide details on the use of ethanol, pentene, pentane, butane, and other flammable and/or hazardous substances, with an alternate plan for the use of a non-flammable and/or hazardous processes stating if such alternate processes and/or substances are reasonable feasible production alternatives.

(f) Type B facilities shall be located greater than 400 feet from all residential districts measured by the shortest distance from facility structure(s) to the closest residential district property line. Planning commission may modify this requirement upon review of the required management plans and proposed mitigation activities.

(g) The city may use contracted staff and require payment of peer review escrow fees to review the odor control plan, traffic management plan, operational plan, security and safety plan, and hazardous materials and waste management plan.

(Ord. No. 03-21, § 1, 4-5-2021)

Secs. 98-269—98-280. Reserved.

ARTICLE V. SUPPLEMENTAL DISTRICT STANDARDS

DIVISION 1. PLANNED UNIT DEVELOPMENT

Sec. 98-281. Statement of purpose.

The intent of this division is to implement the provisions of Public Act 110 of 2006, as amended, authorizing the use of planned unit developments (hereinafter "PUDs") to allow regulatory flexibility in the consideration of proposed land uses within the city consistent with the requirements of the city's master plan. It is the intent of the city that the standards of the zoning ordinance may be increased, decreased, waived, or otherwise modified under the provisions of this division to promote the development that achieves one or more of the following objectives: a significantly greater preservation of open space and natural resources; providing community amenities; assisting in the redevelopment of downtown and the surrounding neighborhoods; or other recognizable benefits beyond those afforded by development which adheres to the minimum requirements of the underlying zoning classification applicable to the property.

(Ord. of 5-18-2009, § 5.101; Ord. No. 05-19, 6-3-2019)

Sec. 98-282. Qualifying conditions.

The following provisions shall apply to all PUDs:

(a) The planned unit development site shall be under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit.

(b) A PUD may only be approved in conjunction with an approved PUD concept plan and a written and recorded PUD agreement between the city and the property owner(s).

(c) A PUD may be approved in any zoning district and shall have a contiguous area of at least ten acres. When a PUD is proposed in a district currently zoned B-2 or within a master plan subarea that supports mixed use development and/or redevelopment, Planning Commission May waive the minimum acreage requirement with the following findings:

(1) The site has sufficient access to public roads and will be designed to support walking and biking.

(2) The site design includes public space, or is within one-half-mile of a public park.

(3) The site is of a sufficient size to support all necessary infrastructure for the proposed development.

(d) The city may approve a PUD on certain property or properties following the application and approval procedures below.

(e) The application must demonstrate that the proposed PUD is recommended for planned unit development in the city's adopted master plan or includes areas indicated in the city's adopted master plan as having significant natural, historical, or architectural features. The city may also qualify sites where an innovative, unified, and planned approach to developing the site would result in a significantly higher quality of development, the mitigation of potentially negative impacts of development, or more efficient development than conventional zoning would allow.

(f) The uses contained in a PUD with more than one type of use shall be complementary in nature.

(g) If a PUD includes residential uses, the housing types must be clustered to preserve common open space, in a design not feasible under the underlying zoning district regulations.

(h) A PUD shall achieve a higher quality development than is otherwise possible with the regulations for the underlying zoning district.

(i) A PUD shall result in a recognizable and substantial benefit to ultimate users of the project and to the community. The benefit to the community must be proportionate to the modifications of the city standards being requested. Such benefits may include, but are not limited to the following:

(1) Preservation or enhancement of significant natural features or open space.

(2) Provide a complementary variety of housing types and/or a complementary mixed-use plan of residential and commercial uses that is harmonious with adjacent development.

(3) Provide a civic facility or other public improvement.

(4) Alleviate traffic congestion.

(5) Provide for the appropriate redevelopment or re-use of sites designated as local historic districts (including noncontiguous districts), or parcels occupied by prior or obsolete nonresidential uses.

(6) A PUD shall advance certain other public objectives as identified in the city master plan.

(Ord. of 5-18-2009, § 5.102; Ord. No. 05-19, 6-3-2019)

Sec. 98-283. PUD review process.

The PUD review process consists of the following procedures:

(a) *Preapplication conference.* Before submitting an application for approval of a PUD, the applicant shall confer in a preapplication conference with the city manager and the development services director to obtain information and guidance regarding land development regulations, the city's master plan and the application process. At the preapplication conference the applicant shall submit a concept plan for the proposed PUD, containing both maps and a written statement. The plan should include enough of the surrounding area to demonstrate the relationship of the PUD to adjoining uses, both existing and proposed, and should contain sufficient detail to permit a meaningful exchange of ideas between the applicant and city staff regarding the suitability of utilizing a PUD approach to the development of the subject property.

(b) *Optional preliminary review.* An applicant may request a preliminary review by the planning commission. Sufficient information regarding the proposed uses, density, intensity, road layouts,

design concepts, and the relationship of the proposed PUD to surrounding area must be provided. The planning commission shall take no formal action during preliminary review.

(c) *Planning commission review of PUD.* Upon completion of the preapplication conference stage, a PUD application meeting the requirements of section 98-284 shall be submitted to the planning commission for its review.

(d) *Public hearing.* At least one public hearing on the PUD shall be held by the planning commission, with notice being given in accordance with section 98-25.

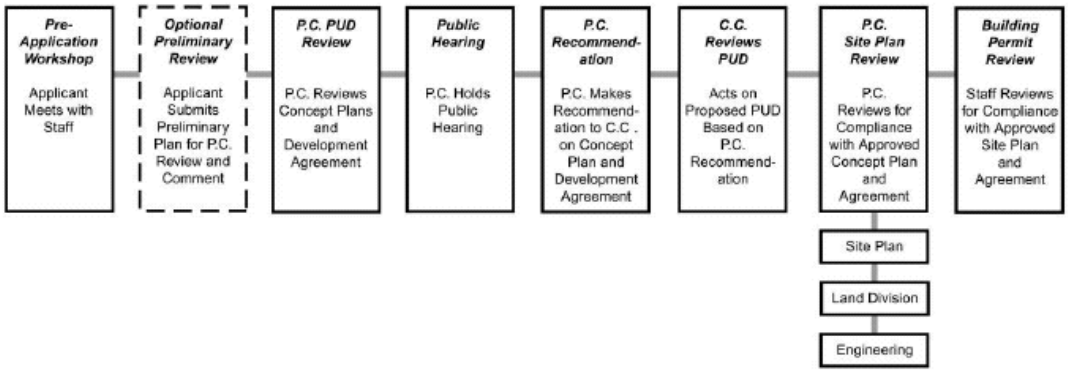
(e) *Recommendation by planning commission.* After the public hearing, the planning commission, using the standards in section 98-282 and, to the extent they are applicable to review of the PUD application, the standard in section 98-287, shall make a recommendation to the city council of approval, approval with modifications, or disapproval of the PUD, as represented by the PUD plan and accompanying materials. The planning commission shall prepare a report stating its conclusions on the PUD request, the basis for its recommendation, the recommendation, and any conditions relating to an affirmative recommendation.

(f) *City council review of PUD.* Upon receipt of the planning commission's recommendation, the city council shall make a decision on the PUD application. Based upon the standards in section 98-282 and, to the extent they are applicable to review of the PUD application, the standards in section 98-287, the city council may deny, approve, or approve with conditions the proposed PUD. The city council shall prepare a report stating its conclusions on the PUD application, the basis for its decision, the decision, and any conditions relating to an affirmative decision.

(g) *PUD Site plan review.* A complete site plan shall be submitted for review pursuant to section 98-25(e), site plan review, for each phase(s) of an approved PUD plan.

(h) *Enforcement.* The development services director shall review all building permits for an approved PUD project for compliance with the terms of the approved PUD agreement, and any other applicable codes and ordinances.

(i) *Summary of PUD review process.* The following figure summarizes the PUD review process:



(Ord. of 5-18-2009, § 5.103)

Sec. 98-284. PUD application submittal requirements.

The PUD application shall include all the following information, unless the development services director determines that some of the required information is not reasonably necessary for the consideration of the PUD:

(a) *Application form and required fee.*

(1) A narrative indicating the period of time within which it is contemplated the project will be completed.

(2) A concept plan showing a layout of the uses and structures in the PUD and their locations.

(3) Written verification of access easements or agreements, if applicable.

(4) A note on each plan sheet stating, "Not to be used as construction drawings."

(5) Information pursuant to 98-285 and any additional graphics or written materials reasonably requested by the planning commission or city council to assist in determining the impacts of the proposed site plan, including, but not limited to, economic or market studies; impact on public primary and secondary schools and utilities; traffic impacts; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; and estimated construction cost.

(6) Additional information that may be reasonably necessary for a full and complete consideration of the proposed PUD and its impact on the immediately surrounding area and the city as a whole.

(7) Draft PUD agreement between the city and the applicant, which shall include, among other items, a provision as to such revisions to the site plan that may be approved administratively by the planning commission, any specific terms and conditions relating to an approved PUD including specific terms relating to the administration of the project.

(8) The application for PUD review shall include a community impact statement. The statement shall be derived from a study of the city based on information from the following community elements:

a. Planning/zoning issues, including conformance with the master plan, zoning ordinance, and other applicable city codes and policies;

b. Land development issues, including topographic, soil conditions, and site safety concerns;

c. Private utilities consumption, including electrical needs and natural gas utilization;

d. Noise level conditions;

e. Air quality conditions;

f. Environmental design and historic values including visual quality and historic resources;

g. Community facilities and services, including refuse collection, sanitary and storm sewer, and water supply;

h. Public safety needs, including police, fire and emergency medical services;

i. Open space landscaping and recreation, including cultural elements;

j. Traffic impact study.

(Ord. of 5-18-2009, § 5.104)

Sec. 98-285. Site plan review.

For the total PUD or for each portion of the PUD, if staging of development is planned, a site plan review is required in accordance with Article II, Division 2 of this chapter prior to the issuance of zoning permits. The site plan submittal shall include all of the information required by section 98-88.

(Ord. of 5-18-2009, § 5.105)

Sec. 98-286. Regulatory flexibility.

The city council, either during the PUD review stage, or after site plan review by the planning commission, may increase, decrease, waive, or otherwise modify the current standards within the zoning ordinance including, but not limited to: use, density, intensity, setbacks, building heights, parking, project design standards of section 98-287, and landscape standards provided the modification is found to improve the quality of development above and beyond what could be developed under the underlying zoning, or results in a higher level of public benefit, and to achieve the purpose of this article.

(Ord. of 5-18-2009, § 5.106)

Sec. 98-287. Project design standards.

The following standards are intended as guidelines and may be modified by the city under the provisions of section 98-286.

(a) *Standards of approval.* The planning commission and city council shall use any applicable standards for approval contained in city ordinances related to land use and any adopted development guidelines, as well as the standards contained in Public Act 184 of 1943, as amended, which are not inconsistent with the approved PUD plan or the PUD agreement, in reviewing and approving a site plan.

(b) *Use.* The uses proposed shall be consistent with the city's master plan or the approved PUD concept plan.

(c) *Density.* For areas of detached single-family housing, the density may not exceed three dwelling units per acre; for areas for residential uses other than detached single-family housing, the density may not exceed eight dwelling units per acre; for areas mixing detached single-family housing with other types of housing, appropriate density, lot sizes and developmental provisions shall be determined by the city council following review by the planning commission, considering the requirements of such districts. The city may permit proportionate increases in density or intensity for projects that demonstrate a significant public benefit to the city.

(d) *Open spaces and recreation areas.* At least 20 percent of the total PUD acreage shall be in open space and recreation area, including plazas. However, regulated wetland areas may count for a maximum of ten percent of the minimum open space and recreation area requirement. That portion of a regulated wetland area within 100 feet of the boundary of the regulated wetland may be counted toward the overall density of a proposed project provided the overall project will further a certain public objective such as natural feature preservation, public improvements, or other items included in the city master plan, which could not be otherwise achieved under conventional zoning, or if provided for in the PUD agreement.

(e) *Impact on surrounding uses.* The uses proposed will have a beneficial effect, in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses. The uses proposed will not adversely affect the public utility and circulation system, surrounding properties, or the environment. The public benefit shall be one that could not be achieved under the regulations of the underlying district alone, or that of any other single zoning district.

(f) *Parking.* The number and dimensions of off-street parking spaces shall be sufficient to meet the minimum required by the zoning ordinance. However, if the parking needs of the development can be met by a modification of such requirements, or where warranted by overlapping or shared parking arrangements, or where parking spaces can simultaneously accommodate more than one use, the planning commission or city council may adjust the required number of parking spaces. The city council

may also allow portions of required parking spaces to be banked as open space until determined either by the owner or the city that such spaces should be improved.

All streets and parking areas within the planned unit development shall meet the minimum construction and other requirements of city ordinances, unless modified by the city council.

(g) *Landscaping.* Existing landscaping shall be preserved and/or improved or additional landscaping be provided to ensure that proposed uses will be adequately buffered, where buffering is appropriate, from one another and from surrounding public and private property. The quality and/or quantity of landscaping materials shall exceed the minimums otherwise required by this chapter.

(h) *Existing features.* The PUD plan shall demonstrate that the plan will preserve significant natural, historical, and architectural features, if any, and the integrity of the land.

(i) *Utilities.* Public water and sewer facilities shall be available or shall be provided for by the developer as part of the site development.

(j) *Circulation.* Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation within and into the site shall be provided.

(1) Drives, streets and other elements within the property shall be designed to implement the circulation plan in the city master plan to promote safe and efficient traffic operations within the site and at its access points.

(2) Sidewalks or multipurpose paths shall be provided along major thoroughfares, where identified in the city's master plan, and within the development, if deemed appropriate by the planning commission to provide safe and efficient non-motorized circulation

(Ord. of 5-18-2009, § 5.107)

Sec. 98-288. Status of city council approval.

(a) Approval of a PUD application and execution and recording at the county register of deed's office of a PUD agreement containing all of the terms and conditions of approval by the city council confers on the applicant and any subsequent owners of the PUD property the right to utilize the property included as part of the approved PUD in accordance with the approved PUD and in accordance with the PUD agreement. The provisions of the PUD agreement shall prevail over any inconsistent provisions of this chapter or any other city ordinance. An approved site plan shall take precedence over the approved PUD concept plan for the area of the approved site plan. Site plan approval shall be granted only upon a determination by the planning commission that a proposed site plan is consistent with all of the terms of the approved PUD agreement and the approved concept plan.

(b) The city council may cause to have legal documents, covenants or contracts prepared which are not inconsistent with the PUD agreement, and may require the execution thereof by the applicant, which documents involve the city and are required as a result of the conditions contained in the PUD agreement or the site plan approvals in a PUD area.

(c) The development services director shall review all building permits for an approved PUD project for compliance with the terms of the approved PUD agreement, and any other applicable codes and ordinances.

(d) The development services director or their designee shall inspect the development at each stage to ensure reasonable compliance with the conditions of the approved PUD or approved site plans, as applicable.

(Ord. of 5-18-2009, § 5.108)

Sec. 98-289 Revocation or changes.

The city council, upon a breach of the PUD agreement may revoke a PUD or any portion thereof. Revocation of any portion of a PUD shall revert that portion of the PUD to the status and requirements of the original zoned district, without benefit of the PUD provisions. Proposed changes in a PUD, other than those considered a part of site plan review for all or a portion of the PUD must be processed in the same manner as the original PUD procedure.

(Ord. of 5-18-2009, § 5.109)

Sec. 98-290 Appeals and violations.

The zoning board of appeals shall not have the authority to change specific PUD written conditions, or make interpretations to an approved site plan, which right is reserved to the city council. In considering an appeal or interpretation of an approved PUD, the city council may request input from the planning commission.

(Ord. of 5-18-2009, § 5.110)

Sec. 98-291. Violations and enforcement.

(a) Any violation or deviation from an approved site plan or written conditions, except as authorized in this section, shall be considered a violation of section 98-288 and treated as a violation of this section. Furthermore, any such deviation may be grounds to invalidate the PUD designation.

(b) The cost of enforcing violations of the approved PUD site plan or agreement shall be borne by the developer or their successors.

(Ord. of 5-18-2009, § 5.111)

Secs. 98-292—98-300. Reserved.

DIVISION 2. PRD Planned residential development.

Sec. 98-301. Preamble.

The PRD planned residential district allows a mixture of types of residential units (single-family, two-family, multiple-family). Development under this chapter shall be in accordance with a comprehensive physical plan establishing functional use areas, density patterns and a mixed system of residential collector streets. Approval of a planned residential development under this article shall be considered an optional method of development and improvement of property subject to the mutual agreement of the city and the applicant.

(Ord. of 5-18-2009, § 5.201)

Sec. 98-302. Mapped zoning district.

A PRD is a mapped zoning district, and land must be zoned PRD prior to the submittal of a site plan for any development according to the standards of this chapter.

(Ord. of 5-18-2009, § 5.202)

Sec. 98-303. Principal uses permitted.

Principal permitted uses in the RA-1 and RA-2 districts are permitted in PRD districts.

(Ord. of 5-18-2009, § 5.203)

Sec. 98-304 Special land uses.

The following uses may be permitted in a PRD following special land use approval.

(a) Two-family dwellings.

(b) Multiple-family dwellings.

(1) Row houses.

(2) Terraces.

(3) Apartments.

(4) Efficiency apartments.

(5) Townhouses.

(c) Rental or management offices and club rooms accessory to the planned residential development.

(d) Churches.

(e) Public, parochial and private elementary schools and/or high schools offering courses in general education.

(f) Golf courses in accord with an approved plan.

(g) Public libraries, parks, parkways and recreational facilities.

(h) Private parks and recreation areas for the use of the residents of the planned residential development.

(i) Accessory uses and accessory buildings, including parks and recreational facilities.

(Ord. of 5-18-2009, § 5.204)

Sec. 98-305. Height, bulk, density, and land area.

(a) *Density.* For purposes of computing and controlling population density, the following standards shall apply:

(1) *Calculating parcel area.* The entire gross area of the planned residential development, including street rights-of-way, parks, schools and other public or private open space, shall be included in the computation of area; however, school sites may be included only to a maximum of 15 acres or 25 percent of the total open space, whichever is the lesser amount. 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 PRO, the surface area of such lakes or streams may be used to compute density.

(2) *Density.* Maximum dwelling unit density shall not exceed 4.5 dwelling units per acre for the total site area being proposed for development as a planned residential development.

a. Not more than 60 percent of the number of dwellings permitted for the entire development shall be in attached dwelling units (multiple-family and cluster housing units).

b. For purposes of computing density, a den, library or other extra room shall not count as a bedroom unless a closet opens directly to the room.

c. Not more than 30 percent of the units in a PRO district may be one bedroom or efficiency units.

(b) *Density transition.* In order to provide an orderly transition of density, where the project being proposed for use as a PRO immediately abuts an RA-1 or RA-2 district, the city may require that the area immediately abutting and within 300 feet of the RA-1 or RA-2 district shall be developed in single-family lots, or shall be developed as open or recreation space.

(c) *Single-family requirements.* Single-family dwellings shall be subject to the requirements applicable to the RA-1 or RA-2 district, as determined by the city council after recommendation is received from the planning commission.

(d) *Multiple family requirements.* Multiple dwellings shall be subject to the requirements applicable to the RM-1 or RM-2 district, as determined by the city council after recommendation is received from the planning commission.

(Ord. of 5-18-2009, § 5.205)

Sec. 98-306. Required conditions.

All dwelling units shall comply with the requirements of section 98-252.

(Ord. of 5-18-2009, § 5.206)

Sec. 98-307. Application and review procedures.

The person owning and controlling land zoned PRD may make application to the city council for consideration under this section. The person applying shall be required to submit the following materials to the city council:

(a) *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:

(1) 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).

(2) A topographic map of the entire area at a contour interval of at least one inch equals two feet. This map shall indicate all major stands of trees, bodies of water and unbuildable areas (scale: not smaller than one inch equals 200 feet).

(3) A recent aerial photograph of the area shall be provided (scale: not smaller than one inch equals 200 feet).

(4) 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).

(5) 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.

(6) 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 surveys, studies supporting land use requests, and the intended scheduling of the development.

(b) *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 the public hearing and receipt of the planning commission's report and recommendation, the council may approve the application and accompanying plan only upon finding that:

(1) All applicable provisions of this article and this division have been met. Insofar as any provision of this article shall be in conflict with the provisions of any other section of this chapter, the provisions of this article shall apply to the lands embraced within a planned residential development area.

(2) 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.

(3) Open space may include parks and recreation areas, wooded lots, golf courses, schools, water areas and any use of a similar nature approved by the city council; however, at least one acre for each 50 dwelling units shall be preserved as park, recreation or open space rather than as a golf course, water area, road right-of-way, school or similar limited-use area. Yard areas required for single-family cluster housing or multiple-family units shall not count as part of this open space requirement.

(4) In planned residential districts any prorated open space shall be committed by dedication to an association of residents, as rights-in-fee, easements, or in a master deed, and retained as open space for park, recreation and related uses. All lands dedicated in fee or easement shall meet the requirements set forth by the city council. Provisions satisfactory to the city council shall be made to provide for the financing of any improvements shown on the plan for open spaces and common use areas which are to be provided by the applicant, including maintenance of such improvements by a means satisfactory to the city council. This may include a development agreement. Such documents shall be recorded with the county register of deeds.

(5) 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 the road system and stormwater drainage system is adequate.

(6) 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.

(7) The applicant has made provision, satisfactory to the council, to ensure 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 council may require that conveyances or other documents be placed in escrow to accomplish this.

(8) Provisions satisfactory to the 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 council.

(9) The cost of installing all streets and the necessary utilities has been assured by a means satisfactory to the council.

(10) The council may require guarantee for the completion of improvements.

(c) *Approval of PRD by city council.*

(1) If the council shall determine to grant the application and approve the plan, it shall instruct the city attorney to prepare a contract setting forth the conditions upon which such approval is based, which contract, after approval by resolution of the council, shall be executed by the city and the applicant and recorded in the office of the county register of deeds. Approval shall be effective upon recording.

(2) Once an area has been included within a plan for planned residential development and such plan has been approved by the council, no development may take place in such area nor may any use be made except in accordance with the plan or in accordance with a council-approved amendment unless the plan is terminated as provided in this section.

(3) 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 said recording.

(4) 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.

(5) Within a period of two years following approval by the council, final plats and/or site plans for an area embraced within the planned residential development must be submitted as provided in this article. 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.

(Ord. of 5-18-2009, § 5.207)

Sec. 98-308. Submittal of final plats or site plans.

(a) *Site plan or final plat approval required.* Before any building permits may be issued for buildings and structures in a PRD, final plats, site condominium plans, and/or site plans for a project area shall be submitted to the city for review. The plat or site plan shall comply with all of the procedures and requirements applicable under this chapter and other city ordinances, and shall also comply with the following requirements:

(1) 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 their proposed ultimate density, 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).

(2) The proposed topography (contours of at least two-foot intervals) shall be superimposed on all plats and plans (scale one inch equals 50 feet).

(3) 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.

(4) 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.

(5) Open space and its development and use shall be subject to the review and approval by the planning commission and the city council.

(6) The planning commission may require, as part of a final site plan review of a phase of a PRD, that land shown as open space on the approved area plan be held in reserve as part of the phase to be

developed, in order to guarantee that density limits for the entire approved PRD will not be exceeded when the subject phase is completed. Such reserved land may be included in the development of subsequent phases if the density limits will not be exceeded upon completion of that phase or if other land is similarly held in reserve.

(b) *Required determinations.* Before approving of any final plat or plan, the council shall determine that:

(1) All portions of the project area shown upon the approved plan for the planned development for use by the public or the residents of lands within the planned development have been committed to such uses in accordance with the planned development contract.

(2) The final plats and/or site plans are in substantial conformity with the approved plan for the PRD.

(3) 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.

(4) 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.

(c) *Building permits.* 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 33⅓ 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 33 1/3 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.

(1) The ratio of single-family bedrooms to the total number of bedrooms within the planned residential development for which occupancy permits will be issued may be altered by the planning commission from 50 percent to a minimum of ten percent, as long as the building permit ratio is not altered.

(2) In no situation will multiple-family construction permits be issued unless at least three single-family bedroom (one single-family structure) occupancy permits have been issued.

(d) *Completion of open space.* In order to ensure the development of open space in conjunction with a PRD, the city council shall include in the contract, recorded with 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 council.

(e) *Completion.* If development of approved final plats, site condominium plans and/or site plans is not substantially completed in three years after approval, further final submittals under the planned residential development shall cease until the part in question is completed or cause can be shown for not completing the part.

(Ord. of 5-18-2009, § 5.208)

Sec. 98-309. Fees.

Fees for review of site plans shall be established by resolution of the city council.

(Ord. of 5-18-2009, § 5.209)

Sec. 98-310. Amendment.

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 building inspector may request that the plan be again submitted for review if, in his judgment, a substantial change is being made in the plan.

(Ord. of 5-18-2009, § 5.210)

Secs. 98-311—98-320. Reserved.

DIVISION 3. ERC ENVIRONMENTAL RESIDENTIAL COMMUNITY

Sec. 98-321. Preamble.

For the purposes of this section, an environmental residential community (the ERC) is defined as a residential development that is designed to have a minimal impact on the existing natural resources of the site and within which a portion of significant natural area is permanently preserved and explicitly protected from any future development.

(Ord. of 5-18-2009, § 5.301)

Sec. 98-322. Intent.

(A) It is the intent of this section to provide a method for residential development that preserves and protects significant natural areas and waterways in perpetuity.

(B) This section is designed through the use of planned unit development legislation as authorized in section 503 of the Michigan Zoning Enabling Act.

(c) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.

(d) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, cover, significant landmarks, and trees; to reduce impervious surface; to minimize cut and fill; and to preserve and enhance views and vistas on and off the subject parcel. Innovative stormwater management practices shall be encouraged that are protective of the natural resources.

(e) Proposed development shall be related harmoniously to the terrain and to the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationships to the proposed buildings. Proposed buildings/structures shall be related to their surroundings.

(f) All open space shall be designed to add to the visual amenities of the area for persons passing the site or overlooking it from nearby properties.

(g) The color, size, height, lighting, and landscaping of appurtenant signs and structures shall be evaluated for compatibility with the local architectural motif and the maintenance of views and vistas of natural landscapes, recognizing historic landmarks, natural areas, parks, and landscaping.

(h) The removal or disruption of environmentally significant features shall be prohibited. Environmentally significant features may include but are not limited to woodlands, vegetation, natural area, sloping land, wildlife habitat, scenic vistas, wetlands and waterways on the site. Additional care must be taken as a result of any construction activity that no negative impact of environmentally significant features on adjacent property shall occur.

(Ord. of 5-18-2009, § 5.302)

Sec. 98-323. Qualifying conditions.

To be eligible for development as an environmental residential community, the applicant must present a proposal for residential development that meets all of the following requirements.

(a) *Recognizable benefits.* The ERC shall provide a benefit to the environment as well as to the residents of the property and the overall quality of life in the city. Preservation of significant natural resources, including woodlands, wetlands and open space and the use of site design elements that minimize the impact of development on the natural resources, including innovative stormwater management practices, shall be a priority.

(b) *Environmentally significant features.* The proposed site shall contain environmentally significant features which would be in the best interest of the environment to preserve and which would be negatively impacted by conventional residential development. Such features may include woodlands, individual trees over 12 inches in diameter, measured five feet above grade, rolling topography, significant views, natural drainage ways, rivers, streams, water bodies, floodplains, regulated or nonregulated wetlands, or natural corridors that connect quality wildlife habitats. The significance of such features may be determined by an appropriate outside agency (selected by the planning commission) or by previously completed studies acceptable to the planning commission.

(c) *Guarantee of preservation.* The applicant shall guarantee to the satisfaction of the city council and planning commission that the significant natural resources of the site shall be maintained in the manner approved. Evidence shall be provided that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the city and the land use continues as approved in the environmental residential community. Longterm enforcement of the guarantee of preservation shall reside with the city manager as directed by the city council.

(d) *Unified control.* The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety to the satisfaction of the planning commission and the city council in accordance with the approved site plan.

(e) *Relation to permitted development.*

(1) The proposed type and density of the residential development shall not result in an unreasonable increase in the need for or impact to public services, facilities, roads and utilities in relation to residential development that would otherwise be permitted on the site.

(2) The development shall not place an unreasonable impact to the subject and/or surrounding land/or property owners and occupants and/or the natural environment.

(3) The applicant may be required to prepare an impact statement documenting the significance of any environmental, traffic or socioeconomic impact resulting from the proposed environmental residential community.

(4) The applicant may be required to prepare a quantitative comparison of the impacts of conventional development. and the environmental residential plan to assist in making this determination (such as an overlay of conceptual development plans on a natural resources map illustrating other site development options that demonstrate the impacts that have been minimized to the extent practical.) If the cumulative impact creates or contributes to a significant problem relative to infrastructure demand or environmental degradation, mitigation shall be provided to alleviate the impacts associated with the environmental residential community.

(f) *Minimum lot area.* A minimum parcel area of 20 acres is required to use the environmental residential community development option.

(Ord. of 5-18-2009, § 5.303)

Sec. 98-324. Permitted uses and density.

(a) *Permitted uses.* An environmental residential community is restricted to residential dwellings.

(b) *Dwelling density.* The maximum number of dwelling units allowable within an environmental residential district shall be determined by the entire gross area of the district, including the area to be preserved. The maximum dwelling unit density shall not exceed 3.4 dwelling units per gross acre. The planning commission shall have the authority to require a lower density if it is determined to be in the best interest of the protection of the environmentally significant features.

(Ord. of 5-18-2009, § 5.304)

Sec. 98-325. Regulatory flexibility.

To encourage flexibility and creativity consistent with the environmental residential community concept, the planning commission may grant specific departures from the requirements of this chapter and the subdivision and site condominium regulations. For example, modifications in the requirements for yard, setbacks, lot width, street width or stormwater drainage may be modified, provided that such modifications result in the preservation of environmentally significant features.

(Ord. of 5-18-2009, § 5.305)

Sec. 98-326. Conservation requirements.

A dedicated conservation area shall be set aside by the applicant through an irrevocable conveyance that is found acceptable to the planning commission. Such conveyance shall assure that the conservation area will be protected in perpetuity from all forms of development and alternative uses.

(a) *Irrevocable conveyance.* Such conveyance shall assure that the conservation area will be protected from all forms of development, except as shown on an approved site plan, and shall be set aside as a natural preserve in perpetuity. Such conveyance shall indicate the proposed allowable use(s), if any, of the dedicated open space. The planning commission may require the inclusion of restrictions that prohibit the following:

(1) Dumping or storing of any material or refuse;

(2) Activities that may cause risk of soil erosion;

(3) Use of motorized, offroad vehicles except as may be necessary for maintenance;

(4) Cutting, filling or removal of vegetation from wetland areas; except as may be necessary for noxious or invasive weeds;

(5) Use of pesticides, herbicides or fertilizers within or adjacent to wetlands except as may be prescribed by the Michigan Department of Natural Resources.

(b) *Additional requirements.* The conveyance shall also provide the following:

(1) Require that the dedicated open space be maintained by parties who have an ownership interest in the open space or hold a conservation easement.

(2) Provide standards for scheduled maintenance of the open space.

(3) Provide for maintenance to be undertaken by the city in the event that the dedicated open space is inadequately maintained, or is determined by the city to be a public nuisance, with the assessment of costs upon the property owners.

(4) Continuing obligation. The dedicated open space shall forever remain open space, subject only to uses approved by the city on the approved site plan. Further subdivision of dedicated open space land or its use for other than conservation purposes shall be strictly prohibited.

(Ord. of 5-18-2009, § 5.306)

Sec. 98-327. Natural resources.

The development shall be designed to promote the preservation of natural resources. If animal or plant habitats of significant value exist on the site, the planning commission, as a condition of approval, shall require that the environmental residential community plan preserve these areas in a natural state and adequately protect them as a nature preserve or as limited access areas. The planning commission may also require an appropriate setback based on the need to protect any lake, pond, river, stream, wetland or slope.

(Ord. of 5-18-2009, § 5.307)

Sec. 98-328. Project review.

When considering any application for approval of an environmental residential community site plan, the planning commission shall make their determinations on the basis of the standards for site plan approval set forth in Article II, Division 2 of this chapter (site plan review) as well as the following standards and requirements:

(a) *Compliance with the environmental residential community concept.* The overall design and land uses proposed in connection with an environmental residential community shall be consistent with the intent of the open space community concept, as well as with design standards as set forth herein.

(b) *Compatibility with adjacent uses.* The proposed environmental residential community plan shall set forth in detail, all specifications with respect to height, setbacks, density, parking circulation, landscaping, views, and other design features that exhibit due regard for the relationship of the development to surrounding properties, the character of the site and land uses. In determining whether this requirement has been met, consideration shall be given to:

(1) The bulk, placement and materials of construction of the proposed structures.

(2) Pedestrian and vehicular circulation.

(3) The location and screening of vehicular use or parking areas.

(4) The provision of landscaping and other site amenities.

(c) *Traffic impact.* The environmental residential community shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses.

(d) *Protection of natural environment.* The proposed environmental residential community shall be protective of the natural resources. In addition, it shall comply with all applicable environmental protection laws and regulations.

(e) *Roads.* The construction of private roads within the environmental residential com-unity is encouraged, and may be required. Requirements of the city subdivision and site condominium regulations for design may be modified if i.) there is no potential for the road to connect with abutting land or be extended to serve additional land in the future; ii.) natural features will be preserved; or iii.) the reduction of impervious surface will result in less runoff.

(1) At a minimum, private roads shall meet the design requirements of the American Association of State Highway and Transportation Officials (AASHTO). Roads that are built to a lesser standard than that required for public streets in the city shall not be eligible for dedication to the city.

(2) In the event that a road is proposed for dedication to the city, it shall meet the city's minimum requirements for public streets. In no instance shall the city be required to bear the cost of upgrading a private road to the city design standard.

(f) *Compliance with other government regulations.* The proposed environmental residential community shall comply with all applicable federal, state and local regulations.

(g) *City master plan.* The proposed environmental residential community shall be consistent with and further the implementation of the city's master plan.

(h) *Conditions.* The planning commission may place reasonable conditions on the approval of the environmental residential community to the extent authorized by laws, for the purpose of ensuring that the proposed development meets the intent of this article.

(Ord. of 5-18-2009, § 5.308)

Secs. 98-329—98-340. Reserved.

DIVISION 4. SUBDIVISION OPEN SPACE PLAN

Sec. 98-341. Purpose.

The purpose of the subdivision open space plan option is:

(a) To provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, hills and similar natural assets.

(b) To encourage developers to use a more creative approach in the development of residential areas.

(c) To encourage a more efficient, aesthetic and desirable use of open area while recognizing a reduction in development costs and by allowing the developer to bypass natural obstacles on the site.

(d) To encourage the provision of open space within reasonable distance to all lot development of the subdivision and to further encourage the development of recreational facilities.

The city shall consider the above objectives when reviewing an application for an open space plan subdivision, and shall only approve the application if it meets all of the above objectives and the minimum requirements of this Chapter.

(Ord. of 5-18-2009, § 5.401)

Sec. 98-342. Dimensional standards.

Lot dimensions in RA-1 and RA-2 one-family residential districts may be reduced in accordance with the following schedule, providing the number of residential lots shall be no greater than could otherwise be developed if the subdivision was designed according to all of the dimensional standards applicable in the underlying zoning district.

(a) *Gross density.* All calculations of density for residential development shall be predicated upon the RA-1 and RA-2 one-family districts having the following gross densities (including roads):

(1) *RA-1* = 3.4 dwelling units per acre.

(2) *RA-2* = 4.4 dwelling units per acre.

(b) *Lot width.* Lot widths shall not be less than 75 feet in an RA-1 zone and 65 feet in an RA-2 zone.

(c) *Lot depth.* Lot depths shall not be less than 110 feet; except where lots border on land dedicated to the common use of the subdivision, lot depth may be reduced to 100 feet.

(d) *Setbacks.* Minimum yard setbacks shall be as required by the underlying zoning district except where rear lot lines border on land dedicated to the common use of the subdivision the rear yard setback may be reduced to 20 feet.

(Ord. of 5-18-2009, § 5.402)

Sec. 98-343. Open space requirements.

(a) *Minimum area.* For each square foot of (land gained within a residential subdivision as a result of reductions to required lot dimensions per section 98-341, equal amounts of land shall be dedicated to the common use of the lot owners in the subdivision in a manner approved by the city.

The area to be dedicated for the common use of the subdivision shall in no instance be less than two acres and shall be in a location and shape approved by the city. A parcel divided by a road or stream shall be considered one parcel. The land area necessary to meet the minimum requirements of this section shall not include bodies of water, swamps or land with excessive grades making it unsuitable for recreation. All land dedicated shall be so graded and developed as to have natural drainage.

(b) *Access.* Access shall be provided to areas dedicated for the common use of the subdivision for those lots not bordering on such dedicated areas by means of streets or pedestrian accessways.

(Ord. of 5-18-2009, § 5.403)

Sec. 98-344. Administrative requirements.

(a) *Dedication of open space.* Under this subdivision open space plan approach, the developer or subdivider shall dedicate the total park area at the time of filing of the final plat on all or any portion of the plat.

(b) *Application.* Application for approval of a subdivision open space plan shall be submitted at the time of submission of the preliminary plat as required by the state land division act (MCL 560.101 et seq.) and chapter 46 of this Code.

(Ord. of 5-18-2009, § 5.404)

Secs. 98-345—98-350. Reserved.

DIVISION 5. ONE-FAMILY CLUSTERING OPTION

Sec. 98-351. Intent.

The intent of this division is to permit the development of one-family residential patterns which, through design innovation, will provide for an alternative means for development of single-family areas. To accomplish this, modifications to the one-family residential standards to allow the attaching of one-family dwelling units may be permitted in the RA-1 and RA-2 districts according to the qualifying conditions and development standards of this chapter.

This chapter is further intended to allow the planning commission to approve the clustering or attaching of buildings on parcels of land under single ownership and control which, in the opinion of the planning commission, have characteristics which would make sound physical development under the normal subdivision approach impractical because of parcel size, shape or dimension or because the site is located in a transitional use area or the site has natural characteristics which are worth preserving or which make platting difficult.

(Ord. of 5-18-2009, § 5.501)

Sec. 98-352. Qualifying conditions.

(a) *Qualifying conditions.* Cluster development may only be approved for a site if the planning commission finds that at least one of the following conditions exists on the site in its natural state:

(1) The parcel to be developed has frontage on a major or secondary thoroughfare and is generally parallel to such thoroughfare and is of shallow depth as measured from the thoroughfare.

(2) The parcel has frontage on a major or secondary thoroughfare and is of a narrow width, as measured along the thoroughfare, which makes platting difficult.

(3) The parcel is shaped in such a way that the angles formed by its boundaries make a subdivision difficult to achieve and the parcel has frontage on a major or secondary thoroughfare.

(4) A substantial portion of the parcel's perimeter is bordered by a major thoroughfare which would result in a substantial proportion of the lots of the development abutting the major thoroughfare.

(5) A substantial portion of the parcel's perimeter is bordered by land that is located in other than RA-1 and RA-2 one-family residential districts or is developed for a use other than single-family detached homes.

(6) The parcel contains a floodplain or poor soil conditions which result in a substantial portion of the total area of the parcel being unbuildable.

(7) The parcel contains natural land forms which are so arranged that the change of elevation within the site includes slopes in excess of ten percent between these elevations. These elevation changes and slopes shall appear as the typical feature of the site rather than the exceptional or infrequent features

of the site. The topography is such that achieving road grades of less than that permitted by the city could be impossible unless the site were mass graded. The providing of one-family clusters will, in the opinion of the planning commission, allow a greater preservation of the natural setting.

(8) The parcel contains natural assets which would be preserved through the use of cluster development. Such assets may include natural stands of large trees, land which serves as a natural habitat for wildlife, unusual topographic features or other natural assets which should be preserved.

(b) *Supporting information.* The request for qualification as a one-family cluster development shall be supported by written and/or graphic documentation prepared by a landscape architect, engineer, professional community planner, registered architect or environmental design professional. Such documentation shall include the following as appropriate: soil test borings, floodplain map, topographic map of maximum two-foot contour interval, and inventory of natural assets.

(Ord. of 5-18-2009, § 5.502)

Sec. 98-353. Permitted density.

(a) *Maximum density.* In a cluster development the maximum density permitted shall be as follows:

(1) *RA-1 District:* Four dwelling units per acre.

(2) *RA-2 District:* Five dwelling units per acre.

(b) *Density calculation.* Water areas within the parcel may be included in the computation of density provided that land adjacent to the water is substantially developed as open space.

(Ord. of 5-18-2009, § 5.503)

Sec. 98-354. Development standards.

On parcels qualifying for one-family cluster development pursuant to section 98-352, the minimum yard setbacks, heights and minimum lot sizes per unit required in the underlying zoning district may be waived and the attaching of dwelling units may be permitted subject to the following:

(a) *Attached unit building standards.* The attaching of one-family dwelling units, one to another, may be permitted when such homes are attached by means of one of the following:

(1) Through a common party wall which does not have over 60 percent of its area in common with an abutting dwelling wall.

(2) An architectural wall detail which does not form interior room space.

(3) No other common party wall relationship is permitted, and the number of units attached in this manner shall not exceed four.

(4) The building shall meet all of the design standards of section 98-238 applicable to attached one-family dwelling units.

(b) *Setbacks.* Yard requirements shall be provided as follows:

(1) Spacing between groups of attached buildings or between groups of four unattached buildings shall be equal to at least 20 feet measured between the nearest points of adjacent buildings.

(2) Building setbacks from minor residential streets shall be determined after consideration of potential vehicular traffic volume, site design and pedestrian safety. It is intended that setbacks for each dwelling shall be such that one car length space will be available between the garage or

required off-street parking spaces and the street pavement. In determining the setbacks from minor residential streets, the planning commission may use the following guidelines:

a. Garages or required off-street parking spaces shall not be located less than 30 feet from the right-of-way of a public street unless such street or portion of a street is serving as access to not more than 16 residential units.

b. Where streets are private or the planning commission does not require the 30-foot setback from a public right-of-way, garages or required off-street parking spaces shall not be located less than 20 feet from the pavement edge of the street or the shoulder of a street.

c. That side of a cluster adjacent to a major or secondary thoroughfare shall not be nearer to the street than 25 feet, except that the front yard may be reduced by five feet in those areas where topography meets the topographic conditions set forth in section 98-352 on lands immediately adjacent to such streets having slopes in excess of ten percent. In no instance shall a structure be closer to the road right-of-way line than half the front yard setback for the district in which it is located.

d. Any side of a cluster adjacent to a private road shall not be nearer to the road than ten feet.

(3) The area in open space (including subdivision recreation areas and water) accomplished through the use of one-family cluster shall represent at least 15 percent of the horizontal development area of a one-family cluster development.

(4) In order to provide an orderly transition of density, where the parcel proposed for use as a cluster development abuts a one-family residential district, the planning commission shall determine that the abutting one-family district is effectively buffered by means of one of the following within the cluster development:

a. Single-family lots subject to standards of this article.

b. Detached buildings with setbacks as required by this article for the applicable residential district.

c. Open or recreation space.

d. Changes in topography which provide an effective buffer.

e. A major or secondary thoroughfare.

f. Some other similar means of providing a transition.

(Ord. of 5-18-2009, § 5.504)

Sec. 98-355. Procedures.

(a) *Previous lot split activity.* In making application for approval under this division, the applicant shall file a sworn statement that the parcel has not been split for the purpose of coming within the requirements of this option and shall further file a sworn statement indicating the date of acquisition of the parcel by the present owner.

(b) *Determination of qualification.*

(1) Application to the planning commission for qualification of a parcel for cluster development shall include documentation substantiating one or more of the characteristics outlined in section 98-352.

(2) The planning commission shall make a preliminary determination as to whether or not a parcel qualifies for the cluster option under one of the provisions of section 98-352, based upon the submitted documentation.

(3) Preliminary determination by the planning commission that a parcel qualifies for cluster development does not ensure approval of the site plan and, therefore, does not approve the cluster option. It does, however, give an initial indication as to whether or not a petitioner should proceed to prepare a site plan.

(c) *Site plan and cluster option review.* The site plan and cluster option review process is as follows:

(1) In submitting a proposed layout under this section, the sponsor of the development shall include, along with the site plan, typical building elevations and floor plans, topography drawn at two-foot contour intervals, all computations relative to acreage and density, a preliminary grading plan, and any other details which will assist in reviewing the proposed plan.

(2) One copy of the site plan superimposed on a recent aerial photograph of at least one inch equals 200 feet scale shall be submitted for review to show the relationship of the site plan to existing natural features and to adjacent developments.

(3) Site plans submitted under this option shall be accompanied by information as required in section 98-88; however:

a. Submission of an open space plan and cost estimates with the preliminary site plan shall be at the option of the sponsor.

b. The open space plan and cost estimate shall be submitted prior to final review or the public hearing.

(4) The planning commission shall give notice of the public hearing in accordance with section 98-25.

(5) If the planning commission is satisfied that the proposal meets the letter and spirit of this division and should be approved, it shall give tentative approval with the conditions upon which such approval should be based. If the planning commission is not satisfied that the proposal meets the letter and spirit of this chapter, or finds that approval of the proposal would be detrimental to existing development in the general area and should not be approved, it shall record the reasons in the minutes of the planning commission meeting. Notice of approval or disapproval of the proposal, together with copies of all layouts and other relevant information, shall be forwarded to the building inspector.

If the proposal has been approved by the planning commission, the building inspector shall place the matter upon the agenda of the city council. If disapproved, the applicant shall be entitled to a hearing before the city council if he requests one in writing within 30 days after action by the planning commission.

(6) The city council may conduct a public hearing on the proposed open space plan and site plan for the cluster option and shall give notice in accordance with section 98-25. If the city council approves the plans, it shall instruct the applicant to prepare a contract setting forth the conditions upon which such approval is based, which contract, after review and approval by the city attorney and city council, shall be entered into between the city and the applicant prior to the issuance of a building permit for any construction in accordance with site plans.

(7) As a condition for the approval of the site plan and open space plan by the city council, the applicant shall deposit a cash or irrevocable letter of credit in the amount of the estimated cost of the proposed improvements to the open land guaranteeing the completion of such improvement within a time to be set by the city council. Actual development of the open space shall be carried out concurrently with the construction of dwelling units.

(Ord. of 5-18-2009, § 5.505)

Sec. 98-356. Improvements.

All site improvements as required for subdivisions in chapter 46 shall be the minimum standard for one-family cluster developments; except that where private streets are to be provided, a pavement width of not less than 24 feet shall be provided.

(Ord. of 5-18-2009, § 5.506)

Secs. 98-357—98-370. Reserved.

DIVISION 6. ONE-FAMILY SITE CONDOMINIUM OPTION

Sec. 98-371. Purpose.

The purpose of this division is to recognize that conventional single family developments, traditionally developed under the platting process, Act 218 of Public Acts of 1967 as amended (Subdivision Control Act) can now be developed pursuant to Act 59 of Public Acts of 1978 as amended (Condominium Act). This division is intended to set standards for developments in a single family residential district which will provide projects with the same physical attributes and features as a traditional subdivision, maintain the same checks and balances to protect the public health, safety and welfare while permitting the construction of the single- family development under the Condominium Act as site condominiums.

(Ord. of 5-18-2009, § 5.601)

Sec. 98-372. Administrative procedures.

(a) *Application.* Application for approval shall be made by the owner or their designated and authorized agent on a form prescribed for this purposed by the city for any tract where a one-family site condominium is contemplated. The application shall be accompanied by a fee as indicated in the schedule of fees adopted by the city council and the information required by this chapter and such other information which shall permit the planning commission to make a determination concerning the purpose and requirements of this chapter.

(b) *Submittal requirements and approval procedures.* one-family site condominiums shall be reviewed and approved following the procedures and submittal requirements for site plan review as set forth in Article 2, Division 2.

(Ord. of 5-18-2009, § 5.602)

Sec. 98-373. Design standards.

(a) *Building lots.* A one-family site condominium shall comply with all dimensional requirements of the zoning district in which it is located, and other provisions of this chapter with the understanding that reference to "lot" in such regulations shall mean and refer to "building site" as defined in this chapter, and reference to "building" (meaning principal building) or "structure" (meaning principal structure) shall mean and refer to "building envelope" as defined under this division. In the review of a site condominium, it is recognized that it may not be feasible to precisely apply traditional definitions and measures applicable to developments. However, the review of plans submitted under this Chapter shall be accomplished with the objective and

intent of achieving the same results as if the improvements were being proposed pursuant to the current city development standards for rights-of-way and utilities.

(b) *Frontage.* Each building site shall front on and have direct access to a public street or onto a private street that complies in all respects to the current standards for a public street.

(c) *Street design and layout.*

(1) *Block length.* The distance along a particular street between intersecting streets determines the length of a block face. No block face shall exceed 900 feet in a site condominium and no block perimeter shall exceed 2,400 feet unless topography, natural features, or other conditions exist that, in the opinion of the Planning Commission, justify a departure from this standard. If the Planning Commission permits block faces longer than 900 feet, pedestrian connections through the block are required. The width and location of such pedestrian ways shall be subject to approval by the planning commission.

(2) *Culs-de-sac.* Culs-de-sac are discouraged, but may be permitted by the planning commission where topography, natural features, design, or other identifiable conditions exist that prevent the use of loop roads or traditional grid patterns. If permitted, culs-de-sac shall comply with the following standards:

a. No cul-de-sac street may exceed 750 feet in length, measured along the center line from the intersection of origin to the end of the right-of-way.

b. The minimum right-of-way radius for the turnaround portion of the cul-de-sac shall be 100 feet.

c. The minimum outside roadway diameter shall be 70 feet.

d. A landscape planting island with a minimum diameter of 20 feet shall be provided within the turnaround area. A minimum of three street trees shall be planted in each landscape island.

e. A hammerhead turnaround may be provided in lieu of a cul-de-sac if fewer than ten condominium units gain access onto the street terminating in a hammerhead. The hammerhead shall have a minimum width of 60 feet and a minimum depth of 20 feet to permit adequate space for an emergency vehicle turnaround.

(3) *Connections.*

(a) Provision shall be made within a site condominium for connection to existing streets on neighboring properties, or stub streets shall be provided to permit the continuation of streets within a condominium project onto adjacent properties in the future. A minimum of one stub street shall be provided for every 1,200 feet of perimeter property line unless, in the opinion of the Planning Commission, natural features or existing development will preclude connection to future development along all or a portion of the perimeter property lines.

(b) A dead-end street may be provided only if the dead end street is provided in anticipation of a future connection being made, if the dead end street terminates at a perimeter property line, and if no more than 2 units gain their sole access onto the dead-end street.

(4) *Sidewalks.* Sidewalks shall be provided on both sides of all streets within the condominium project and along perimeter streets adjacent to the condominium project. Where a single-loaded street is proposed, the planning commission may waive the requirement for sidewalks on the side of the street that does not contain units. All sidewalks shall have a minimum width of five feet, and shall be located one foot inside the street right of way or easement.

(d) *Natural features.* The condominium design shall take into consideration and preserve to the greatest extent possible existing natural features present on the site, including watercourses, wetlands, floodplains, significant trees and tree stands.

(e) *Modifications.* The planning commission may recommend to the city council that modifications from the strict design standards of this division be permitted upon finding that undue hardship may result from strict compliance with the specific provisions or requirements of the Ordinance; that application of such provisions is impracticable; or that a modification would result in superior site layout and design.

The planning commission shall only recommend modifications that it deems necessary or desirable for the public interest. In making such a finding the planning commission shall take into account the nature of the proposed use of land and the existing land use in the vicinity, the number of persons to reside or work in the proposed site condominium project, and existing and potential traffic conditions in the vicinity.

The planning commission shall hold a public hearing regarding the requested modifications. The public hearing shall be noticed following the requirements of section 98-25. Further, no modification shall be recommended unless the planning commission can make all of the following findings:

(1) That there are such special circumstances or conditions affecting said property that the strict application of the provision of this chapter would clearly be impracticable or unreasonable. In such cases, the applicant shall first state their reason in writing as to the specific provision or requirement involved and submit them to the planning commission.

(2) That the granting of the requested modification will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

(3) That such modification will not violate the provision of this Ordinance related to:

a. Purpose and intent of the zoning district in which the project is being developed.

b. The resulting density in the project if the modifications are approved will not exceed the maximum density achievable on the site if all of the standard and conventional zoning standards and requirements were followed. The applicant must submit a parallel plan showing how the site could be developed following all standard zoning requirements.

c. All applicable state acts.

(4) Approval of the requested modification will not have the effect of nullifying the interest and purpose of this chapter and the land use plan of the city.

(5) The planning commission shall include it findings and the specific reasons therefore in its report of recommendation to the city council and shall also record its reasons and action in its minutes.

(Ord. of 5-18-2009, § 5.603)

Sec. 98-374. Building permits.

(a) *Issuance of building permits.* Prior to the issuance of building permits for units, the applicant must demonstrate approval by city, county and state entities having jurisdiction with regard to any aspect of the development, including, without limitation, roads, water supply, sewage disposal, storm drainage and other utilities. As to the phase in which the unit is located, prior to the issuance of a building permit, the Building Official shall determine that all improvements such as roads, water supply, sewage disposal, storm drainage and other utilities have been completed in accordance with approved plans. Prior to issuance of a building permit within a given phase the applicant shall comply with the requirements for performance guarantees set forth in applicable ordinances.

(b) *Submittal of "as built" surveys.* With respect to each building envelope, within 90 days following final inspection of the improvement, the applicant shall submit to the building official an "as built" survey which complies with the requirements of MCL 560.125-.126, including dimensions between each improvement and

the boundaries of the building site, and distance of each improvement from any wetland, floodplain and/or floodway. Monuments shall be located in the ground in accordance with the requirements of MCL 560.125.

(Ord. of 5-18-2009, § 5.605)

Sec. 98-375. Condominium documents.

(a) *Submittal.* The developer shall furnish the city with one copy of the master deed, one copy of all restrictive covenants, and one copy of the proposed association bylaws for review and approval prior to final approval of the site condominium. The city may grant final approval to a condominium project subject to the subsequent review and approval of the condominium documents.

(b) *Amendments.* Any proposed amendment of a master deed which would involve any change in subject matter reviewed or reviewable under this chapter shall be reviewed and approved by the planning commission prior to recordation.

(Ord. of 5-18-2009, § 5.605)

Secs. 98-376—98-380. Reserved.

DIVISION 7. MH MANUFACTURED HOUSING RESIDENTIAL DISTRICT

Sec. 98-381. Statement of purpose.

The purpose of the MH manufactured housing residential district is to encourage a suitable environment for persons and families that by preference choose to live in a manufactured home rather than a conventional single-family structure. In keeping with the occupancy characteristics of contemporary manufactured homes, this article establishes moderately low density standards and permitted uses that reflect the needs of residents in the district. Development is limited to manufactured homes when located in a subdivision designed for that purpose or a manufactured housing park and recreation facilities, churches, schools and necessary public utility buildings.

(Ord. of 5-18-2009, § 5.701)

Sec. 98-382. Relation to manufactured housing commission rules.

The regulations established by state law (Michigan Public Act 96 of 1987, as amended) and the Manufactured Housing Commission Rules govern all manufactured home parks. When regulations in this chapter exceed the state law or the Manufactured Housing Commission Rules they are intended to insure that manufactured home parks meet the development and preliminary plan standards established by this Ordinance for other comparable residential development and to promote the health, safety and welfare of the city's residents.

(Ord. of 5-18-2009, § 5.702)

Sec. 98-383. Principal permitted uses.

The following uses are permitted in MH districts:

(a) Manufactured homes.

(b) Manufactured home parks.

(c) Manufactured home subdivisions.

(d) State licensed residential facilities and family day care homes for children.

(e) Publicly owned and operated parks, playfields, playgrounds and other recreational facilities.

(f) Public, parochial or other private elementary, intermediate, and/or high schools offering courses in general education, not operated for profit.

(g) Accessory buildings and uses customarily incidental to the principal uses permitted in this section.

(Ord. of 5-18-2009, § 5.703)

Sec. 98-384. Special land uses.

Certain uses defined in this section are permitted in MH districts after special approval and prior to the use of any land, building or structure or for the erection of any building or structure for such special uses. Special approval uses possess unique characteristics vis-a-vis those permitted by right in the affected zoning district. These characteristics have inherent in them a degree of incompatibility with the uses permitted by right, therefore, it is important that individual site consideration be given those proposed uses and potentially affected properties be given an opportunity to determine the suitability of the use for the particular area.

The following uses may be permitted following special land use approval:

(a) *Churches and other incidental facilities, subject to the following:*

(1) The site shall be adjacent to a city major thoroughfare, and all ingress and egress shall be limited to and directly upon that thoroughfare.

(2) Buildings exceeding 25 feet in height shall be permitted, providing the front, side and rear yard setbacks are increased one foot for each foot the building exceeds 25 feet.

(3) A continuous uninterrupted obscuring screening of suitable material at least four feet in height but not more than six feet in height shall be provided along sides of the off street parking area when adjacent properties are zoned residential.

(4) A minimum of three acres shall be provided.

(5) 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.

(b) Public utility buildings and uses, but not including service and storage yards, when operating requirements necessitate locating within the district to serve the immediate vicinity.

(c) Nursery schools, state licensed group day care homes and day care centers (not including dormitories); provided that for each child so cared for, there shall be provided and maintained a minimum of 150 square feet of outdoor play area. Such play space shall have a total minimum area of not less than 5,000 square feet and shall be screened from any adjoining lot in any residential district.

(d) Temporary buildings for use incidental to construction work for a period not to exceed one year.

(e) Golf courses, public or private. If a golf course is a course open to persons other than those who reside in the mobile home park, it cannot be used as part of the overall permitted density.

(Ord. of 5-18-2009, § 5.704)

Sec. 98-385. Development standards.

Manufactured home parks shall be subject to all the rules and requirements as established and regulated by Michigan law including, by way of example, Act 96 of 1987, as amended, and the Manufactured Housing Commission Rules and, in addition, shall satisfy the following minimum requirements:

(a) *Flood areas.* A manufactured home shall not be placed in a designated floodway, as determined by the Michigan Department of Environmental Quality.

(b) *Minimum site area.* A manufactured housing community shall be developed with sites averaging 5,500 square feet per manufactured housing unit. The 5,500 square foot average may be reduced by twenty percent provided that each individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of the average site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under Rules R125.1946, R125.1941, and R125.1944, and this division.

(c) *Maximum height.* In the MH manufactured housing residential district, all structures shall comply with the maximum height requirements applicable in the RA-1 and RA-2 single-family residential districts. Refer to the schedule of regulations summary in section 98-201.

(d) *Setbacks from perimeter property lines.*

(1) Homes, permanent buildings and facilities, and other structures shall not be located closer than 20 feet from the property boundary line of the community.

(2) Homes, permanent buildings and facilities, or any other structures that abut a public right-of-way shall not be set back at least 50 feet from the property line. If the property line runs through the center of the public road, then the 50 feet shall be measured from the road right-of-way line. This setback does not apply to internal roads dedicated for public use.

(e) *Required distances between homes and other structures.*

(1) A home shall be in compliance with all of the following minimum distances, as measured from the wall/support line or foundation line, whichever provides the greater distance:

a. Ten feet from an attached or detached structure or accessory of an adjacent home that may not be used for living purposes for the entire year.

b. For a home sited parallel to an internal road, 15 feet from an adjacent home, including an attached structure that may be used for living purposes for the entire year if the adjacent home is sited next to the home on and parallel to the same internal road or an intersecting internal road.

c. Ten feet from an attached or detached structure or accessory of an adjacent home that may not be used for living purposes for the entire year.

d. Fifty feet from permanent community-owned structures, such as clubhouses or maintenance and storage facilities.

e. One hundred feet from a baseball or softball field.

f. Twenty-five feet from the fence of a swimming pool.

(2) Attached or detached structures or accessories that may not be used for living purposes for the entire year shall be a minimum distance of ten feet from an adjacent home or its adjacent attached or detached structures.

(3) Any part of a home or an accessory structure, such as steps, porches, supported or unsupported awnings decks, carports or garages, or similar structures shall be set back the following minimum distances:

a. Seven feet from the edge of the back of the curb or the edge of an internal road paving surface.

b. Seven feet from a parking space on an adjacent home site or parking bay off a home site.

c. Seven feet from a common sidewalk.

d. Twenty-five feet from a natural or man-made lake or waterway.

(4) A carport shall be in compliance with both of the following setbacks if it is completely open, at a minimum, on the two long sides and the entrance side:

a. Support pillars that are installed adjacent to the edge of an internal road shall be set back four feet or more from the closest edge of the internal road and two feet or more from the closest edge of a common sidewalk, if provided.

b. Roof overhang shall be set back two feet or more from the edge of the internal road.

c. Steps and their attachments shall not encroach into parking areas more than 3½ feet.

(5) A home sited on one side of the dividing line between a community constructed under a previous act and an expansion of the community constructed in compliance with the requirements of the act shall be a minimum of 13 feet from a home sited on the other side of the dividing line.

(f) *Landscaping and screening.* Manufactured housing communities are subject to the landscaping requirements of Article X, Landscaping and Screening except when adjacent to property that is, in the opinion of the manufactured housing commission, undeveloped.

(g) *Open space.*

(1) Open space shall be provided in any manufactured housing community containing fifty (50) or more manufactured home sites. A minimum of two percent (2%) of the park's gross acreage or 25,000 square feet of contiguous space, whichever is greater, shall be dedicated to well drained, usable open space.

(2) Required property boundary setback areas may not be used in the calculation of open space.

(3) Optional improvements shall comply with state construction codes and applicable laws and ordinances pertinent to construction, including obtaining appropriate state or local permits for the facility or structure being built.

(4) If provided, recreational or athletic areas shall comply with the safety and setback standards of Rules R125.1705 and 125.1941(1), respectively.

(h) *Lighting.* Except in a seasonal manufactured home community, all internal street and sidewalk systems within a manufactured housing community shall be lighted as follows:

(1) Access points shall be lighted. If the public thoroughfare is lighted, the illumination level shall not be more than the average illumination level of the adjacent illuminated thoroughfare.

(2) At all internal road intersections and designated pedestrian crosswalks the minimum illumination shall not be less than 0.15 footcandles.

(3) Internal roads, parking bays, and sidewalks shall be illuminated at not less than 0.05 footcandles.

(4) Lighting fixtures for site-built buildings shall comply with the state electrical code.

(i) *Swimming pools.* Swimming pools in manufactured housing communities shall comply with Michigan Administrative Code Rules R325.2111 et. Seq., Public Act 368 of 1978, and Rule R125.1941(1)(f).

(Ord. of 5-18-2009, § 5.705; Ord. No. 2-10, 1-4-2010)

Sec. 98-386. Streets, driveways, and parking areas.

All streets, driveways, and parking areas in manufactured housing communities shall comply with the following design requirements:

(a) *Access.*

(1) The community's internal roads shall have access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement.

(2) An additional access shall be provided to a public thoroughfare to allow a secondary access for emergency vehicles. A boulevard entrance extending to the first intersection of a community road shall satisfy this requirement.

(b) *Composition and surfacing.* All internal roads shall be constructed of concrete or bituminous asphalt and supported by a suitable subgrade in compliance with the standards of the American Association of State Highway and Transportation Officials (AAASHTO), pursuant to Rule R125.1922. Roads shall be maintained in a reasonably sound condition, as required under Rules R125.1924 and 1925(2)(b).

(c) *Curbing.* If provided, internal road curbing shall be constructed of concrete or asphalt. Access to curbed sidewalks connecting to internal roads shall comply with Rule R125.1928 (a). (Rule R125.1923)

(d) *Parking spaces; streets.* All internal roads shall be two-way and have driving surfaces that are not less than the following widths:

(1) Two-way, no parking 21 feet.

(2) Two-way, parallel parking, 1 side 31 feet.

(3) Two-way, parallel parking, 2 sides 41 feet.

(e) *Road configurations.* An internal road that has no exit at one end shall terminate with a minimum turning radius of 50 feet. Parking shall not be permitted within the turning area, which shall be posted within the turning area. A safe-site distance of 250 feet shall be providedat all intersections. Offsets at intersections or intersections of more than two internal roads are prohibited.

(f) *Road widths, street names, addresses & traffic control.*

(1) All entrances to new communities or new entrances to expanded communities shall be a minimum of 33 feet in width. The entrance shall consist of an ingress lane and a left and right egress turning lane at the point of intersection between a public road and the community's internal road, and shall be constructed as indicated below in subsections (f)(2) through (f)(4).

(2) All turning lanes shall be a minimum of 11 feet in width and 60 feet in depth, measured from the edge of the pavement of the public road into the community.

(3) The turning lane system shall be tapered into the community internal road system commencing at a minimum depth of 60 feet.

(4) The ingress and right egress turning lanes of the ingress and egress road shall connect to the public road and shall have a radius determined by the local public road authority having jurisdiction. The intersection of the public road and ingress and egress road shall not have squared corners.

(5) Appropriate speed and traffic control signs shall be provided on all internal roads, and a regulation stop sign shall be installed at the point of intersection with a public road, unless a traffic control device is provided.

(6) School bus stops, if provided, shall be located in an area that is approved by the school district.

(7) Improved hard-surface driveways shall be provided on the site where necessary for convenient access to service entrances of buildings, and at delivery and collection points for fuel, refuse, and other materials, and elsewhere as needed. The minimum width of driveways shall be 10 feet. The entrance to the driveway shall have the flare or radii, and horizontal alignment for safe and convenient ingress and egress.

(Ord. of 5-18-2009, § 5.706)

Sec. 98-387. Sidewalks.

(a) Common sidewalks shall be installed along one side of all internal collector roads within the community to the public right-of-way and to all service facilities including central laundry, central parking, and recreation areas.

(b) Common sidewalks shall be constructed in compliance with all of the following requirements:

(1) Sidewalks shall have a minimum width of three feet and shall be constructed in compliance with Public Act 8 of 1973, an act that regulates barrier-free sidewalk access.

(2) All common sidewalks shall meet the standards established in rule R125.1928.

(3) Except in a seasonal community, an individual sidewalk shall be constructed between at least one entrance, or patio, porch, or deck, if provided, and the parking spaces on the home site or parking bay, whichever is provided, or common sidewalk, if provided.

(c) An individual site sidewalk with a minimum width of three feet shall be constructed to connect at least one entrance to the home, patio, porch, or deck and the parking spaces serving the home or a common sidewalk. These sidewalks shall meet the standards shall meet the standards established in Rule R125.1928.

(Ord. of 5-18-2009, § 5.707)

Sec. 98-388. Parking.

(a) *Resident parking.* A minimum of two hard-surfaced parking spaces shall be provided for each manufactured home site. Parking may be either on or off the individual home site.

(1) If the two resident vehicle parking spaces required by this section are provided off the home site, the parking spaces shall be adjacent to the home site and each parking space shall have a clear parking width of 10 feet and a clear length of 20 feet.

(2) If parking spaces are provided for resident vehicle parking, they shall contain individual spaces that have a clear parking width of 10 feet and a clear length of 20 feet.

(3) If vehicle parking is provided on the home site it shall comply with the following provisions:

a. The parking space shall be constructed of concrete or bituminous asphalt and supported by a suitable subgrade compliant with the standards of AASHTO.

b. The parking spaces may be either in tandem or side-by-side. If spaces are tandem, the width shall not be less than ten feet and the combined length shall not be less than 40 feet. If spaces are

side-by-side the combined width of the two parking spaces shall not be less than 20 feet and the length shall not be less than 20 feet.

(b) *Visitor parking.* A minimum of one visitor parking space shall be provided for each three home sites.

(1) Visitor parking shall be located within 500 feet of the sites it is intended to serve, as measured along a road or sidewalk.

(2) Individual visitor parking spaces shall have a clear width of 10 feet and a clear length of 20 feet.

(Ord. of 5-18-2009, § 5.708)

Sec. 98-389. Utilities.

The following utility standards apply to all manufactured home communities:

(a) *Connections and lines.* All electric utilities shall be underground and installed and serviced by a licensed electrician. All local distribution lines for utilities (telephones, electric service, and cable television) shall be placed entirely underground throughout the manufactured housing community. Main lines and perimeter feed lines existing on a section or quarter section line may be above ground if they are configured or installed within the state codes.

(b) *Drainage.*

(1) All drainage outlet connections shall be subject to review and approval by the drain commissioner.

(2) Drainage systems shall be reviewed and approved by the Michigan Department of Environmental Quality, in accordance with MDEQ Rules R325.3341 to R325.3349, pursuant to the Act.

(3) Drain utility connections shall comply with Rule R125.1603(c).

(c) *Electricity.* Electrical systems shall be installed, maintained, operated and serviced according to the standards established in Rules R125.1603(d), R125.1603(e), R125.1603(f); R125.1708; R125.1710(2); R125.1932; R125.1933; and MDEQ Rule R325.3373(2)(c).

(d) *Fuel and gas heating service.* The installation, maintenance, operation and service of manufactured housing community fuel and gas heating systems and connections shall comply with the standards contained and referenced in Rules R125.1603(b), R125.1710(1), R125.1934 through R125.1938, R125.1940(3) and MDEQ Rule R325.3373(2)(d).

(e) *Telephone communication lines.* All telephone systems shall be installed in accordance with standards approved by the Michigan Public Service Commission or utility provider, pursuant to Rule R125.1940(2), as applicable.

(f) *Television.* Television service installation shall comply with requirements of Rule R125.1940(1).

(g) *Water and sewage.* All lots shall be provided with public water and sanitary sewer service, or water and sanitary services that shall be approved by the Michigan Department of Environmental Quality, pursuant to MDEQ Rules R325.3321 and R325.3331 through R325.3335. Water line connections shall meet the specifications contained in Rule R125.1603(a) and MDEQ Rule R325.3373. Water system meters shall comply with MDEQ Rule R325.3321 and Rule R125.1940a.

(h) *Utility cabinets.* Public utility (water, sewer, electrical, etc.) cabinet design shall be approved by the City prior to development. Utility cabinets shall be deigned, located, and screened in a manner which minimizes their visibility and appearance, and which will not create sight-line conflicts for motorists or pedestrians.

(Ord. of 5-18-2009, § 5.709)

Sec. 98-390. Disposal of garbage and trash.

Each manufactured home site shall use approved garbage/rubbish containers that meet the requirements of Part 5 of the Michigan Department of Environmental Quality Health Standards, Rules R325.3351 through R325.3354. The containers shall be kept in a sanitary condition at all times. It shall be the responsibility of the community operator to ensure that all garbage/rubbish containers do not overflow and that all areas within the community are free of garbage/rubbish.

(Ord. of 5-18-2009, § 5.710)

Sec. 98-391. Emergency and safety.

(a) *Fire protection.* All manufactured homes built, sold, or brought into this state shall be equipped with at least one fire extinguisher approved by the national fire protection association and one smoke detector approved by the Michigan Bureau of Construction Codes. The homeowner of a manufactured home brought into this state for use as a dwelling shall have 90 days to comply with this requirement under Public Act 133 of 1974, as amended. The manufactured housing community shall provide its residents with written notification of this requirement, which may be published in the community rules.

(b) *Disaster and severe weather.* Each manufactured housing community shall provide each community resident immediately upon occupancy with written information indicating whether the local government provides a severe weather warning system or designated shelters. If a warning system or shelter is provided, the information shall describe the system and nearest shelter location.

(Ord. of 5-18-2009, § 5.711)

Sec. 98-392. Required conditions.

(a) *In-community home sales.* New or pre-owned manufactured homes which are to remain on-site in the manufactured housing community may be sold by the resident, owner, or licensed retailer or broker, provided that the manufactured housing community management permits the sale, as established in Section 28a of Public Act 96 of 1987, as amended, and Rules R125.2001a, R125.2005, R125.2006 and R125.2009(e).

(b) *Installation and anchoring.* Manufactured homes shall be installed with anchoring systems designed and constructed in compliance with the U.S. Department of Housing and Urban Development's Manufactured Home Construction and Safety Standards (24 CFR 3280.306) and approved for sale and use within Michigan by the Michigan Construction Code, pursuant to Rules R125.1605 and R125.1607. The installation of manufactured housing on each site within a community shall conform to the requirements of Rules R125.1602 and R125.1602a.

(c) *Utility connections.* All utility connections within the community shall comply with the requirements of Rule R125.1603. No manufactured home shall be occupied for dwelling purposes unless it is placed on a site or lot and connected to water, sanitary sewer, electrical, and other facilities as may be necessary.

(d) *Storage.*

(1) A manufactured home site shall be kept free of fire hazards, including combustible materials under the home.

(2) One storage shed that complies with the Michigan Residential Code may be placed upon any individual manufactured home site for the storage of personal property, if permitted by management. Storage

sheds shall be constructed with durable weather and rust-resistant materials and shall be maintained to reasonably preserve their original appearance.

(3) Storage sheds that are attached to homes shall consist of materials similar to that of the home and shall have a fire-rated wall separation assembly in accordance with the Michigan Residential Code.

(4) A detached storage shed shall be at least ten feet from all adjacent homes.

(5) All storage sheds shall be securely anchored in accordance with the Michigan Residential Code.

(6) Towing mechanisms shall be removed from all homes at the time of installation and stored so as not to be visible. Towing mechanisms, including axles, may, however, be stored under manufactured homes within a community.

(e) *Skirting.*

(1) Skirting to conceal the underbody of the home shall be installed around all manufactured homes, prior to issuance of a certificate of occupancy and shall be installed within 60 days of placement of the home on the site unless weather prevents compliance with this schedule. In the event that installation is delayed by weather, a temporary certificate of occupancy shall be issued pursuant to Section 13 of Public Act 230 of 1972, as amended.

(2) Skirting shall be vented as required by Rule R125.1604.

(3) Skirting shall be installed in a manner to resist damage under normal weather conditions and shall be properly maintained by the resident.

(4) Skirting shall be aesthetically compatible with the appearance of the manufactured home. All skirting shall meet the requirements established in the Manufactured Housing Commission Rules.

(f) *Recreational vehicles.*

(1) If recreational vehicle storage is provided within the manufactured housing community, it should include, but not be limited to: class A, B, and C motor homes; fifth wheel travel trailers; travel trailers; folding tent campers; trailered boats; trailered all-terrain vehicles; trailered personal watercraft; historic vehicles; and seasonal equipment. The storage area shall be adequately locked, fenced, and permanently screened, using the same standards of screening provided at the property's perimeter, and surfaced in accordance with Rule R125.1922.

(2) The storage area shall be limited to use by the residents and management of the manufactured housing community.

(Ord. of 5-18-2009, § 5.712; Ord. No. 2-10, 1-4-2010)

Sec. 98-393. Licenses and permits.

(a) *Site plan review required for community.* The city shall review the preliminary plan for the manufactured housing community pursuant to Section 12 of the Act and Rules R325.3381—3385 of the Michigan Department of Environmental Quality's Mobile Home Park Health Standards.

Site plan or special land use approval may also be required for any of the other principal permited or special land uses listed in section 98-383 (principal permitted uses) and section 98-384 (special land uses). Refer to Article II, Division 2. (site plan review) and Article II, Division 3. (special land use review) for the review procedures and criteria applicable to principal permitted uses and special land uses, respectively.

(b) *License.* No manufactured housing community shall be operated without a license issued by the Michigan Bureau of Construction Codes, pursuant to Section 16 of the Act.

(c) *Occupancy.* Occupancy shall not occur until after local inspections, permit, and certificate of occupancy approvals, pursuant to Public Act 230 of 1972, the Stille-DeRossett-Hale Single State Construction Code Act.

(d) *Site-constructed buildings.* Site constructed buildings erected within the community, such as community buildings or laundries, but not including manufactured homes and their accessory storage buildings, shall be examined by the municipality for compliance with all appropriate inspection and permit requirements, pursuant to Public Act 230 of 1972, the Stille-DeRossett-Hale Single State Construction Code Act.

(e) *Individual homes.* Site plan review is not required for individual homes in a manufactured housing community.

(Ord. of 5-18-2009, § 5.713; Ord. No. 2-10, 1-4-2010)

Secs. 98-394—98-400. Reserved.

ARTICLE VI. B-2 DOWNTOWN DISTRICT

DIVISION 1. ADMINISTRATION

Sec. 98-401. Statement of purpose.

The purpose of the B-2 district is to create clear and simple regulations on the design of new development or redevelopment in the traditional downtown district of the city. The regulations of this article require development to have a physical form that complements the historic nature of existing development in the downtown area. Specifically, these regulations encourage a pedestrian friendly and walkable character, permit a mixture of land uses; encourage streets that serve the needs of pedestrians, bicycles, and motorized vehicle traffic equitably; encourage places for informal social activity and recreation in the downtown area; and encourage building frontages that define the public space of streets. With proper physical form, a building can accommodate a wide range of uses without generating undue impact on neighboring properties or the downtown as a whole.

It is further the purpose of the B-2 district to:

(a) Create a core downtown area that maintains the traditional physical form of a historic small city downtown.

(b) Create a unique, historic, walkable mixed-use district including residential, retail, entertainment, office, and other compatible uses.

(c) Promote the orderly development, redevelopment, and continued maintenance of Tecumseh's central business district.

(d) Encourage shared parking areas throughout the downtown area rather than requiring each individual property owner to provide physical parking space on their property.

(e) Create quantitative and qualitative building design guidelines that ensure new development is compatible with the historic character existent in downtown.

(f) Ensure buildings create a solid street wall that helps to define streets as public spaces.

(g) Ensure that permitted uses complement each other in terms of character and location, and to ensure that uses in the B-2 district do not have an adverse impact on the overall economic and social vitality of the downtown area, street capacity, public utilities or services, or the overall image and function of the district.

(h) Prevent automobile-oriented development from eroding or destroying the character of the downtown area.

(i) Encourage harmonious residential infill and adaptive reuse of noteworthy buildings to provide a mix of housing types, unit sizes, and compatible uses within walking distance of Tecumseh's historic downtown area.

(j) Encourage accessible housing options in the downtown area.

(Ord. of 5-18-2009, § 6.101; Ord. No. 02-19, 3-18-2019)

Sec. 98-402. Instructions.

(a) *Application of requirements.* The provisions of this article are activated by "shall" or "must" when required, "should" or "encouraged" when recommended, and "may" when optional.

(b) *Applicability to sub-areas.* The regulations herein shall apply to both the downtown core, and the downtown edge, and the downtown residential sub-areas of the B-2 district unless specifically noted otherwise herein.

(c) *Conflict.* Wherever there is or appears to be a conflict between the regulations of this article and other sections of this chapter (as applied to a particular development), the requirements specifically set forth in this article shall prevail. For development standards not addressed in this article, the other applicable sections of this chapter shall be used as the requirement.

(Ord. of 5-18-2009, § 6.102; Ord. No. 02-19, 3-18-2019)

Sec. 98-403. B-2 district sub-areas.

The location of the core, and edge, and residential sub-areas within the B-2 district are shown on the City of Tecumseh Zoning Map.

(Ord. of 5-18-2009, § 6.103; Ord. No. 02-19, 3-18-2019)

Sec. 98-404. Approval process.

(a) *Site plan approval.* Site plan approval shall be required in accordance with the requirements of article II, division 3 of this chapter, and shall follow the procedures established therein.

(b) *Special land use approval.* Any development that contains a use requiring special land use approval shall be reviewed following the procedures and review criteria of article III, division 3.

(Ord. of 5-18-2009, § 6.104; Ord. No. 02-19, 3-18-2019)

Sec. 98-405. Existing development in the B-2 district.

(a) *Expansions of developed sites.*

(1) Less than 25 percent of existing condition. Any development activity on a developed site that would increase the floor area of the existing building or the area of existing site improvements by less than 25 percent need not comply with the requirements of this article VI. However, any new building area or site improvements should result in the site being more compliant, and shall not result in the site being less compliant with the requirement of this article VI.

(2) More than 25 percent of existing condition. Whenever a building or site improvement expansion of greater than 25 percent of the existing condition is proposed, the activity shall comply with the requirements of this article.

(3) Expansions measured cumulatively. For the purposes of determining compliance with this section, expansions shall be measured cumulatively, with the baseline being the building area and improved site area that existed at the date of adoption of this chapter.

(4) Redevelopment. Redevelopment of existing buildings shall comply with the following requirements, in addition to the requirements of subsection 98-405(a), above.

(5) Whenever 50 percent or less of the existing building will be demolished or replaced, the development activity need not comply with the requirements of this article. However, any site layout or building design changes that may occur as a result of the development activity should result in the site being more compliant with the requirements of this article.

(6) Whenever more than 50 percent of an existing building will be demolished or replaced, the development activity shall comply with all of the requirements of this article.

(Ord. of 5-18-2009, § 6.105; Ord. No. 02-19, 3-18-2019)

Sec. 98-406. Waiver of requirements.

(a) *Purpose and limitations.*The reviewing authority for an activity in the B-2 district may grant a waiver from certain dimensional requirements contained in this article. Regulations that may be altered through the waiver process are described in the various sections of this article, along with the specific parameters by which the regulation may be altered.

Waivers are separate and distinct from dimensional variances in that they are limited in their bounds and are intended to permit reasonable use of property where the strict application of the requirements of this article would not further the public purpose, and a relaxed or altered dimensional standard will still meet the intent and purpose of the B-2 district.

Whenever a regulation may be altered through the waiver process, specific bounds are listed within which the waiver must be maintained. If an alteration to a dimensional requirement is requested that is greater than that listed in this article, the applicant must obtain a variance following the procedures and review standards article II, chapter 4.

(b) *Application and review procedures.*The applicant shall clearly identify all requested waivers on the application and site plan. The reviewing authority shall evaluate the requested waivers and approve, approve with conditions, or deny the waiver request. In evaluating a waiver request, the reviewing authority shall take into account the following considerations:

(1) Approval of the waiver will not result in development that is incompatible with or will negatively impact existing or potential future development in the vicinity of the property to be developed.

(2) The requested waiver is consistent with the intent and purpose of this article.

(3) The waiver will result in a superior development when compared with what could be achieved through the strict application of the requirements of this article.

(4) A lesser waiver will not accomplish the same purpose as the requested waiver.

(5) The waiver will not negatively impact the potential of adjacent parcels to develop according to the requirements of this article.

(Ord. of 5-18-2009, § 6.106; Ord. No. 02-19, 3-18-2019)

Secs. 98-407—98-420. Reserved.

DIVISION 2. PERMITTED USES

Sec. 98-421. Permitted use table.

The following uses are or may be permitted in the B-2 district. If a use is not listed in the following table, it is not permitted in the B-2 district:

Key:	■ Principal Permitted Use	□ Special Land use	[—] Use Not Permitted

USE	SUB AREA			DESIGN STANDARD
	CORE	EDGE	RES	
RESIDENTIAL USES:				
Apartment	—	□	□	section 98-262
Assisted Living Facility	—	■	□	section 98-240
Attached One-Family Dwelling Unit, or Rowhouses	—	■	■	section 98-238
Bed and Breakfast and Group Retreat Homes	—	□	□	section 98-223
Carriage House/Accessory Dwelling Unit	—	■	■	section 98-263
Detached One-Family Dwelling Unit	—	■	■	In the Edge area, permitted only along Pottawatamie Street
Duplex/Two-Family Dwelling Unit	—	■	■	section 98-264
Fourplex/Four-Family Dwelling Unit	—	■	■	section 98-265
Housing for the Elderly	—	□	■	section 98-234
Live/Work Unit	—	■	■	section 98-266
Nursing/Convalescent Home	—	■	■	section 98-240
Short-Term Rental	□	□	□	section 98-261
Triplex/Three-Family Dwelling Unit	—	■	■	section 98-267
Upper Story Dwelling Unit	■	■	□	section 98-255
COMMUNITY AND INSTITUTIONAL USES:				
Municipal and Government Buildings and Uses	■	■	■	
Private Clubs and Lodge Halls	■	■	□	
Public Institutions	■	■	■	
Public Parks and Recreation Facilities	■	■	■	
Religious Institutions	■	■	■	section 98-245 Not permitted on the ground floor in the Core area
Vocational Schools	■	■	□	Not permitted on the ground floor in the Core area. Limited to under 10,000 sq. ft. in the Residential area

COMMERCIAL, OFFICE AND RETAIL USES:				
Bakeries and Confectionaries	■	■	■	
Bank/Credit Union	■	■	—	
Banquet Hall/Conference Center	□	□	□	section 98-222
Commercial Recreation large scale indoor	□	□	—	
small scale indoor	■	■	■	
Drive-in or Drive-through facility	□	□	—	section 98-227
Gallery (art, photography, etc.)	■	■	■	
Health or Exercise Club	■	■	■	
Hotel or Motel	■	■	—	section 98-233
Micro-Brewery/Winery	■	■	□	
Office, medical or professional (ground floor)	■	■	—	Permitted in the Residential area only in a Live/Work Unit
Office medical or professional (upper story or rear ground floor)	■	■	—	Permitted in the Residential area only in a Live/Work Unit
Personal Service Establishment	■	■	□	
Restaurant carry out	■	■	—	
drive-in or drive-through	—	—	—	
sit down	■	■	—	
sidewalk café or outdoor patio	■	■	—	section 98-251
Retail Sales <25,000 sq. ft. floorplate	■	■	■	In the Residential area, only markets and small grocers permitted. In the Residential area, any defined retail use is permitted in Live/Work Units.
≥25,000 sq. ft. floorplate	—	—	—	chapter 98
outdoor	■	■	—	section 98-443
Studio (dance, martial arts, music, etc.)	■	■	■	
Theatre, live performance	■	■	■	
Theatre (movie)	■	■	—	3 or fewer screens permitted, more than 3 screens prohibited
Trades Showroom	■	■	■	section 98-254 In the Residential area, only permitted in Live/Work units
Vehicle Sales/Rental	■	■	—	No outdoor display/storage permitted
Veterinary Clinic	■	■	—	section 98-259
INDUSTRIAL, TRANSPORTATION AND UTILITY USES:				
Utility and Public Service Buildings	□	□	—	No outdoor storage permitted
Wireless Communication Facilities				See section 98-260

(Ord. of 5-18-2009, Art. VI, Div. 2; Ord. No. 6-13, 12-2-2013; Ord. No. 02-19, 3-18-2019)

Secs. 98-422—98-430. Reserved.

DIVISION 3. DIMENSION AND DESIGN STANDARDS

Sec. 98-431. In general.

The following dimensional and design standards regulate the physical characteristics of development in the B-2 district. The standards are broken into sections addressing a specific development characteristic: Blocks and streets, lot requirements, and building requirements.

(Ord. of 5-18-2009, § 6.301; Ord. No. 01-16, 10-3-2016; Ord. No. 02-19, 3-18-2019)

Sec. 98-432. Block and street design.

(a) *Blocks and street network.* The street network in and proximate to the B-2 district should be designed to foster a walkable, pedestrian scale environment. The existing street pattern is designed in such a manner. Existing blocks in the B-2 district have a length between 400—500 feet, and block perimeters are about 1,600 feet.

The existing block pattern should be maintained in the B-2 district in order to retain a pedestrian scale. If changes to the existing street network are proposed, the changes shall be designed according to the following requirements:

(1) *Block length.* The maximum length for any block face between intersecting streets is 600 feet.

(2) *Block perimeter.* The maximum block perimeter is 2,000 feet.

(b) *Street types.* There are two basic street types in the B-2 district: Major and minor streets. The specific dimensional requirements for a building will depend on the type of street upon which it has frontage or frontages.

Major streets carry higher volumes of traffic and are typically more prominent. In many cases, major streets form the axes along which downtown areas are located.

Minor streets intersect with major streets, contain more residential uses, and provide local access to adjacent residential neighborhoods.

The following table identifies which streets are considered major and minor streets in the B-2 district. New streets shall be designated as a major or minor street by the reviewing authority for the proposed development:

STREET TYPE	STREETS
Major Street	• Chicago Boulevard
	• Evans Street
	• Ottawa Street
Minor Street	• Cummins Street
	• Kilbuck Street
	• Logan Street
	• Maiden Lane
	• Maumee Street
	• Oneida Street
	• Pearl Street

	• Pottawatamie Street
	• Shawnee Street
	• Wyandotte Street

(c) *Street design guidelines.*

(1) *On-street parking.* On-street parking in the B-2 district is encouraged. All streets in the B-2 district should include a parallel parking lane on both sides of the street.

(2) *Travel.* Two-way streets are encouraged in the B-2 district. One-way streets are discouraged, and should not be used in the downtown area.

(3) *Curb radius.* The curb radius at the intersection of two streets should be the minimum necessary to permit vehicle circulation. A smaller curb radius shortens the distance that pedestrians must travel to cross the street, and leads to a safer pedestrian environment by reducing the speed at which cars can travel around corners. It is recommended that the curb radius not exceed 30 feet at the intersection of any two streets.

(4) *Sidewalks at driveway crossings.* When a sidewalk crosses a vehicle driveway, the driveway shall retain the elevation of the sidewalk. The appearance of the sidewalk shall be maintained across the driveway to indicate that the sidewalk is a part of the pedestrian zone and that pedestrians have the right-of-way.

(5) *Pedestrian zone.* The pedestrian zone is considered to be the area in between the curb and the edge of the right-of-way, and includes area for sidewalks, landscape plantings, street furniture, and other pedestrian-scale uses and amenities. The treatment of the pedestrian zone determines the character of the street, and the quality of the public realm within the right-of-way. Streets are the most common public space in the city, and must be designed to be welcoming and accommodating for pedestrians as well as motorized traffic.

The pedestrian zone in the B-2 district should contain four distinct areas, an edge area that allows car doors to open freely and accommodates parking meters, streetlights; a furnishings area that accommodates amenities such as landscaping, planters, and sidewalk furniture; a walkway area where pedestrians walk; and a frontage area adjacent to the building. The following Figure 1 illustrates the four areas of the pedestrian zone:

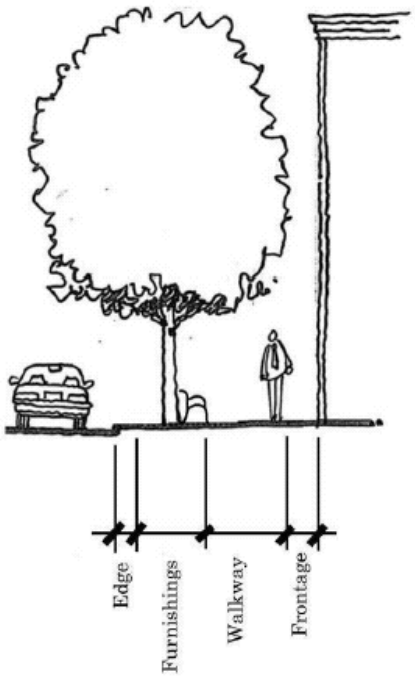


Figure 1. Pedestrian Zone

The following sidewalk design requirements and recommendations are intended to create an inviting public space alongside city streets:

a. *Pedestrian zone width.* The pedestrian zone should have a minimum width of ten feet. A lesser width may be appropriate in constrained areas, and a larger width is appropriate along major streets.

b. *Edge area.* The edge area should have a minimum width of 2.5 feet, and should remain clear of obstructions to permit the doors of parked cars to open freely. Streetscape elements such as parking meters, streetlights, traffic control signs, and tree grates may be located in the edge area. The edge area may be paved, or if a tree lawn is combined, it may be combined with the furnishings area and landscaped.

c. *Furnishings area.* The furnishings area accommodates amenities such as street trees, planters, and sidewalk furniture. The furnishings area can be paved (with street trees located in tree grates), or it may be landscaped with a street lawn. Outdoor eating areas, sidewalk cafes, or other similar uses associated with a use in a directly adjacent building may be located in the furnishings area. The furnishings area should have a minimum width of five feet.

d. *Walkway area.* The walkway area is the basic sidewalk area where pedestrians walk. The walkway area must maintain a five-foot wide clear path free of obstructions at all times to permit free pedestrian travel. No permanent structures or uses may be located in the walkway area.

e. *Frontage area.* The frontage area is the portion of the pedestrian zone adjacent to the edge of the right-of-way. The frontage area is an optional area, and may be used for street furniture or other uses accessory to the use in the adjacent building. When a building is constructed at the lot line, as is often the case along Chicago Boulevard, the frontage area should have a minimum width of two feet to accommodate opening doors and window shopping.

f. *Alleys.* Alleys and lanes that provide access to the rear of buildings or parking areas are permitted in the B-2 district. The intersection between an alley and a street should be separated at least 150 feet from any street intersection (measured from the point of intersection between the centerlines of the streets).

g. *Driveways.* Driveways providing access to parcels or public areas such as parking lots may only intersect with minor streets in the Core area. A driveway may intersect with any street in the Edge area.

(Ord. of 5-18-2009, § 6.302; Ord. No. 01-16, 10-3-2016; Ord. No. 02-19, 3-18-2019)

Sec. 98-433. Lot requirements.

The following requirements apply to the development of lots in the B-2 district. For the purposes of determining compliance with these regulations, lots that are assembled under one ownership may be considered a single lot.

(a) *Lot width and area.* The minimum lot width in the B-2 district is 14 feet, and the minimum lot area is 1,246 square feet.

(b) *Setbacks.* Buildings in the B-2 district shall comply with the following minimum and maximum setback requirements. When there is a minimum and a maximum requirement for a setback, the building must be located in the build-to area that is created by the minimum and maximum setback requirement.

SETBACK	CORE AREA		EDGE AREA		RESIDENTIAL AREA	
	MIN.	MAX.	MIN.	MAX.	MIN.	MAX.
Primary Front Yard	0 ft.	5 ft.	5 ft.	20 ft.	5 ft.	20 ft.
Secondary Front Yard	0 ft.	10 ft.	5 ft.	25 ft.	5 ft.	25 ft.
Side Yard						
adjacent to B-2 zoning district	0 ft.	—	0 ft.	—	0 ft.	—
adjacent to any non-B-2 zoning district	5 ft.	—	10 ft.	—	10 ft.	—
Rear Yard						
adjacent to B-2 zoning district	5 ft.	—	5 ft.	—	5 ft.	—
adjacent to any non-B-2 zoning district	20 ft.	—	20 ft.	—	20 ft.	—

(1) *Primary vs. secondary front yards.* When a lot is located on a corner lot, the primary front yard setback shall be measured from the street of higher pedestrian importance or intensity (e.g. traffic volume, number of lanes, etc.). Any lot line that borders on a street shall be considered a front yard.

a. The applicant shall identify primary and secondary front yards on any site plan for approval by the reviewing authority. In reviewing an applicant's designation of primary and secondary front yards, the reviewing authority shall consider the following:

1. Every lot shall have at least one primary front yard.

2. A lot may have more than one primary or secondary front yard.

3. A major street shall always be considered a primary front yard.

4. Chicago Boulevard shall always be considered a primary front yard whenever a lot has sufficient developable frontage on Chicago Boulevard.

5. The yard facing a minor street may be considered a primary or a secondary front yard.

(2) *Waiver.* The maximum setback requirements may be increased by up to 50 percent following the waiver procedures in section 98-406.

(c) *Building frontage in build-to area.* In order to maintain a pedestrian scale environment, it is important that buildings maintain a minimum frontage within the front setback area. This prevents buildings from being spaced too far apart, which creates gaps in the street wall. Building frontage is defined as the width of the building in the build-to area divided by the lot width at the front property line. By way of example, a building that is 70 feet wide in the build-to area located on a lot that is 100 feet wide would have a building frontage of 70 percent (70/100 = 70%).

STREET TYPE	BUILDING FRONTAGE REQUIREMENT		
	CORE AREA	EDGE AREA	RESIDENTIAL AREA
Major Street	90%	70%	60%
Minor Street	70%	60%	50%

(1) *Waiver.* The frontage requirements may be altered by the reviewing authority if the applicant can demonstrate that, in addition to the review considerations in section 98-406.

a. The building is designed consistent with the intent of the frontage requirements; and that

b. Reasonable development potential exists on adjacent lots or on the same lot in the future to fill in the street wall over time.

(Ord. of 5-18-2009, § 6.303; Ord. No. 01-16, 10-3-2016; Ord. No. 02-19, 3-18-2019)

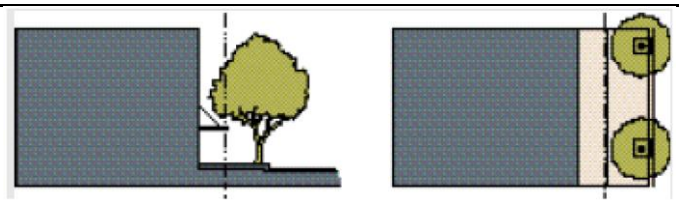
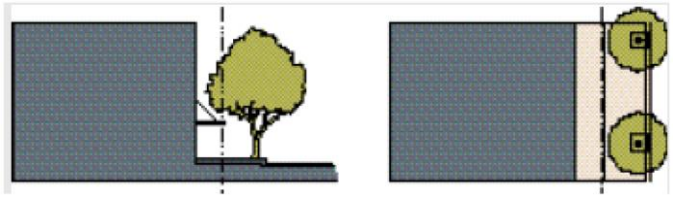
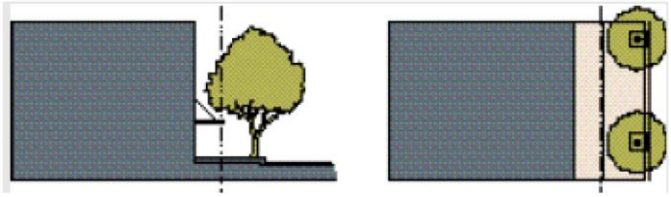
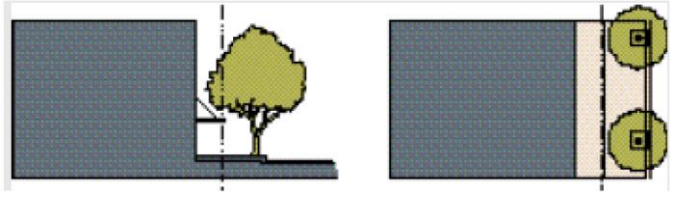
Sec. 98-434. Building design.

Buildings in the B-2 district shall comply with the following requirements, in addition to any applicable requirements of section 98-474. The requirements of this section and section 98-474 are intended to be complimentary; however, in any instance where there is an apparent conflict, the provisions of this section shall control.

(a) *Private frontage.* The private frontage is the area between the right-of-way and the principal building façade. Buildings must contain architectural elements consistent with one of the following four private frontages. Each frontage is designed to be consistent with some or all of the uses permitted in the B-2 district.

Note that the following table includes specific dimensional requirements for each of the frontages. Unless otherwise noted, the dimensional requirements are in addition to any other dimensional requirement of this article.

FRONTAGE TYPE	WHERE PERMITTED	DIMENSIONAL REQUIREMENTS
Shopfront. A frontage where the building facade is located close to the front lot line with the building entrance at sidewalk grade. This frontage type is suitable for nonresidential uses on the first floor.	Core area Edge area Residential area	The building shall be set back a maximum of 5 feet from the front lot line.

Shopfront Illustration: 		
Courtyard. A frontage where a portion of the building facade is close to the front lot line with a portion set back. The courtyard may accommodate tree plantings or a vehicle drop-off area. This frontage is suitable for any building use.	Core area Edge area Residential area	The building shall be set back a maximum of 5 feet from the front lot line. The courtyard area shall be considered part of the front building facade for the purposes of determining compliance with the requirements of subsection 98-433(c).
Courtyard Illustration: 		
Stoop. A frontage where the first floor is elevated from the sidewalk to provide privacy for first floor windows. The entrance is usually from an exterior stair and landing. This frontage is suitable for ground-floor residential use.	Edge area Residential area	The building shall be set back a minimum of 7 feet from the front lot line. The stoop or porch area shall be set back a minimum of 2 feet from the front lot line.
Stoop Illustration: 		
Lawn. A frontage where the building is set back from the street with a landscaped front yard area. This frontage is suitable for any building use.	Edge area Residential area	The building shall be set back a minimum of 10 feet from the front lot line. Unenclosed front porches shall be set back a minimum of 5 feet from the front lot line.
Lawn Illustration: 		

(b) *Building height.*

(1) *Maximum height.* The maximum building height permitted in Core area of the B-2 district is 56 feet, and the maximum building height permitted in the Edge area and the Residential area of the B-2 district is 45 feet. See subsection 98-524(a) for height exceptions.

(2) *Minimum height.* The minimum building height in the Core area of the B-2 district is 20 feet. All buildings in the Core area shall have the appearance of being at least two-story buildings. There is no minimum height requirement in the Edge area and the Residential area.

(c) Base*, middle, and cap.* All buildings shall incorporate a base, middle, and cap, as is applicable.

(1) *Base.* The base shall include an entryway with transparent windows and a horizontal molding or reveal placed between the first and second stories or over the second story. The molding or reveal shall have a depth of at least two inches and a height of at least four inches. If a one-story building is proposed, the molding or reveal is not required.

(2) *Middle.* The middle may include buildings and/or balconies that are located between the reveal and the cap area.

(3) *Cap.* The cap includes the area from the top floor to the roof of the building, and shall include a cornice or roof overhang.

(d) *Alignment.* Windowsills, moldings, and cornices shall align with those of adjacent buildings. The bottom and top line defining the edge of the windows (the "windowsill alignment") shall not vary more than two feet from the alignment of surrounding buildings. If the adjoining buildings have windowsill alignments that vary by more than two feet from one another, the proposed building shall align with one of the adjoining buildings. This requirement may be waived per section 98-406

(e) *Building materials.* Buildings in the B-2 district shall comply with the following building material requirements:

(1) *Primary building materials.* Durable natural building materials such as brick, stone, exposed logs or timber, and other similar materials are preferred primary building materials in the B-2 district. Concrete block or similar masonry units (including CMU or split-face blocks) are prohibited as a primary building material unless covered with a veneer of natural building materials. Synthetic building materials that convincingly match the appearance of natural building materials may be used as a primary building material. Primary building materials shall be used on a minimum of 70 percent of the facade area of the building (excluding doors and windows).

(2) *Accent building materials.* Accent materials may be used on up to 30 percent of the facade area of the building (excluding doors and windows). Acceptable accent materials include decorative precast concrete block, metal, and glass. Non-durable building materials such as EIFS may be used as accent building materials on up to ten percent of the total wall area of any facade, but may not be used on the ground floor facade.

(3) *Waiver.* This requirement may be waived per section 98-406.

(f) *Ground floor design.*

(1) *Building entrance(s).* All buildings shall have their principal entrance or entrances open onto a street, sidewalk, or public space. The principal building entrance shall not open onto a parking lot, although a secondary or subordinate entrance may be provided to a parking lot.

(2) *Entryway alignment.*

a. *Nonresidential uses.* For all buildings in the Core area of the B-2 district and buildings with nonresidential uses on the first floor in the Edge area and the Residential area, the ground floor of the principal entrance shall align with the elevation of the adjacent sidewalk. Sunken terraces or stairways to a basement shall not constitute principal entrances to a building for the purposes of this section. It is not the intent of this section to preclude the use of below or above grade entryways, provided that such entryways are secondary, not principal entrances.

b. *Residential and live/work uses.* For first-floor residential and live/work uses in the Edge area and the Residential area of the B-2 district, the ground floor of the building (and consequently the principal entrance as well) may be raised up to 36 inches above the elevation of the adjacent sidewalk. This is intended to create greater privacy for first floor residential uses by elevating windows above the view of passing pedestrians.

(g) *Windows and entryways.* The following requirements apply to facades of buildings facing a public street or public space such as a plaza or square:

(1) *Windows.* Windows above the ground floor shall have a height to width ratio of at least 2:1.

(2) *Ground floor facade transparency.*

a. All buildings with first floor nonresidential uses shall maintain transparency for at least 70 percent of the first-floor facade area between two and eight feet above grade level. Doors and windows provide transparency.

b. All windows shall use transparent, non-reflective glass.

c. Areas of solid wall shall not exceed a length of 20 feet.

(3) *Recessed entrances encouraged.* Doors are encouraged to be recessed into the face of the building to create a sense of entry and to add variety to the streetscape.

(h) *Encroachments.* The following building elements may encroach into a public right-of-way or setback area:

(1) *Balconies.* Balconies on upper stories may encroach up to six feet into any required setback area and up to four feet into any right-of-way area.

(2) *Stoops.* Unenclosed and uncovered front stoops may encroach up to five feet into a front yard setback area, provided that the stoop maintains a minimum setback of five feet from any right-of-way line.

(3) *Awnings.*

a. Ground-story awnings may encroach up to six feet from the face of the building into the setback or right-of-way area.

b. Awnings shall have a minimum of eight feet of clear space between the sidewalk and the bottom of the awning or any support structure, and shall not exceed a height of 12 feet to the highest point of the canopy.

c. If the awning encroachment of six feet would interfere with the placement of street lighting or street trees, the awning projection shall be reduced to resolve the conflict.

d. Awnings shall be constructed out of fabric, and may not be internally illuminated. Metal or other materials may be used for awnings if a waiver is approved per section 98-406.

(4) *Bay windows.* Bay windows on the ground story may encroach up to three feet into any setback area, but may not encroach into a right-of-way area. Bay windows on upper floors may encroach up to three feet into any setback or right-of-way area.

(5) *Eaves.* Roof eaves may encroach up to three feet into any setback or right-of-way area.

(i) *Service areas.* All service areas, including utility access, above ground equipment and dumpsters shall be located in side or rear yards and shall be screened from view from any street.

(j) *Mechanical and utility equipment.* Mechanical equipment, electrical and gas meter and service components, and similar utility devices (whether ground level, wall mounted, or roof mounted) shall be

screened from view from the front property line. Exterior screening materials shall be the same as the predominant exterior materials of the principal building.

(Ord. of 5-18-2009, § 6.304; Ord. No. 01-16, 10-3-2016; Ord. No. 02-19, 3-18-2019)

Secs. 98-435—98-440. Reserved.

DIVISION 4. GENERAL REQUIREMENTS

Sec. 98-441. Parking.

The following parking requirements are applicable in the B-2, and replace any similar requirements set forth in Article XI:

(a) *Minimum parking required.* All new development or expansions of existing sites shall provide off-street parking spaces for the use according to the following requirements. The parking spaces shall be provided within 500 feet of the building.

(1) *Residential uses.* One parking spaces per residential dwelling unit.

(2) *Nonresidential uses.* One parking space per 500 square feet of nonresidential building space.

(3) *Waiver.* The minimum parking requirements may be waived by the reviewing authority per section 98-406.

(b) *Payment in lieu of.* Instead of constructing parking spaces as required by subsection 6-441(a), development in the B-2 district may choose to make a payment into the city's parking fund equal to the demonstrated cost to construct the parking spaces required for the development (including land costs and construction costs). The applicant may also choose to construct some of the required spaces and to make a payment for the remainder of the required spaces.

The city parking fund shall be used to construct and maintain common parking areas and to provide parking facilities to meet the demand for parking in the B-2 district, and may be administered by the city, the DDA, or another public agency.

(c) *On-street parking.* On-street parking shall not be counted toward the minimum parking requirement.

(d) *Parking lot layout.* Off-street parking lot layout, maintenance, and construction shall comply with all of the requirements of article XI.

The planning commission may modify the dimensional requirements of article XI based on evidence submitted by the applicant indicating that the modification will result in superior site design, will achieve the same purpose as if the parking lot were designed according to conventional standards, and will function in a safe and efficient manner.

(e) *Parking lot access.* Entrances to parking lots or parking structures may not be located along a major street in the Core area of the B-2 district.

(f) *Parking structures.* Parking structures are permitted in the Core area and the Edge area of the B-2 district, provided that they comply with the following requirements:

(1) *Setback from a major street.* The parking structure and all parking spaces within shall be set back a minimum of 80 feet from any major street.

(2) *Setback from minor streets.* Parking structures shall be set back a minimum of seven feet from any minor street.

(3) *Height.* Parking structures may be no taller than any adjacent building located within 20 feet of the structure. Stand-alone parking structures set back 20 or more feet from any adjacent building may not exceed the maximum height permitted for a building at that location in the B-2 district, or the height of the tallest building within 150 feet of the parking garage, whichever is lower.

(4) *Design guidelines.* Any parking structure facade that will be visible from a street, civic/open space, or building shall comply with the following design guidelines:

a. The façade shall comply with the building material requirements of subsection 98-434(e).

b. The parking structure shall have the appearance of a flat-roofed building with a parapet cap type.

c. The ground floor of the structure shall be differentiated from upper floors through the use of a horizontal expression line.

d. Exterior elevator towers or stair wells shall be open to public view, or enclosed with transparent glazing.

e. Views into the parking structure shall be minimized. Facades of parking structures shall be designed without continuous horizontal parking floor openings. Decorative trellis work or another architectural element that will screen the view of parked cars in the structure shall be provided on all exterior openings.

(g) *Loading space.* There are no specific loading requirements in the B-2 district; however, buildings and sites should be designed such that trucks and large delivery vehicles may be accommodated on the site without encroaching into a public right-of-way. Further, loading facilities such as truck docks shall be located and screened such that they are not visible from any street.

(Ord. of 5-18-2009, § 6.401; Ord. No. 02-19, 3-18-2019)

Sec. 98-442. Outdoor amenity space.

Any development or redevelopment of a building with more than 20,000 square feet of floor area in the B-2 district shall provide outdoor amenity space. The outdoor amenity space shall have a minimum area of two percent of the gross floor area of the building. The size and disposition of the amenity space shall be proportionate to the size and scale of the development, and any amenity space used to satisfy this requirement shall be adjacent to or visible and accessible from a public right-of-way. The emphasis of the amenity space requirement is on the quality rather than the quantity of the space.

(Ord. of 5-18-2009, § 6.402; Ord. No. 02-19, 3-18-2019)

Sec. 98-443. Outdoor retail sales.

Outdoor retail sales are permitted in the Core area and the Edge area of the B-2 district, subject to the following requirements:

(a) *No permit required.* Temporary or moveable outdoor retail sales activity or displays accessory to a principal use in the B-2 district are permitted, subject to the following requirements:

(1) *Area.* The total of all outdoor sales display areas on the site shall not exceed 0.75 square feet per linear foot of building frontage in the build-to zone.

(2) *Location.* Outdoor sales areas may be located in the build-to zone, in an area adjacent to and not extending farther than 20 feet from the rear of the building, and/or in the right-of-way. Outdoor sales in the right-of-way shall be located in the frontage or furnishings area of the pedestrian zone directly adjacent to the building containing the use to which it is accessory.

(3) *Time.* The outdoor sales display shall only be set out during business hours, and shall be moved indoors for storage overnight or when the business is closed. A minimum six-foot wide clear pedestrian pathway on the sidewalk shall be maintained at all times.

(b) *Permit required.* A permit from the building official is required for outdoor sales that exceed the area limitations in subsection (a), above; for special outdoor sales events that will be located anywhere besides the frontage or furnishings area of the pedestrian zone; or for times outside of normal business hours. The permit will specify the permitted size and duration for the outdoor sales event.

(Ord. of 5-18-2009, § 6.403; Ord. No. 02-19, 3-18-2019)

Sec. 98-444. Outdoor storage.

In the Core area and the Edge area of the B-2 district, limited outdoor storage of merchandise, materials, or equipment is permitted in the rear yard if it is not visible from any pedestrian or vehicle circulation area open to the public. In no case shall materials or merchandise being stored outdoors exceed a height of six feet.

(Ord. of 5-18-2009, § 6.404; Ord. No. 02-19, 3-18-2019)

Sec. 98-445. Landscaping and buffering.

All landscaping requirements of article X of this chapter shall apply in the B-2 unless an alternate landscape requirement is specifically identified in this article VI.

(Ord. of 5-18-2009, § 6.405; Ord. No. 02-19, 3-18-2019)

Secs. 98-446—98-450. Reserved.

DIVISION 5. DEFINITIONS

Sec. 98-451. Definitions used in this article.

This division provides definitions for terms that are used in this article that are technical in nature or that might not otherwise reflect a common usage of the term. Where a definition in this section conflicts with a definition provided in article XII, the definition presented in this section shall prevail for the purposes of administering the B-2 district requirements. If a term is not defined in this section, the planning and development director shall determine the correct definition of the term.

Balcony: An open portion of an upper floor that extends beyond or indents into a building's exterior wall.

Block: The aggregate of private lots, pedestrian pass-throughs, rear lanes and alleys, the perimeter of which abuts perimeter or internal streets.

Block perimeter: The linear distance around a block measured along the right-of-way line or road easement.

Buffer: An area of land, including landscaping, walls, and fences located between land uses of different characters and which is intended to mitigate negative impacts of the more intense land use on the less intense land use.

Build-to area: An area at the front of the lot in which a front building facade must be located.

Floorplate: The total indoor floor area of any given story of a building, measured to the exterior of the wall or balcony.

Frontage lot line: The lot line that coincides with the public right-of-way or edge of a space dedicated for public use. Building facades parallel to frontage lines define public space and are therefore subject to a higher level of regulation than the elevations that face other lot lines.

Habitable space: Building space that involves human presence with direct view of the enfronting streets or public or private open space. Habitable space does not include parking garages, storage facilities, warehouses, and display windows separated from retail activity.

Liner shop or Liner building: A building or part of a building with habitable space specifically designed to enfront a public space while masking a function without the capacity to monitor public space such as a parking garage, storage facility, or large building exceeding the building width limitations of this article.

Tree lawn: A grassed or landscaped area located between the sidewalk and the curb of the street intended to accommodate street tree plantings.

(Ord. of 5-18-2009, § Art. 6, Chapter 5; Ord. No. 02-19, 3-18-2019)

Secs. 98-452—98-470. Reserved.

ARTICLE VII. DEVELOPMENT DESIGN STANDARDS

Sec. 98-471. Intent.

The intent of the development design standards in this article is to establish design standards applicable to new commercial and office development located outside the central business district to improve and enhance the visual and functional impact of new development in the City of Tecumseh, and therefore, to enhance the public health, safety, and welfare. The intent of these regulations is to provide specific design guidelines that achieve the following:

(a) Encourage development and redevelopment that protects and enhances the traditional small town character, fits within the traditional urban form and creates a character that reinforces a sense of community identity.

(b) Encourage a form of development that will achieve the physical qualities necessary to maintain and enhance the economic vitality of the various business districts, maintain the desired character of the city, prevent the creation of blight and protect property values.

(c) Promote the preservation and renovation of historic buildings, and ensure new buildings are compatible with, and enhance the character of, the City's cultural, social, economic, and architectural heritage.

(d) Establish an integrated pedestrian system to encourage a walkable pedestrian environment.

(e) Encourage quality development to provide employment and diversify the tax base.

(f) Ensure that new development services the anticipated increased population and is designed to complement the community character.

(g) Encourage new development of existing areas.

(h) Implement recommendations of the City of Tecumseh's current and future plans. For example, city's master plan, greenway's project plan, parks and recreation plan, et al.

(Ord. of 5-18-2009, § 7.101; Ord. No. 01-16, 10-3-2016)

Sec. 98-472. Site layout.

(a) *Physical features and site relationships.* All development in the city shall minimize its impact on the natural environment and adjacent properties. Site design shall preserve and incorporate any natural features unique to the site. Specifically.

(1) *Topography and grading.* Site improvements shall be designed to minimize changes to existing topography. Topography and existing vegetation shall be utilized for screening, buffering, and transition of uses and developments. The project shall be designed to avoid massive grading to create flat building "pads" and shall maintain a naturally appearing grading design. Grading should be blended with the contours of adjacent properties.

(2) *Existing site features.* The design shall retain existing site features that are worthy of preservation as determined by the planning commission. The design shall also incorporate natural site amenities such as, creeks, wetlands, views, trees, natural ground forms, and similar features into the overall site design.

(3) *Building orientation.* The design shall be sensitive to the existing terrain, existing buildings in the surrounding area in terms of size, design, and orientation of buildings. Outdoor spaces shall be sensitive to views, climate, and the nature of outdoor activities that could occur in association with the project. This list is not exclusive.

(4) *Building design.* The design of buildings shall neither impair nor interfere with the development or enjoyment of other properties in the area. Through site planning and design, projects proposed near dissimilar land uses shall carefully address potential negative impacts on existing uses. These impacts may include, but are not limited to, traffic, parking, circulation and safety issues, light and glare, noise, odors, dust control, and security concerns.

(5) *Distance between buildings.* In a development in which there is more than one building, the distance between buildings shall be limited. Covered walks, arcades, landscaping and/or special paving shall be provided to connect buildings with each other and with the street. A variety in building size and massing shall be encouraged provided that architectural and spatial consistency can be maintained through the use of proportion, height, materials and design.

(6) *Applicability to entire site.* Site plans must address the entire parcel whenever new development is proposed, be it an addition to an existing structure, development or redevelopment of a portion of a site, or development or redevelopment of the entire site. Site plans shall address the need for improvements throughout the site to assure that proposed construction will be in compliance with this article.

(b) *Streetscape and pedestrian orientation.* Developments shall create a walkable, pedestrian scale. Site and building design shall address pedestrian needs and shall include creative approaches to improving pedestrian interest, access, and enjoyment.

(1) Spatial gaps and interruptions caused by parking or other non-pedestrian elements, such as building gaps, driveways, and service entries shall be avoided. Continuous pedestrian activity is strongly encouraged.

(2) Pedestrian spaces, such as covered walkways, courtyards, and plazas shall be encouraged. The design shall encourage the development of open and attractive passageways between buildings and adjoining developments.

(3) The development should include plazas, courtyards, landscaping, public art, and similar amenities that are accessible and visible from the street.

(4) Solid, blank walls and other "dead" or dull spaces at street level are to be avoided. Visually interesting building facades shall be maintained and/or established to engage pedestrian interest. Outdoor seating and dining areas are encouraged.

(5) Decorative outdoor lighting and sidewalk design shall be consistent, uniform, and appropriate for the intended use.

(6) Intersections, crosswalks, and main building entries should be emphasized by a change in sidewalk color, texture, or material. The use of paint striping to accentuate these areas is discouraged.

(7) Rear façades of both new and existing buildings must be designed to permit public access from parking lots whenever appropriate.

(8) Vehicular cross-access between properties shall be provided to minimize the number of curb cut openings onto public streets. Generally, vehicular access shall be limited, with no more than one access per street frontage.

(c) *Pedestrian and vehicular circulation.* Developments shall be conveniently accessible to both pedestrians and automobiles. On-site circulation patterns shall be designed to adequately accommodate all types of traffic. Potential negative impacts of pedestrian and vehicular circulation on adjacent property must be minimized and mitigated.

(1) Pedestrian circulation patterns shall be safe, clearly defined, and direct. Unintentional pedestrian routes, which provide unsafe "shortcuts" and tend to damage landscape areas, shall be discouraged by providing appropriately located pedestrian routes along with pedestrian friendly barriers such as decorative fencing, feature walls, or landscaping to protect inappropriate pedestrian routes.

(2) Pedestrian access routes shall be buffered from the street, vehicular traffic, and parking areas through the use of greenspace and landscaping where possible. Pedestrian amenities such as benches, pergolas, gazebos, and water features along pedestrian access routes are strongly encouraged.

(3) Pedestrian access to building entrances from public sidewalks and parking areas shall be provided. The pedestrian access routes shall be designed to separate pedestrian and vehicular traffic, and shall not detract from the design of the building and adjacent properties. Pedestrian circulations shall take precedence over vehicular circulation.

(4) Pedestrian linkages between adjacent uses shall be provided and emphasized. Distinct pedestrian access routes leading to primary buildings or structures from parking areas in large commercial developments, such as shopping centers or multi-use developments are encouraged.

(5) Bicycle parking shall be located in highly visible locations and shall be designed to permit users to lock bicycles to the parking rack. An internal bike circulation system is encouraged for large developments and shopping centers.

(Ord. of 5-18-2009, § 7.102; Ord. No. 01-16, 10-3-2016)

Sec. 98-473. Building scale and relationships.

The following building design standards are applicable to all buildings. Refer also to section 98-247 for design standards applicable to large-format retail buildings:

(a) *Scale.* Building and site design shall be compatible with the architecture, mixture of uses, and compact layout of a traditional small town.

(1) *Scale.* Buildings shall be designed with an urban scale. When building transitions are deemed necessary and architecturally appropriate, such transitions shall be well articulated and defined.

(2) *Human scale design.* All building designs shall be based on a human scale instead of incorporating overly large or exaggerated design elements oriented towards high-speed vehicular traffic. Wall insets, offsets, balconies, entries, and window projections are examples of building elements that shall be used to help reduce the scale of larger buildings.

(3) *Mass and proportion.* The mass and proportion of structures shall be similar to structures on adjacent lots and on the opposite side of the street. Larger buildings may be broken up with varying building lines and rooflines to provide a series of smaller scale sections, which are individually similar in mass and proportion to surrounding structures.

(b) *Relationships to neighboring development.* The site design and building features of the proposed development shall take into account the character of the surrounding area.

(1) *Compatibility with the area.* Architectural design shall be compatible with the developing character of the area. Design compatibility shall include complementary building style, form, size, color and materials.

(2) *Compatibility within the site.* Multiple buildings on the same site shall be designed to create a cohesive visual relationship between the buildings.

(3) *Public spaces.* Buildings shall be located to provide functional outdoor and public spaces that enhance the use of the building and the neighboring buildings or properties.

(Ord. of 5-18-2009, § 7.103; Ord. No. 01-16, 10-3-2016)

Sec. 98-474. Building design.

Building design shall complement the intended traditional small town character and architectural heritage of the community. The design shall consider the adaptive reuse of the building. Building design shall incorporate a clear and well-articulated design concept, and architectural detailing that creates a positive and visually consistent image shall be encouraged.

(a) *Front façade design.* All building façade that are visible from a street and/or neighboring property shall conform to the following design criteria:

(1) Linear, repetitive, or blank walls are prohibited on the front façade.

(2) Architectural features, details and ornaments such as archways, colonnades, cornices, contrasting bases, contrasting masonry courses, water tables, molding pilasters, columns, and corbelling, contrasting bands of color, stone or accent features are encouraged.

(3) Windows. Large window openings shall be provided at ground level with transparent, nonreflective, minimally tinted glass. Window shapes should be rectangular, square or palladian (mostly rectangular with a semi-circular top). Circular, octagonal, or diamond shaped windows are not permitted unless they are consistent with specific traditional architectural style.

(b) *Rear or side façade design.* All sides of a building shall be similar in design, detail, and material to present a cohesive appearance to neighboring properties. Wherever a side or rear façade is visible from a public street, or if parking is located at the side or rear of a building, the façade shall be designed to create an appearance similar to the front façade.

(c) *Building materials.* The selection of materials shall enhance the architectural ambiance of the area and shall reinforce the permanency of the structure and the development as set forth herein.

(1) *Durable materials required.*

a. Materials shall have good architectural character, be durable and be selected for their compatibility with adjacent buildings and properties. A preference shall be given to the use of "green" building materials that can be recycled.

b. Reflective materials are discouraged.

c. Special attention shall be given to the durability of materials used around the ground floor of buildings. Such materials shall require minimal maintenance and have colors integral to the material.

(2) *Materials visible from the street.* A minimum of 60 percent of the exterior finish material of all building façades visible from any public street, parking lot or adjacent residentially zoned land (exclusive of window areas) shall consist of brick, cut stone, field stone, cast stone, architectural precast concrete, or wood. These materials must be used in any façade area subject to abuse or damage.

The planning commission may allow, upon applicant's request, the use of split face or burnished face concrete masonry units; however, such units must have an integral color. The remaining 40 percent of the façade (exclusive of window areas), including parapets and accent features, may incorporate other materials such as fiberglass-reinforced concrete, polymer plastic (Fypon) or exterior insulation and finishing systems (EIFS) materials for architectural detailing.

The planning commission may permit other material for façades that are not visible from a public street or parking lot and are adequately screened from adjoining land uses.

(3) *Building material colors.* The planning commission shall review building colors as a part of site plan approval.

a. Exterior finish materials and colors shall be consistent or compatible with existing finish materials/colors in the case of building additions or renovations.

b. As part of review, samples of building materials may be required.

c. Exterior colors shall be compatible with colors on adjacent buildings and shall reinforce the visual character of the environment of the proposed building, subject to the review and approval of the planning commission. The colors shall be such that the building is not competing for attention; colors shall not, in any way, constitute "signing" of the building.

d. The following natural colors are encouraged to be used for the main portions of building façades and roof forms: neutral earth tones (sand to brown); shades of gray; traditional colors (brick red, forest green, navy blue, etc.); light subdued hues (salmon, putty, etc.) or white.

e. Contrasting accent colors that are compatible with the primary colors listed above are encouraged for trim, accent and other decorative architectural features. The use of bright or fluorescent colors (purple, orange, pink, lime, yellow, etc.) is discouraged.

f. Architectural consistency of colors, materials and detailing shall be provided between all building elevations, subject to the review and approval of the planning commission. All elevations need not look alike; however a sense of overall architectural continuity shall be achieved.

(d) *Material or color changes.* Material or color changes shall only occur at a change of plane. Material changes at the outside comers of buildings that give the impression of "thinness" and/or discloses or highlights the artificial nature of the material shall be prohibited. Inconsistent adornment and frequent changes in material or color shall be avoided.

(e) *Soffits and other architectural elements.* Soffits and other architectural elements visible to the public shall utilize materials compatible with other exterior materials on the building.

(f) *Roof materials, color and design.* Roof materials, color and design are considered an integral part of material and color features of the proposed building and as such shall be consistent with the design intent. Pitched roofs on single story buildings shall be encouraged. Shingles shall be asphalt, fiberglass, tile, slate or cedar in color subject to review and approval of the planning commission. Standing seam metal roof systems may be permitted by approval of the planning commission. Single story buildings with flat roofs or higher buildings shall have decorative cornices. If a flat roof is used they may be made of rubber or built-up composition and shall be enclosed by parapets or peaked architectural features with a full roof return, at least 42 inches high or of a height to screen rooftop mechanical or other equipment. The planning commission shall determine the specific requirements of such screening.

(g) *Accessory buildings.* Accessory buildings that are part of a new development shall incorporate the same materials as are utilized in the primary structure. Accessory buildings that are connected on an existing site should incorporate a unifying element(s) with the existing principle building. The new accessory structure shall, however, make every effort to follow the intent of this document and incorporate the recommendations herein in the design of the new accessory structure.

(h) *Building entrance design.* All buildings shall have at least one primary public entrance. Main entrances to buildings shall incorporate devices such as canopies, roof overhangs, recessed entranceways, or other similar features to provide protection from the elements. The primary building entrance shall be clearly defined and provide a sense of entry. In addition, long blank walls along the sidewalk leading to the entrance should be avoided.

(i) *Stylized or prototype buildings.* Building design such that the building itself is an advertisement shall not be permitted. Building architecture shall not be of a design which intends to advertise a particular corporate or franchise style.

(Ord. of 5-18-2009, § 7.104; Ord. No. 01-16, 10-3-2016)

Sec. 98-475. Signs.

All signs shall be architecturally integrated and complement their surroundings in terms of size, shape, color, texture, and lighting. Signs shall complement the overall design of the building and shall not be designed to be in visual competition with other signs in the area.

(a) *Materials.* Signs should incorporate the same building materials used in the primary structure and should be in scale and style with the architecture of the principal building. Lettering should be selected that is consistent with the building and the message on the sign should be kept simple.

(b) *Overall sign plan.* All development shall have a sign plan which anticipates future development. New building design shall provide logical sign areas, allowing flexibility for new and additional users. Design shall provide for convenient and attractive replacement of signs.

(c) *Logos.* Corporate or franchise logos may be reviewed to blend with the character of the area and the building.

(d) *Outline lights signs.* Outline lights signs are prohibited, with the exception of historic neon signs that are included in a site plan approval as part of a historic building/site restoration.

(Ord. of 5-18-2009, § 7.105; Ord. No. 01-16, 10-3-2016; Ord. No. 04-17, 9-5-2017)

Sec. 98-476. Screening (fences and walls).

The impact of those elements of a site, which have an adverse effect on the subject site and surrounding sites, should be minimized.

(a) *Service areas.* Unattractive project elements including but not limited to delivery zones, storage areas, trash receptacles, transformers, and generators shall be located in areas that are generally not visible to the public. Such elements shall be screened by the use of landscaping or screening materials compatible with the principal building.

(b) *Dumpsters.* The location and method of screening of waste receptacles shall be shown on all plans, and an illustration depicting the path of refuse vehicles should be provided to ensure that conflicts with parked cars and structures are minimized.

(c) *Walls and fences.*

(1) All sound walls, masonry walls, or fences should be designed to minimize visual monotony through changes in plane, height, material, texture, or significant landscaping massing.

(2) All fencing shall be designed as an integral part of the site, such as a planter wall or continuation of an architectural wall feature, rather than as a separate fence.

(3) Chain link fencing is prohibited unless approved otherwise by the planning commission. In no case shall chain link fencing with wood or any type of inserts or lining be considered suitable.

(4) In highly visible public areas where fencing is needed, decorative fencing shall be provided.

(d) *Utility meters shall be located in screened areas.*

(Ord. of 5-18-2009, § 7.106; Ord. No. 01-16, 10-3-2016)

Sec. 98-477. Development in the B-2 district.

Consult the City of Tecumseh Design Guidelines and Exterior Wall Guidelines for suggested building design treatment for development in the central business district, and section 98-434 for building design requirements.

(Ord. of 5-18-2009, § 7.107; Ord. No. 01-16, 10-3-2016)

Secs. 98-478—98-490. Reserved.

ARTICLE VIII. GENERAL PROVISIONS

DIVISION 1. ACCESSORY STRUCTURES AND BUILDINGS

Accessory structures, except as otherwise permitted in this chapter, shall be subject to the following:

Sec. 98-491. General standards for accessory structures.

(a) *Principal building required.* Accessory buildings or structures may only be constructed on the same lot as a principal building to which they are appurtenant.

(b) *Appearance.* The exterior façade materials and architectural design of all accessory structures shall have a residential character. The overall appearance of the structure shall be in accordance with the purpose of the district where it is located.

(c) *Temporary accessory structures.* Temporary accessory structures that do not require permanent attachment to the ground but have similar characteristics as an accessory structure such as moveable carports shall comply with the setback requirements for detached accessory structures.

(d) *Accessory dwelling units prohibited.* No accessory building may be used as a separate housekeeping unit and shall not be used as a place of business except as permitted as a home occupation (see section 98-231.)

(Ord. of 5-18-2009, § 8.101)

Sec. 98-492. Attached accessory structures.

(a) *Lot coverage and setback.* Where the accessory structure is attached to a main building, it shall be considered a part of the main building and shall be subject to the area, lot coverage and setback regulations of this ordinance applicable to main buildings.

(b) *Determination of attachment.* For the purpose of determining lot coverage and setback, an accessory structure located within ten feet of a main building shall be considered "attached."

(c) *Height.* The maximum height for attached accessory structures shall be the maximum height permitted in the zoning district or the height of the principal structure, whichever is less.

(Ord. of 5-18-2009, § 8.102)

Sec. 98-493. Detached accessory structures.

(a) *Location and setbacks.* A structure accessory to any building shall only be erected in a side or rear yard.

(1) *Side yard structures.* If the accessory building or structure is erected in a side yard, it must conform to the all yard regulations of this chapter applicable to main buildings.

(2) *Rear yard structures.* A detached structure accessory to a residential building located in the rear yard shall not be located closer than ten feet to any principal building nor shall it be located closer than six feet to any side or rear yard. However, if the detached building accessory to a residential building is 200 square feet or less it may be located one foot from any lot line. In those instances where the rear lot line is conterminous with an alley right-of-way, the accessory building shall be no closer than one foot to such rear lot line.

(b) *Accessory structure lot coverage in residential districts.*

(1) The combined lot coverage of all detached structures shall not exceed 25 percent of a rear yard area or the ground floor living area of the principal building, whichever is less.

(2) Each property may have one shed not to exceed 80 square feet that is exempt from the accessory structure lot coverage calculations.

(3) On a corner lot, all of the land to the rear of the house may be used in the computation of percent of lot coverage for accessory structures.

(4) In no case shall an accessory structure be located in the front yard.

(c) *Height.*

(1) *Residential accessory structures.* No detached building or structure accessory to a residential dwelling unit or group of dwelling units may exceed one story or 14 feet in height provided that a detached accessory building may be constructed not to exceed 1&half stories or 16 feet in height on those properties occupied with two-story dwellings and where 50 percent of all properties within 200 feet of such property are occupied with two-story dwellings. In those instances, where an accessory building or structure exceeds 14 feet in height, side and rear setbacks shall be increased one foot for each two feet or height in excess or 14 feet of height.

(2) *Nonresidential accessory structures.* Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in such districts, subject to board of appeals review and approval, when such structures exceed two stories in height. In nonresidential districts, buildings or structures accessory to residences shall not exceed the height limits for accessory buildings or structures required in residential districts.

(Ord. of 5-18-2009, § 8.103)

Sec. 98-494. Corner lots.

When a building accessory to a residential building is located on a comer lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, the building shall not project beyond the front yard line required on the lot in the rear of such comer lot. When an accessory building is located on a comer lot, the side lot line of which is substantially a continuation of the side lot line of the lot to its rear, the building shall not project beyond the side yard line of the lot in the rear of such comer lot.

(Ord. of 5-18-2009, § 8.104)

Sec. 98-495. Swimming pools.

(a) *Lot coverage.* Swimming pools shall be erected only in a rear yard on residentially zoned properties and shall be included in the accessory structure lot coverage calculations.

(b) *Setbacks.* Swimming pools shall be set back 6 feet from any residential property line and eight feet from any commercial or industrial property line.

(Ord. of 5-18-2009, § 8.105)

Sec. 98-496. Fences.

Fences are subject to the following:

(a) *Residential districts.* Fences or walls in residential districts not exceeding six feet in height may be constructed within a required rear or side yard, e.g., along the property line. Fence materials shall be specifically designed for such purposes.

(1) Decorative fences not exceeding three feet in height may be located one foot from the front property line within a front yard. The height of such ornamental fence shall be measured from

established grade. In those instances where no sidewalks exist, the height of such ornamental fence shall be measured from the curb grade.

(2) Barbed wire and other similar hazardous materials shall be prohibited from all residential fences.

(3) Temporary athletic type netting not less than 90 percent open may be allowed for basketball goals where such goals are located adjacent to abutting residential properties to avoid annoyance to neighbors. Such netting shall only be allowed upon concurrence of adjacent and abutting neighbors. Such netting shall not exceed a dimension often feet in height and eight feet in width and shall be mounted on four-by-four treated lumber posts or on metal pipe three inches in diameter or less. The use of chain link or wire fencing material shall be prohibited. A temporary permit for a period of two years shall be obtained from the building inspector and may be renewed by the building inspector provided the fence or netting is maintained in satisfactory condition.

(b) *Industrial districts.* Fences are permitted in the I-1 and I-C districts as follows:

(1) Decorative fences not exceeding three feet in height are allowed within the required front yard.

(2) Fences not to exceed eight feet in height shall be permitted in side, rear yards and non-required front yards. Barbed wire in not more than three strands mounted in a cradle at the top of the fence shall be permitted provided such cradle is located to project over the property being fenced.

(c) *Commercial and office districts.* Fences are permitted in the OS-1, B-1, B-2, and B-3 districts as follows:

(1) Decorative fences not exceeding three feet in height are allowed within the front yard.

(2) Fences up to six feet in height are permitted in side and rear yards. All fences in commercial and office districts shall be decorative in nature, and barbed wire and other hazardous materials are prohibited.

(d) *General requirements.* All fences shall comply with the following general requirements:

(1) *Construction and maintenance.* Fences shall be securely constructed in conformance with this Ordinance and all applicable building codes, and shall consist of materials that are found by the Building Official to be durable and weather-resistant. Masonry piers may be used as part of a fence installation with the approval of the Building Official. Fences shall be maintained in good order, painted, rust-proofed or otherwise protected against damage and decay so as to present an orderly appearance.

(2) *Hazards.* Fences shall not be erected within public rights-of-way, or any corner clearance area as described in section 98-522 (Corner clearance areas).

(3) *Orientation of finished side.* Where a fence has a single finished or decorative side, it shall be oriented to face outward towards adjacent parcels or street rights-of-way (away from the interior of the lot to which the fence is associated).

(4) *Site drainage and utilities.* Fences shall not be erected in a manner that obstructs the free flow of surface water or causes damage to underground utilities.

(5) *Location.* Fences shall be located completely within the boundaries of the lot to which they are associated.

(6) *Removal of illegal or damaged fences.* Damaged or illegal fences shall be immediately repaired or removed by the property owner. Upon identification of a damaged or illegal fence, the building official shall order the property owner to remove such fences or make necessary repairs within 20 days. In the case of a damaged fence, the property owner may make appeal to the property

maintenance board of the building official's order within the 20 day period and shall not be required to make repairs until a decision is made by the property maintenance board.

If the property owner fails to take such actions within 20 days, the city may act to remove such fences at the expense of the property owner. The city may then place a lien on the property, adding necessary removal expenses to the tax bill for the property.

(Ord. of 5-18-2009, § 8.106)

Sec. 98-497. Satellite dish antennas.

Satellite dish antennas are subject to the following:

(a) Satellite dish antennas are permitted in rear yards only and may not be located nearer than six feet from a side or rear lot line and may not be located on or placed on an easement.

(b) In districts other than residential districts when a satellite dish antenna cannot be installed in conformance to the requirements of this division, a satellite dish antenna is permitted in a side yard or upon the roof of a main building upon the express written approval of the building inspector.

(c) In districts that permit the sale of a satellite dish antenna, the owner of a business may display satellite dish antennas for sales purposes in the front yard or side yard of the business premises, provided such satellite dish antennas do not obstruct or hinder public access and are not located on a sidewalk or within a dedicated right-of-way, and provided further that such displays conform with Article IX.

(d) A three-day nonrenewable temporary use permit for a satellite dish antenna mounted to a mobile unit may be granted by the building inspector after application has been made.

(e) In residential districts, satellite dish antenna not exceeding two feet in diameter may occupy a rear or interior side yard not closer than six feet from any interior side or rear lot line and shall not be located in a front or side yard which abuts a street. A tower height, including the reception dish of no greater than 30 feet, shall be permitted. In residential districts, a satellite dish antenna not exceeding two feet in diameter may be located on a roof and shall not exceed a height, including the reception dish, of four feet above the highest point of the roof and shall be mounted on the rear portion or peak of the roof.

(Ord. of 5-18-2009, § 8.107)

Sec. 98-498. Outdoor wood burning furnaces.

Outdoor wood burning furnaces designed to be located outside the living space ordinarily used for human habitation and designed to transfer or provide heat via liquid or other means through the burning of wood or solid waste for the purpose of heating spaces other than where the structure or appliance is located are prohibited.

(Ord. of 5-18-2009, § 8.108)

Sec. 98-499. Charity collection boxes.

Charity collection boxes, which are a box or receptacle other than an accessory building or shed complying with all building code and land use requirements, that can be or are used for the reception of money or goods intended for charitable use, are permitted in the city subject to the following requirements:

(a) *Approval required.* No charity collection box may be placed or located within the city unless the operator of the box is issued a permit by the director of development services. A permit for a charity collection box shall only be issued if all of the requirements of this section are met.

(b) *Charitable status.* The operator of the collection box must be a not-for-profit organization that has qualified for tax-exempt status under Section 501(C)(3). The operator shall submit proof of 501(C)(3) status to the city as part of their permit application. This proof shall consist of copies of the following forms and information required to qualify for 501(C)(3) status:

(1) Michigan Articles of Incorporation.

(2) IRS Form 1023.

(3) Proof of directors and officers (D & O) insurance.

(4) Proof of license to solicit donations issued by the Michigan Attorney General's office.

(5) Copies of the organization's three most recent Michigan Annual Reports, filed each October 1 with the Michigan Corporation, Securities and Land Development Bureau. This requirement may be waived or modified if the organization has not existed long enough to have filed three Michigan Annual Reports.

(c) *Property owner consent required.* The operator of the collection box shall submit evidence that the owner of the property where the collection box is proposed to be located agrees to allow the collection box on their property.

(d) *Where permitted.* Collection boxes are permitted as an accessory use to a non-residential principal use of the property.

(e) *Location.*

(1) *Front yard or side yard.* Collection boxes in the front or side yard shall be located adjacent to a building in a location that does not impede vehicular or pedestrian circulation. For the purposes of this section, "adjacent" shall mean anywhere within 5 feet of an exterior building wall. Collection boxes may not be located in any parking space.

(2) *Rear yard.* Collection boxes located in a rear yard shall be located within the building envelope applicable to a principal building on the site.

(f) *Number.* No more than two collection boxes may be located on any one property.

(g) *Size and mass.* Collection boxes have a maximum size of six feet in depth or width and a maximum height of eight feet.

(h) *Operation standards.* All donations must be fully enclosed in the collection box. Donations that are not fully enclosed in the collection box are considered a public nuisance and subject to removal by the city at the property owner or collection box operator's expense.

(Ord. of 5-18-2009, § 8.109)

Secs. 98-500—98-510. Reserved.

DIVISION 2. EXTERIOR LIGHTING

Sec. 98-511. Purpose.

The purpose of this chapter is to preserve, protect, and enhance the lawful night-time use and enjoyment of all properties in the city through the use of appropriate lighting practices and systems. Exterior lighting shall be designed, installed and maintained to control glare and light trespass, minimize obtrusive light, conserve energy and resources, maintain safety, security and productivity, and prevent the degradation of the night-time visual environment. It is the further intent of this chapter to encourage the use of innovative lighting designs and decorative light fixtures that enhance the character of the community while preserving the night-time visual environment.

(Ord. of 5-18-2009, § 8.201; Ord. No. 01-16, 10-3-2016)

Sec. 98-512. General provisions.

The design and illumination standards of this division shall apply to all exterior lighting sources and other light sources visible from the public right-of-way, road easement, or adjacent parcels, except where specifically exempted herein.

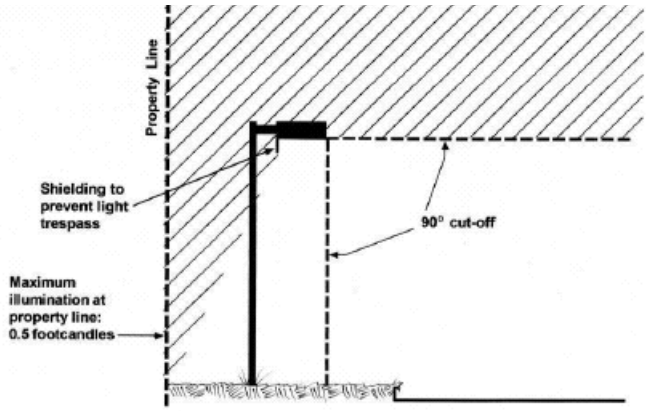


Figure 2. Lighting Fixture Orientation and Shielding

(a) *Shielding.* Exterior lighting shall be fully shielded and directed downward at a 90 degree angle. Oblique lenses (such as many wall-pack fixtures) are prohibited. All fixtures shall incorporate full cutoff housings, louvers, glare shields, optics, reflectors or other measures to prevent off-site glare and minimize light pollution. Only flat lenses are permitted on light fixtures; sag or protruding lenses are prohibited. See Figure 1.

(b) *Intensity.* The following light intensity requirements shall apply on all sites within the city:

(1) The intensity of light within a site shall not exceed ten footcandles. Exception: The maximum intensity permitted in areas of intensive vehicular use, such as the area underneath gas station pump canopies, in the immediate vicinity of ATM facilities, or outdoor sales areas shall be 20 footcandles.

(2) The maximum light intensity permitted at a street right-of-way line shall be one footcandle, or the average light intensity generated by public street lighting at the property line (up to a limit of five footcandles), whichever is greater.

(3) The maximum light intensity permitted at any property line other than a street right-of-way shall be 0.5 footcandles.

(c) *Glare and light trespass.* Exterior lighting sources shall be designed, constructed, located and maintained in a manner that does not cause off-site glare on neighboring properties or street rights-of-way. In general, the hot spot, or light emitting element of any light fixture shall not be directly visible from a neighboring property, as this is the primary cause of glare.

(d) *Lamps.*

(1) *Wattage.* Lamps with a maximum wattage of 250 watts per fixture are permitted for use in the city to maintain a unified lighting standard and to minimize light pollution. The planning commission may permit the use of lamps with wattages up to 400 watts if the applicant can demonstrate that the higher wattage fixture is necessary to provide adequate lighting on the site and that the light fixture is in compliance with all other requirements of this chapter. The exemption for higher wattage lamps shall not be granted if the same lighting effect can be reasonably accomplished on the site by incorporating additional 250 watt fixtures into the site design.

(2) *Low traffic areas.* Low-pressure sodium lamps are recommended for security lighting purposes in areas of low vehicular and pedestrian traffic.

(3) *High traffic areas.* Due to their superior color rendering characteristics, high pressure sodium or metal halide lamps should be used in parking lots and other areas of high pedestrian and vehicular traffic use.

(4) *LED lighting.* LED fixtures may be used for any outdoor lighting application. Any LED fixture used for parking lot or street lighting purposes shall comply with applicable Illuminating Engineering Society of North America standards.

(e) *Animated lighting.* Permanent exterior lighting shall not be of a flashing, moving, animated, or intermittent type.

(f) *Outline lighting.* Outline lighting with a visible source of light of any type such as neon, fluorescent, LED, or similar around the perimeter of a window, sign, or architectural feature is prohibited, with the exception of historic neon signs that are included in a site plan approval as part of a historic building/site restoration. Such lighting may be used if the source of light is shielded from direct view of the public by translucent panels or similar methods.

(g) *Hours of operation.* All exterior lighting in non-residential districts shall incorporate automatic timers and shall be turned off between the hours of midnight and sunrise, except for lighting necessary for security purposes or accessory to a use that continues after midnight.

(h) *Measurement.* Light intensity shall be measured in footcandles on the horizontal plane at grade level within the site, and on the vertical plane at the property or street-right-of-way boundaries of the site at a height of five feet above grade level.

(Ord. of 5-18-2009, § 8.202; Ord. No. 01-16, 10-3-2016)

Sec. 98-513. Standards by type of fixture.

(a) *Freestanding pole and building mounted lighting.* The maximum height of such fixtures is 20 feet. Where a pole or building mounted fixture is located within 50 feet of a residentially zoned or used property, the maximum pole height shall be 15 feet.

(b) *Decorative light fixtures.* The planning commission may approve decorative light fixtures as an alternative to shielded fixtures, provided that such fixtures would enhance the aesthetics of the site and would not cause

undue off-site glare or light pollution. Such fixtures may utilize incandescent, tungsten-halogen, metal halide or high-pressure sodium lamps with a maximum wattage of 100 watts (100W) per fixture.

(Ord. of 5-18-2009, § 8.203; Ord. No. 01-16, 10-3-2016)

Sec. 98-514. Exempt lighting.

The following exterior lighting types are exempt from the requirements of this article, except that the building inspector may take steps to minimize glare, light trespass or light pollution impacts where determined to be necessary to protect the health, safety and welfare of the public:

(a) Holiday decorations.

(b) Pedestrian walkway lighting.

(c) Residential lighting.

(d) Instances where federal or state laws, rules or regulations take precedence over the provisions of this chapter.

(e) Temporary emergency lighting.

(Ord. of 5-18-2009, § 8.204; Ord. No. 01-16, 10-3-2016)

Sec. 98-515. Exceptions.

It is recognized by the city that there are certain uses or circumstances not otherwise addressed in this chapter, such as sports stadiums, street lighting, or lighting for monuments and flags, that may have special exterior lighting requirements. The reviewing authority may waive or modify specific provisions of this chapter for a particular use or circumstance upon determining that all of the following conditions have been satisfied. The planning commission shall be the deciding body in all cases where site plan or special use approval is required, while the director of development services shall decide in all other cases:

(a) The waiver or modification is necessary because of safety or design factors unique to the use, circumstance or site.

(b) The minimum possible light intensity is used that would be adequate for the intended purpose. Consideration shall be given to maximizing safety and energy conservation, and to minimizing light pollution, off-site glare and light trespass on to neighboring properties or street rights-of-way.

(c) For lighting related to streets or other vehicle access areas, a determination is made that the purpose of the lighting cannot be achieved by installation of reflectorized markers, lines, informational signs or other passive means.

Additional conditions or limitations may be imposed by the reviewing authority to protect the public health, safety or welfare, or to fulfill the purpose of this chapter.

(Ord. of 5-18-2009, § 8.205; Ord. No. 01-16, 10-3-2016)

Secs. 98-516—98-520. Reserved.

DIVISION 3. DIMENSIONAL PROVISIONS

Sec. 98-521. Standard methods of measurement.

(a) *Required yards.* Attached accessory structures shall be deemed a part of such main building for the purpose of determining compliance with the yard requirements of this chapter.

(b) *Lot coverage.* Accessory garages and other structures, open and enclosed porches, patios, terraces and decks exceeding three feet in height shall be deemed a part of such main building for the purpose of determining compliance with any lot coverage requirements of this Ordinance.

(c) *Buildable lot area, open space and recreation area calculations.*

(1) Lakes, ponds, state or federally regulated wetlands, utility easements, public street right-of-ways and private road easements are excluded from area calculations for buildable lot area.

(2) No area which, for the purpose of a building or dwelling group, has been counted or calculated as part of a side yard, rear yard or front yard setback required by this Ordinance may be counted or calculated to satisfy any open space or recreation area requirement of this chapter.

(Ord. of 5-18-2009, § 8.301)

Sec. 98-522. Corner clearance.

No fence, wall, shrubbery, sign or other obstruction to vision above a height of two feet from the established sidewalk grades shall be permitted within the triangular area formed the intersection of the following vehicle use areas. Canopy trees may be located in the corner clearance area provided that the first branch is a minimum of 8 feet above grade level.

(a) *Street intersections.* The intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25 feet from their point of intersection

(b) *Non-residential driveways.* The triangular area formed at the intersection of any non-residential driveway and a street right-of-way line at a distance along each line of 15 feet from the point of intersection between the driveway and the right-of-way.

(c) *Residential driveways.* The triangular area formed at the intersection of any residential driveway and a street right-of-way line at a distance along each line of ten feet from the point of intersection between the driveway and the right-of-way.

(Ord. of 5-18-2009, § 8.302)

Sec. 98-523. Frontage.

No building permit shall be issued for any construction located on any lot or parcel of land in the city that does not abut an approved public or private street, or that does not meet the minimum lot width requirement along an approved public or private street. All access to public or private streets shall be hard surfaced with concrete or plant-mixed bituminous material, and shall meet the requirements of this ordinance and all other city ordinances.

(Ord. of 5-18-2009, § 8.303)

Sec. 98-524. Area and height exceptions.

The regulations in this division shall be subject to the following interpretations and exceptions:

(a) *Height limit.* The height limitations of this chapter shall not apply to farm buildings, chimneys, church spires, flagpoles, or public monuments; however, the planning commission may specify a height limit for any such structure when such structure requires authorization as a use permitted on special conditions under this division.

(b) *Lots adjoining alleys.* In calculating the area of a lot that adjoins an alley or lane, for the purpose of applying lot area requirements of this division, half the width of such alley abutting the lot shall be considered as part of such lot.

(c) *Yard regulations.* When yard regulations cannot reasonably be complied with, as in the case of planned development in a multiple-family district, or where their application cannot be determined on lots existing and of record on April 25, 1991, and on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified or determined by the board of appeals.

(d) *Projections into yards.*

(1) Existing architectural features, such as porches that are permanent and not demountable which existed prior to the adoption of the ordinance from which this chapter derives and which occupy portions of required yards may be maintained and expanded, provided such expansion does not encroach to a greater distance into a yard than the setback of the existing architectural feature.

(2) Decks or raised patios not exceeding three feet in height may project into a required rear yard not more than ten feet.

(3) In a residential district a porch or deck shall not extend more than six feet into a required front yard and no closer than 20 feet to a front property line. The deck or porch shall only be allowed a one-foot overhang.

(e) *Minor setback and height allowances.* Buildings, structures or signs for which a plan has been submitted, reviewed and approved for zoning compliance and upon construction completion are found to be at minor variance with the approved plan, may be granted approval by the building inspector subject to the following:

(1) Minimum side and rear setbacks may be reduced but not to exceed one inch for each one foot of required setback.

(2) Maximum height requirements specified in Article IV, Division 3 may be increased one-half inch for each one foot of maximum height specified.

(3) Maximum sign heights as specified in Article IX may be increased but not to exceed one-quarter inch per each one foot of maximum height specified.

(4) Minimum sign heights for the bottom of freestanding type signs may be reduced but not to exceed six inches as specified in Article IX.

(5) Exemptions for setbacks or height shall not be allowed for fences, ground signs or wall signs.

(6) Minor setback allowances shall not be granted within comer clearance areas.

(7) Maximum sign face square footage, as specified in Article IX of this chapter may be exceeded by one square foot.

(f) *Accessibility ramps.*

(1) Landings to which ramps are attached for disabled access may be permitted to project into a required front yard not to exceed seven feet in RA-1, RA-2 and RT districts by special permit issued by the building inspector subject to the following:

a. No other location in a side or rear yard is available for access to the dwelling;

b. Documentation from a physician as to the need for either permanent or temporary ramp access;

c. Removal of access ramps shall be required upon termination of the need for such ramps;

d. Such landings and ramps shall comply with all barrier-free rules and regulations; or

e. Landscaping may be required to reduce the impact on other residential properties.

(2) Ramps for disabled access may be permitted in RM-1 and RM-2 districts when incorporated into the design of the structure so as not to encroach on a required front yard and shall comply with all barrier-free rules and regulations and the Fair Housing Act as applicable.

(3) All accessibility in all office, business and industrial districts shall comply with all state and federal guidelines as outlined in the Americans with Disabilities Act (ADA).

(g) *Landscape and lawn ornaments.* Landscape and lawn ornaments may be permitted in any required yard if that placement does not conflict with any other requirement of any other ordinance.

(Ord. of 5-18-2009, § 8.304)

Sec. 98-525. Temporary residence mobile home.

During a period of reconstruction due to fire or act of nature to a permanent dwelling, the owner of such permanent dwelling may apply to the city for a permit to occupy one mobile home as a temporary residence. The building inspector may issue a permit for a six-month period, and it may be renewed for one additional six-month period, for a total period not to exceed one year. The owner shall deposit as security, cash, bank draft or certified check payable to the city an amount determined by the city council in its schedule of fees. The security deposit shall be forfeited to the city should there be any violation of the provisions of this chapter or any other ordinances of the city; and should there be no violations the security deposit shall be refunded to the owner. As a temporary residence, the mobile home does not have to meet the required conditions for dwelling units in the RA-1, RA-2, RT, and RM districts. However, the following conditions are required:

(a) Only one mobile home shall be permitted on the site.

(b) The mobile home shall comply with all setback requirements of the zoning district and shall be allowed in the side or rear yard only.

(c) The mobile home shall contain sleeping accommodations, a flush toilet, and a tub or shower adequate to serve the occupants.

(d) The sanitary facilities of the mobile home shall be properly connected to city water and sewer system available to the property.

(e) The building inspector may require additional conditions as are necessary. The building inspector shall further have the full authority to conduct inspections, with other persons, of the property and the mobile home at any reasonable time.

(Ord. of 5-18-2009, § 8.305)

Secs. 98-526—98-530. Reserved.

DIVISION 4. GENERAL PROVISIONS

Sec. 98-531. Essential services.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the city, it being the intention of this subsection to exempt such essential services from the application of this division.

(Ord. of 5-18-2009, § 8.401)

Sec. 98-532. Voting place.

The provisions of this division shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a city or other public election.

(Ord. of 5-18-2009, § 8.402)

Sec. 98-533. Detention/retention ponds.

(a) Statement of intent. Detention/retention ponds are an essential function for development design and shall be incorporated as an integral part of the site layout. Factors such as safety, maintenance, function and aesthetics shall be considered.

(b) Detention/retention ponds shall not be permitted in the front yard unless the planning commission determines there is no feasible engineering alternative or that placement in another location would be burdensome on adjacent properties. In such situations, the detention/retention pond shall meet the minimum front yard setback requirement for principal buildings and shall be designed as a visual amenity (a water feature, boulder walls, varying shape, extensive landscaping, etc.).

(c) Detention areas shall appear natural in configuration, be appropriately landscaped, and enhance the site. Inlet structures shall be screened from view. Aeration shall be provided where appropriate.

(Ord. of 5-18-2009, § 8.403)

Sec. 98-534. Personal vehicle sales.

A resident of a dwelling unit may have not more than one motorized vehicle for sale on the site of such dwelling unit at any time, and in no instance shall vacant residential lots or parcels be used for the sale of vehicles. A resident may repair vehicles owned by the resident of the dwelling unit; however, in no instance shall a resident repair the vehicle of other than a resident of the dwelling unit on the property. In no instance shall vehicles for sale be displayed in a front yard other than on the driveway portion of such yard. The sale of vehicles from a residential property shall not exceed two vehicles in any calendar year.

(Ord. of 5-18-2009, § 8.404)

Sec. 98-535. Rooftop equipment.

In all office, service and business districts, rooftop equipment and apparatus shall be screened from ground level by being housed in a penthouse or structure constructed of the same type of building materials used in the principal structure, or by building design.

(Ord. of 5-18-2009, § 8.405)

Sec. 98-536. Recreational and commercial vehicle storage.

(a) *Purpose.* The purpose of this section is to preserve and promote the health, safety and general welfare of citizens, motorists and pedestrians alike through regulation of parking and storage of commercial and recreational vehicles and equipment and through prohibition of junk vehicles and junk accumulation on residential property. Such regulation is necessary to avoid excessive noise and exhaust levels; enhance the appearance and character of neighborhoods and the value and marketability of surrounding property; avoid overcrowding of land; reduce traffic hazards; and avoid attractive nuisances for children.

(b) *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:

Bus means a motor vehicle, other than a trailer, designed to carry more than 15 passengers. The term does not include a school bus or a motor vehicle that is converted, equipped and used for living or camping purposes.

Camper enclosure means a structure or enclosure designed for mounting on a pickup truck or truck chassis in such a manner as to provide temporary living or sleeping quarters, including but not limited to a slide-in camper or truck cap.

Commercial equipment means any machinery, parts, accessories, construction equipment or other equipment used primarily in the course of conducting a trade or business.

Commercial vehicle means any vehicle used to generate income or which has the appearance that it is used for business, due to size, type, signage and/or accessories. A pickup truck, passenger/cargo-style van with seating of up to 15 persons, sports/utility vehicle and passenger car without signage and accessories shall not be considered, for purposes of this ordinance, as a commercial vehicle, even though used in business.

Construction equipment means a bulldozer, front-end loader, backhoe, power shovel, cement mixer, trencher, and any other equipment designed or used for construction, including parts and accessories thereto, or trailers designed for the transportation of such equipment.

Recreational equipment means any recreational vehicle or personal recreational device not intended to provide daily motorized transportation such as an all-terrain vehicle or jet-ski.

Recreational vehicle means a vehicle which is: 1) built on a single chassis; 2) four hundred (400) square feet or less when measured at the largest horizontal projections; 2) self-propelled or permanently towable by motor vehicle or light duty truck; 4) designed primarily not for use as permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use; and 5) required by Michigan law to have a valid vehicle registration when traveling upon public streets.

Residential district means any RA-1, RA-2, RM-1, RM-2, RT, RT-2, PRD, or ERC zoning district.

School bus means a motor vehicle, other than a station wagon, with a manufacturer's rated seating capacity of eight or more children which is owned by a public, private or governmental agency and which is operated for the transportation of children to or from school. The term also means a motor vehicle, other than a station wagon, that is privately owned and operated for compensation for the transportation of children to or from school.

Trailer means a vehicle, other than a utility trailer, designed for carrying property and for being drawn by a motor vehicle.

Truck tractor means a truck designed primarily for drawing another vehicle and not so constructed as to carry a load other than a part of the weight of the vehicle or trailer and of the load so drawn.

Utility trailer means a vehicle designed to be towed by a motor vehicle in order to carry personal property, including but not limited to firewood, refuse, snowmobiles, boats, motorcycles or recreational equipment, or used solely for noncommercial purposes.

Vehicle means any device in, upon, or by which a person or property may be transported or drawn.

(c) *Recreational equipment.* Recreational equipment may be parked or stored outside on an individual lot used for one-family residential purposes subject to the following requirements:

(1) Recreational equipment shall not be parked or stored in any front yard or required front yard setback. Where an individual residential lot does not allow for recreational equipment to be parked or stored in accordance with subsection (c)(2) or (c)(3) of this section, recreational equipment may be parked for loading, unloading and trip preparation purposes, which shall not exceed 48 continuous hours on the issuance of a permit by the building inspector.

(2) Recreational equipment may be parked or stored in that part of the side yard that is not a part of the required front yard setback, provided the recreational equipment is no closer than three feet to any principal structure. A unit of recreational equipment shall include a boat on a boat trailer, snowmobile on a snowmobile trailer or any other kind of trailer being used to transport similar equipment.

(3) Recreational equipment, including trailers used to transport recreational equipment, may be parked or stored in a rear yard provided the recreational equipment is no closer than three feet to any principal structure and that the recreational equipment shall not occupy more than 15 percent of the required rear yard.

(4) Recreational equipment may be used for temporary occupancy purposes for nonresident guests for a period not exceeding 14 consecutive days provided a permit is issued by the building inspector based on the following requirements:

a. Recreational equipment may be parked in the driveway of a front yard or a front yard setback provided that it is located no closer than ten feet from a front lot line or in the case of a front yard setback, ten feet from a side lot line, and provided that the equipment is no closer than three feet to any principal structure.

b. Recreational equipment shall not be connected to sanitary facilities.

c. Recreational equipment shall not be parked in any public right-of-way.

d. A resident will be limited to not more than two permits in a 12-month period for such temporary occupancy purposes.

(d) *Storage of motor vehicles in commercial, industrial-commercial and residential districts.*

(1) *Definitions.* For the purpose of this section, the term "motor vehicle" shall apply to automobiles, trucks, motorcycles, mopeds and recreational vehicles required to be registered/titled with the State of Michigan. The terms "store" "stored" and "storage" refers to vehicles left parked, stopped or standing on a single parcel of property within the city for a period of 48 hours or more.

(2) *Residential districts.* Motor vehicles stored on private property outside of a permanent structure, as defined Article XII of this chapter, for more than 48 hours must:

a. Be parked upon a hard surface (concrete, asphalt or compacted gravel) specifically designed for the parking and exterior storage of motor vehicles.

b. Display current Michigan registration, registered to that vehicle.

c. Be operable for its intended purpose (engine runs, transmission moves the vehicle, no flat tires).

d. Have all major components, parts and accessories attached and operational for its intended purpose.

e. Not be resting upon jacks, blocks or similar device, for minor or major repairs for more than 48 hours.

f. Exception. The only exception to this requirement is a motor vehicle meeting the criteria of a historic vehicle as defined by the Michigan Motor Vehicle Code and the following:

i. An historic vehicle may be stored outside for more than 48 hours as long as it is stored upon a hard surface (concrete, asphalt or compacted gravel) specifically designed for the parking and exterior storage of motor vehicles.

ii. Is completely covered by a motor vehicle tarp specifically designed and tailored for the vehicle it is covering. For the purposes of this section a flat polymer, canvas, nylon or plastic tarp is not considered a tarp specifically designed and tailored for the vehicle it is covering.

Any motor vehicle failing to meet the listed criteria shall be stored within a permanent structure.

(3) *Commercial, industrial-commercial, industrial districts.* A privately owned motor vehicle may not be stored outside of a permanent structure in any commercial, industrial-commercial, or industrial district as defined by the city of Tecumseh Zoning Map, unless permission to store a privately owned motor vehicle has been granted to the vehicle's owner by property owner.

a. Notification. After the city has provided the property's resident or vehicle's owner a 48-hour written or verbal notice of violation, the police department may take enforcement action against the property's resident or vehicle's owner if the violation has not been resolved as specified under this section.

b. Violation and penalty. The property or vehicle's owner who is found to be in violation of this section shall be guilty of a civil infraction for the first offense as set forth in the City of Tecumseh Code of Ordinances and subject to the fines and costs set forth therein. The first violation of this section may be waived within ten working days if the violation is rectified.

The second and subsequent violations of this section are a misdemeanor punishable as identified in the City of Tecumseh Code of Ordinances. In all incidents resulting in a second and subsequent violation the presiding judge will order the removal of all vehicles found to be in violation of this section, from the property cited in the complaint or citation.

(e) *Commercial vehicles and equipment.*

(1) *Public property.* No person shall park or store any commercial vehicle identified in subsection 98-536(e)(2)a. or commercial equipment on public property located in any zoning district, including but not limited to public streets, stub streets, rights-of-way, bikepaths, greenbelts, and planting areas between bike paths and streets, except as allowed in subsection 98-536(e)(4).

(2) *Residential districts.*

a. No person shall park or store any step vans, cube vans, buses, dumptrucks, stake trucks, flatbed trucks, wreckers, semitrucks and trailers, tank trucks, commercial and construction equipment and trailers and any similar trucks and equipment in a residential district, except as allowed in subsection 98-536(e)(4).

b. Commercial vehicles other than as specified subsection 98-536(e)(2)a., such as pickup trucks, passenger/cargo-style vans with seating of up to 15 persons, sport utility vehicles, passenger cars, and similar type vehicles, with no more than allowed accessories as provided in subsection 98-536(e)(2)d. may be parked or stored in a residential district.

c. No more than one commercial vehicle of the type described in subsection 98-536(e)(2)b. which is used for transportation by occupants of the home on the property shall be stored or parked outside of an enclosed building.

d. Allowed accessories shall mean equipment attached to vehicles which does not extend a vehicle to more than nine feet in height or wider or longer than the manufacturer's specification for the vehicle without the equipment. Roof accessory racks, but not side racks, shall be allowed. A plow on the front and a spreader on the rear of a vehicle may be attached even if the length of the vehicle is extended beyond the manufacturer's specification.

(3) *Nonresidential districts.* No person shall park or store any commercial vehicle identified in subsection 98-536(e)(2)a. or commercial equipment on private property in any nonresidential district except as is allowed in subsection 98-536(e)(4) or unless such vehicle or equipment is parked or stored in relation to a permitted principal or accessory use of the property. In such event, parking or storage must comply with all other City codes and ordinances.

(4) *Exception.* The parking or storage of commercial vehicles identified in subsection 98-536(e)(2)a. or commercial equipment shall be allowed in any zoning district, where such parking or storage is limited to vehicles or equipment engaged in the performance of a service on the adjacent or underlying property, for the period of time reasonably necessary to complete the service.

(Ord. of 5-18-2009, § 8.406; Ord. No. 04-17, 9-5-2017)

Sec. 98-537. Special events.

Special events may be permitted in any zoning district provided that the special event does not harm or interfere with the use of neighboring premises or harm the health, safety, and welfare of any person.

(a) *Duration.* Special events may be scheduled for a single period not exceeding 30 days during a calendar year, or for up to four nonconsecutive ten-day periods during a calendar year. For the purpose of this section, nonconsecutive is defined as the end of one period and the beginning of another period being separated by more than six calendar days. Farmer's markets, as well as other vendors approved to participate in community events such as festivals or historic/holiday home tours sponsored by local organizations that promote our city and local businesses may be granted a permit for weekend only events.

(b) *Application*. Any special event shall obtain an application from the building department. The application shall include the following information:

(1) Sponsor's name;

(2) Name of use or event;

(3) Dates, times, and location of the use or event;

(4) Size, number, and location of all signs;

(5) The expected number of participants.

(c) *Sketch drawing.* The application shall also include a sketch drawing of the premises on which the special event will be held. The sketch drawing must show the entrance and exit to the event, parking areas, signs and other pertinent details as requested by the appropriate department. If the special event is to be held on more than one premises, such as a tour of buildings, the application shall include a map of the relevant details at each of the participating buildings or sites.

(d) *Signs.* Temporary signs associated with the special event shall be permitted according to the standards of section 98-593(a) and section 98-594(f), as well as all of the other relevant standards in article IX.

(e) *Review.* The special event permit shall be submitted to the building inspector, who shall distribute the application to any city departments affected by the special event for review and comment. These departments may include the building department, police department, fire department, city clerk, public works director, or any other city department. In reviewing the application, the departments shall consider traffic circulation, parking, sign placement, and surrounding uses. The development services director reserves the right to classify; the type of event and to set procedures for approval.

(f) *Decision.* The building inspector shall approve, approve with conditions, or deny the application within 60 days of the receipt of the application.

(g) *Effect of denial.* The sponsor of any application that is denied by the building inspector may appeal the decision to the zoning board of appeals under the provisions of section 98-115.

(Ord. No. 1-10, 1-4-2001; Ord. No. 04-17, 9-5-2017)

Secs. 98-538—98-550. Reserved.

DIVISION 5. SUSTAINABLE ENERGY GENERATION

Sec. 98-551. Wind energy systems.

(a) *Purpose.* It is the purpose of this section to promote the safe, effective, and efficient use of wind energy systems to reduce or replace on-site consumption of utility supplied electricity. It is the purpose of this Chapter to standardize and streamline the review and permitting process for small wind energy systems.

(b) *Findings.* The city has found that wind energy is an abundant, renewable, and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on non-renewable energy resources and decrease air and water pollution that results from the use of conventional fossil-fuel inputs. Wind energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the City's energy supply portfolio.

(c) *Definitions.* The terms used in this section have the following meanings:

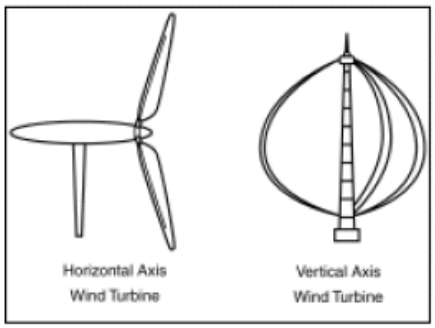


Figure 3. Horizontal and Vertical Axis Systems

Height. The vertical distance from grade level adjacent to the base of the structure to the center of the hub for a horizontal axis wind turbine or the highest point of a vertical-axis wind turbine. See Figure 3.

Roof-mounted energy system. A type of small wind energy conversion system that is mounted on a roof with a height not greater than 15 feet above the ridgeline of a pitched roof or parapet of a flat roof.

Small wind energy system. A wind energy conversion system consisting of a wind turbine, tower or axis, blades or blade system, and associated control or conversion electronics primarily intended to reduce on-site consumption of utility power.

Tower mounted wind energy system. A wind energy conversion system that is mounted on a freestanding or guyed tower attached to the ground, and not attached to any other permanent or temporary structure.

Utility wind energy system. A wind energy conversion system consisting of a wind turbine, tower or axis, blades or blade system, and associated control or conversion electronics primarily intended to provide wholesale or retail energy to the electric utility grid.

Wind energy system. Any wind energy conversion device including all associated control or conversion electronics.

(d) *Where permitted.*

(1) Small wind energy systems are permitted by right in any zoning district, provided that the requirements of this division are met.

(2) Utility wind energy systems may be permitted in any zoning district as a conditional use by the city council, provided that the requirements of this division are met.

(e) *Review procedures and standards.*

(1) *Small wind energy systems.*

a. *Submittal requirements.* Applications for small wind energy systems shall be reviewed administratively by the development services department.

b. *Height modification procedure.* If the applicant requests a height modification, the application shall be reviewed by the Planning Commission following a public hearing held in accordance with the requirements of section 98-25.

(2) *Utility wind energy systems.* The review process for any utility wind energy system shall follow the special land use review process set forth in section 98-25.

(f) *General standards.* The following requirements are applicable to all wind energy systems.

(1) *Noise.* A wind energy system shall not generate a noise level of 55 dB(A), measured at the property line, for more than three minutes in any hour of the day. EXCEPTION: if the constant ambient sound pressure level exceeds 55 dB(A), measured at the base of the wind energy system, a decibel level of the ambient dB(A) plus 5 dB(A) shall not be exceeded for more than three minutes in any hour of the day.

(2) *Lighting.* No wind energy system shall be artificially lighted unless required by the Federal Aviation Administration.

(3) *Appearance, color, and finish.* The wind energy system shall be maintained in the color or finish that was originally applied by the manufacturer, unless otherwise approved in the building permit. All wind energy systems shall be finished in a non-reflective matte finished color.

(4) *Signs.* All signs other than the manufacturer or installer's identification, appropriate warning signs, or owner identification signs are prohibited.

(5) *Electrical wires.* All electrical wires associated with a wind energy system other than wire necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and grounding wires shall be located underground.

(6) *Compliance with electrical code.* Building permit applications for wind energy systems shall be accompanied by line drawings of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

(7) *System access.* The tower shall be designed and installed such that step bolts, ladders, or other means of access readily accessible to the public are located at least eight feet above grade level.

(8) *Wind access.* The city makes no assurance of wind access other than the provisions of this section. The applicant may provide evidence of covenants, easement or similar documentation for abutting property owners providing access to wind for the operation of a wind energy system.

(g) *Small wind energy systems.* The following standards are applicable to small wind energy systems:

(1) *Minimum site area.* A small wind energy system may only be located on a lot with a minimum area of one-half acre.

(2) *Height.* The maximum height for the fixed portion of the tower, excluding the blades or blade system, for small wind energy systems shall be based on the area of the parcel in question. In no case shall a wind energy system exceed height limits imposed by FAA regulations.

Parcel Area	Maximum Tower Height
0.5—1 acre	45 feet
1.01—5 acres	65 feet
5.01—10 acres	100 feet
Greater than 10 acres	No maximum

(3) *Setbacks.*

a. The minimum setback for any tower-mounted small wind energy system from any property line shall be equal to the height of the wind turbine plus five feet.

b. The minimum setback for any tower-mounted small wind energy system from a road right of way or overhead utility line shall be equal to the height of the wind turbine unless written permission is granted by the governmental agency with jurisdiction over the road or the affected utility.

c. Roof-mounted wind energy systems shall be set back a minimum of 15 feet from any property line.

d. Tower-mounted small wind energy systems may not be located in the front yard of any lot. EXCEPTION: if the principal building is set back 200 feet or more from the street, tower-mounted systems may be located in the front yard provided that a minimum 150-foot front yard setback is provided.

(h) *Utility wind energy systems.* The following standards are applicable to large wind energy systems:

(1) *Minimum site area.* Utility wind energy systems may only be developed on a zoning lot with an area of 20 acres or greater.

(2) *Setbacks.* Any utility wind energy system shall be set back a distance equal to the height of the tower plus five feet from any property line, road right of way, or overhead utility line.

(3) *Towers.* Utility wind energy systems shall use tubular monopole towers, and shall not contain lettering, company insignia, advertising, or graphics on the tower or turbine that are visible beyond the property boundaries.

(4) *Environmental impact.* The applicant shall submit an environmental impact analysis prepared by a qualified third party assessing any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, wildlife, and antiquities. The applicant shall take appropriate measures, if possible, to minimize, eliminate or mitigate adverse

impacts identified in the analysis. If the adverse impacts cannot be sufficiently mitigated or eliminated, city council shall deny the request for a conditional use permit for the utility wind energy system.

(5) *Community impact.* The applicant shall be responsible for repairing any public roads or other public infrastructure damaged or otherwise worn beyond typical usage by the construction of the utility wind energy system.

(6) *Decommissioning.* The applicant shall submit a decommissioning plan, including the following items of information:

a. The anticipated life of the project.

b. The estimated decommissioning costs and net salvage value in present dollars.

c. The method of ensuring funds will be available for decommissioning and removal of towers, and restoration of the site to a pre-construction condition.

d. Anticipated manner in which the project will be decommissioned and the site restored.

(7) *Complaint resolution.* The applicant shall develop a process to resolve any potential complaints from nearby residents concerning the construction and operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting upon a complaint. The process shall not preclude any governmental body from acting on a complaint. The applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours.

(Ord. of 5-18-2009, § 8.501)

Sec. 98-552. Solar energy systems.

(a) *Definitions.*

Solar energy system. A solar photovoltaic cell, panel, or array that converts solar energy to usable thermal, mechanical, chemical, or electrical energy.

Solar storage battery. A device that stores energy from the sun and makes it available in an electrical form.

(b) *Rooftop solar energy systems.* Rooftop and building mounted solar energy systems are permitted in all zoning districts., subject to the following regulations:

(1) Roof mounted systems shall not extend more than four feet above the surface to which it is affixed.

(2) No solar energy system may protrude beyond the edge of the roof.

(3) A building permit shall be required for installation of rooftop and building mounted systems.

(c) *Ground mounted solar energy systems.* Ground mounted and freestanding solar energy systems are permitted in all zoning districts, subject to the following regulations:

(1) *Location.* Solar energy systems may be located in a side or rear yard, and are prohibited in the front yard.

(2) *Height.* The height of the solar energy system and any mounts shall not exceed ten feet when oriented at maximum tilt.

(3) *Building permit.* A building permit shall be required for any ground mounted solar energy system.

(4) *Area.* No more than 20 percent of the total lot area may be covered by a ground mounted solar energy system.

(d) *Batteries.* When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure when in use, and when no longer used shall be disposed of in accordance with applicable laws and regulations.

(e) *Removal.* If a solar energy system ceases to perform its intended function for more than 12 consecutive months, the property owner shall remove the collector, mount, and associated equipment and facilities no later than 90 days after the end of the 12-month period.

(Ord. of 5-18-2009, § 8.502)

Sec. 98-553. Solar access permit.

(a) *Purpose.* This section is adopted for the purpose of protecting the health, safety and general welfare of the community by promoting the use of solar energy systems, protecting access to sunlight for solar energy systems, and assuring that potentially conflicting interests of individual property owners are accommodates to the greatest extent possible compatible with the overall purpose and intent of this chapter.

(b) *Definitions.*

Collector surface. Any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process, but not including frames, support, and mounting hardware.

Southern property line. A property line that forms a generally south facing boundary of a lot, and which has a bearing greater than or equal to 40 degrees from either true north or true south.

Permit. Any property owner who has installed or intends to install a solar collector may apply for a solar access permit. A solar access permit shall prohibit property owners on adjacent properties that are separated from the property holding a solar access permit by a southern property line from erecting any structure or planting any vegetation that would create prohibited interference obstructing the collector surface of the solar energy system.

(d) *Permit review process.* Applications for solar access permits are reviewed by the development services director or his or her designee, unless a hearing is requested by a property owner that will be restricted by the solar access permit. If a hearing is requested, the planning commission shall be the reviewing body. The review process for a solar access permit is as follows:

(1) *Application.* An application for a permit under this Section may be obtained from the development services department and shall be completed by the applicant. The application shall indicate the tax ID number of adjacent properties that are proposed to be restricted by the permit.

(2) *Notice.* Once a completed application is filed, the development services department shall provide the applicant with a notice that shall be the applicant's responsibility to deliver by hand or certified mail to any property the applicant proposes to restrict as part of the solar access permit. The notice shall contain the following information:

a. The name and address of the applicant, and the address of the land upon which the solar energy system will be located.

b. That an application has been filed by the applicant.

c. That the permit, if granted, may affect the rights of the notified property owner to develop his or her property or to plant vegetation.

d. That any person who received a notice may request a hearing within 30 days of receipt of the notice. If a hearing is requested, the planning commission shall hold the hearing within 90 days of the date of the request. The city shall notify the applicant, the person requesting the hearing, and

any other property owners proposed to be restricted by the permit between 15 and 30 days prior to the hearing.

e. The procedure for filing a hearing request and the telephone number, address, and hours of the development services department.

(3) *Review criteria.* The reviewing authority shall grant a solar access permit if it determines that:

a. The granting of a permit will not unduly or unreasonably interfere with the orderly land use and development of the city.

b. No person has demonstrated that he or she has present plans to construct a structure that would create prohibited interference by showing that he or she has applied for a building permit prior to receipt of notice, has expended at least $500.00 on planning or designing such a structure, or by submitting any other credible evidence that he or she has made substantial progress toward planning or constructing a structure that would create prohibited interference.

c. No person has demonstrated that the granting of a permit would cause an undue hardship in using his or her property in a manner consistent with existing zoning regulations and neighboring uses.

(4) *Conditions.* The reviewing authority may attach any condition deemed necessary to minimize the possibility that the future development of nearby property will create prohibited interference or to minimize any other burden on any person affected by the granting of the permit. Such conditions or exemptions may include restrictions on the location of the solar energy system or considerations for persons affected by the granting of the permit.

(5) *Appeals.* Any person aggrieved by a decision under this section may appeal the decision by making a written request to the zoning board of appeals within ten days of the decision.

(e) *Rights of permit holder.* The holder of a permit granted under this section is entitled to access to sunlight for the solar collector subject to any conditions or exemptions in the permit and may seek damages for any loss caused by a prohibited interference or an injunction to prohibit a prohibited interference.

(f) *Interference.*

(1) *Permitted and prohibited obstructions.* If a solar access permit has been granted to a property owner in the city, no owner, occupier, or person in control shall allow vegetation or structures to be placed or planted so as to cast a shadow on a solar collector surface that is greater than the shadow that would be cast by a hypothetical 10-foot tall wall located along a southern property line of the holder of the solar access permit on December 21 (the day when the sun is lowest in the sky and structures or vegetation will cast the longest shadow).

The shadow line is calculated by drawing a line 30 degrees above horizontal from the top of the ten-foot tall hypothetical wall. Any structure or vegetation (at maturity) that will be located wholly below the line is a permitted obstruction and is not affected by a solar access permit, while any structure or vegetation (at maturity) that will have any portion protruding above the line is prohibited by a solar access permit. Refer to the following Figure 4:

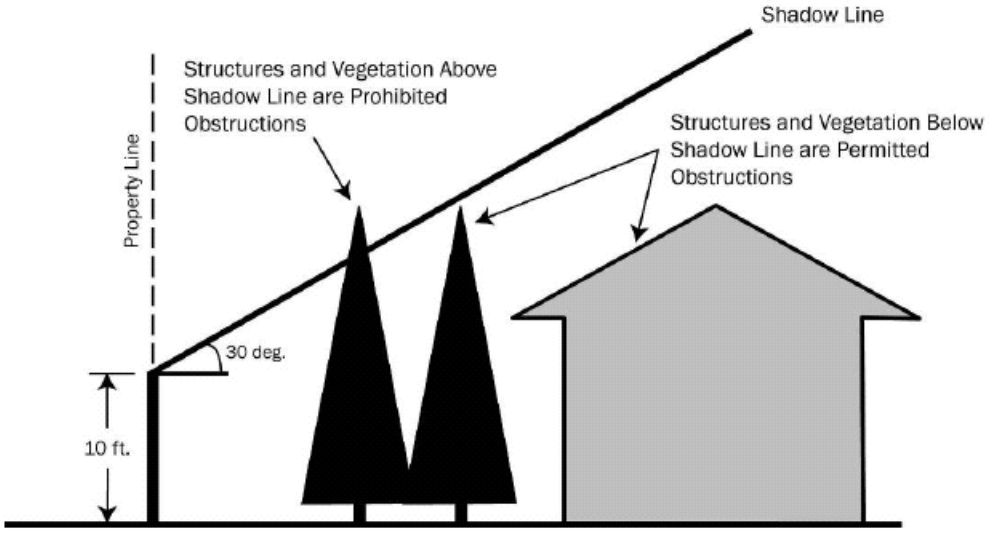


Figure 4. Permitted and Prohibited Obstructions

(2) *Exempt obstruction.* Any blockage of solar energy by a narrow protrusion, vegetation, or other object that never obstructs more than five percent of a solar collector surface, or blockage by any structure or vegetation that was constructed, planted or permitted prior to the date of solar access permit approval is exempt and is not restricted by a solar access permit.

(g) *Record of permit.* The applicant shall record with the Lenawee County Register of Deeds a copy of the solar access permit listing the property on which the solar energy system will be located and any properties restricted by the solar access permit. The city shall note the location of any solar collector that is the subject of a permit and any restricted properties on a map showing all solar collectors and restricted properties that are affected by a solar access permit.

(h) *Termination of permit.* Any rights protected by a permit under this section shall terminate if:

(1) The solar collector is removed or is not used for six consecutive months, or is not installed and functioning within six months of the date of permit approval.

(2) The holder of the solar access permit submits written notice to the city that the permit holder has waived all or part of any right protected by the permit. A copy of the notice shall be filed with the county register of deeds.

(i) *Transfer of rights.* The transfer of title to any property shall not change the rights and duties provided by a permit granted under this section.

(Ord. of 5-18-2009, § 8.503)

Secs. 98-554—98-560. Reserved.

DIVISION 6. PERFORMANCE STANDARDS

The following performance standards are established in order to preserve the environmental health, safety and welfare of the city. No activity, operation or use of land, building or equipment shall be used or occupied in

any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition that adversely affects the surrounding area.

Any use permitted by this Ordinance shall be operated in conformance with all applicable performance standards set forth in this chapter. The following standards are deemed the minimum requirements to be maintained.

Sec. 98-561. Airborne emmissions.

It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke or air contaminant in violation of applicable air quality standards adopted by the Federal Clean Air Act and the Michigan Department of Environmental Quality.

(Ord. of 5-18-2009, § 8.601)

Sec. 98-562. Odors.

Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor. Such odors shall be prohibited when perceptible at any point along the property line.

(Ord. of 5-18-2009, § 8.602)

Sec. 98-563. Gases.

The escape or emission of any gas which is injurious or destructive, harmful to person or property, or explosive is prohibited.

(Ord. of 5-18-2009, § 8.603)

Sec. 98-564. Noise and vibration.

(a) *Noise.* Noise which is objectionable due to intensity, frequency, or duration shall be muffled, attenuated, or otherwise controlled, subject to the following:

(1) Objectionable sounds of an intermittent nature, or sounds characterized by high frequencies shall be controlled so as not to become a nuisance to adjacent uses.

(2) Sirens and related apparatus used solely for public purposes are exempt from this requirement. Noise resulting from temporary construction activity shall also be exempt from this requirement.

(3) The emission of measurable noises from the premises shall not exceed 65 decibels as measured at the boundary or property lines, except that where normal street traffic noises exceed 65 decibels during such periods, the measurable noise emanating from the premises may equal, but shall not exceed, such traffic noises. Within the I-C, I-1, and TRD districts sound levels not exceeding 75 decibels may be permitted.

In addition, objectionable sounds of an intermittent nature or sounds characterized by high frequencies, even if falling below the decibel limits, shall be so controlled so as not to become a nuisance to adjacent uses. This shall particularly apply to loading and unloading areas in commercial or industrial districts adjacent to residential districts.

(4) Construction activity creating noise exceeding 55 decibels as measured at the boundary or property lines is allowed only during the hours of 7:00 a.m. to dusk unless otherwise approved by the city.

(b) *Vibration.* No use shall generate any ground transmitted vibration in excess of the limits set forth below. Vibration shall be measured at the nearest adjacent lot line. The vibration maximums set forth below are stated in terms of particle velocity, which may be measured with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following standards shall apply:

Particle Velocity in Inches-Per-Second	
Frequency in Cycles per Second	Displacement in Inches
0 to 9.99	0.0010
10 to 19.99	0.0008
20 to 29.99	0.0006
30 to 39.99	0.0004
40 and over	0.0002

(1) If requested by the enforcement official the petitioner shall provide evidence of compliance with the above noted vibration calculations.

(2) Vibrations resulting from temporary construction activity shall be exempt from the requirements of this Section.

(Ord. of 5-18-2009, § 8.604)

Sec. 98-565. Electrical disturbance, electromagnetic, or radio frequency interference.

No use shall create any electrical disturbance that adversely affects any operations of equipment other than those of the creator of such disturbance, or cause, create or contribute to the interference with electronic signals (including television and radio broadcasting transmission) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

(Ord. of 5-18-2009, § 8.605)

Sec. 98-566. Hazardous substances.

(a) Any person, firm, corporation or other legal entity operating a business of conducting an activity with uses, stores, or generates hazardous substances shall obtain the necessary permits and/or licenses from the appropriate federal, state or local authority having jurisdiction. The city shall be informed of any and all inspections conducted by a federal, state of local authority in connection with a permit and/or license.

(b) Any person, firm, corporation or other legal entity operating a business or conducting an activity which uses, stores, or generates hazardous substances shall complete and file a hazardous materials survey on a form supplied by the city in conjunction with the following:

(1) Upon submission of a site plan.

(2) Upon any change of use or occupancy of a structure or premise.

(3) Upon any change of the manner in which such substances are used, handled, stored, and/or in the event of a change in the type of substances to be used, handled or stored.

(Ord. of 5-18-2009, § 8.606)

Sec. 98-567. Glare and radioactive materials.

(a) 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.

(b) Radioactive materials and wastes, including electromagnetic radiation such as X-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

(c) Glare from automobile headlights or commercial or industrial vehicle headlights shall not be directed into any adjacent property so as to become a nuisance.

(Ord. of 5-18-2009, § 8.607)

Sec. 98-568. Fire and explosive hazards.

The storage and handling of flammable liquids, liquified petroleum gases and explosives shall comply with the state rules and regulations as established by Public Act No. 207 of 1941 (MCL 29.1 et seq.).

(Ord. of 5-18-2009, § 8.608)

Sec. 98-569. Waste and rubbish dumping.

No garbage, sewage, filth, refuse, waste, trash, debris or rubbish, including cans, bottles, wastepaper, cartons, boxes and crates, or other offensive or obnoxious matter shall be kept in open containers or piled, placed, stored or dumped on any land within the city in such a manner as to constitute a nuisance or create a hazard to health, safety, morals and general welfare of the citizens of the city.

(Ord. of 5-18-2009, § 8.609)

Sec. 98-570. Building mechanical equipment.

For all uses, except residential uses, heating, ventilation and air conditioning mechanical equipment located on the exterior of the building shall be screened from adjacent public or private streets and adjacent properties. If the equipment is mounted on the building, it shall be screened in a manner that is architecturally compatible with the building design. If the equipment is ground mounted, it shall be screened in a similar manner and/or with evergreen plant materials. The method of screening shall be approved by the planning commission or official approving the site plan. Other types of mechanical equipment located on the exterior of the building, such as dust collectors, hoppers, stacks, etc., that cannot practicably be screened, shall be designed, located and/or painted to minimize the adverse visual impact.

(Ord. of 5-18-2009, § 8.610)

Secs. 98-571—98-590. Reserved.

ARTICLE IX. SIGNS

Sec. 98-591. Purpose.

The purpose of this article is to permit signs in the city that allow people and businesses to express ideas, identification, and other information while preventing signs from having negative aesthetic impacts on the community. These sign standards are based on the premise that unrestricted signage does not benefit the community or individual property owners.

It is further the intent of this article to:

(a) Maintain and enhance the aesthetic value of the city.

(b) Encourage free expression of ideas and dissemination of messages, regardless of content, and protect the right to free speech as guaranteed by the First Amendment of the United States Constitution.

(c) Promote signs that are compatible with their surroundings and legible under the circumstances in which they are seen.

(d) Enhance pedestrian and vehicular traffic safety.

(e) Minimize the adverse effects of signs on nearby public and private property.

(f) Minimize driver distraction.

(g) Protect and enhance economic vitality by assuring aesthetic appeal for residents and visitors.

(h) Preserve property values.

(i) Enhance the effectiveness of permitted signs and directional and warning signs.

(j) Seek the removal of illegal signs and encourage the replacement or removal of nonconforming signs that are incompatible with the purpose of this article.

(k) Protect the public health, safety and welfare.

The standards in this article are deemed the minimum necessary to achieve the above stated purposes.

(Ord. of 5-18-2009, § 9.101; Ord. No. 01-16, 10-3-2016)

Sec. 98-592. General requirements.

(a) *Building permit required.* Except as provided in this article, no sign shall be constructed or erected prior to the issuance of a permit by the building inspector. All signs shall comply with the state construction code.

(b) *Public rights-of-way.* Signs shall be expressly prohibited from locating in or overhanging all public rights-of-way and dedicated public easements except as otherwise provided for in the B-2 central business district, and as follows:

(1) Signs erected by the city for public purposes are permitted with road agency approval, if required.

(c) *Corner clearance.* Signs shall be located outside of any corner clearance area as described in section 98-522.

(d) *Wind pressure.* All signs shall be constructed so as to withstand normal wind forces encountered in the area. All signs shall be properly maintained and shall not be allowed to become unsightly through disrepair or action of the elements.

(e) *Traffic and pedestrian hazards.* The placement, size, content, coloring or manner of illumination of signs shall not create traffic or pedestrian hazards. No sign shall make use of the words "stop," "look," "danger" or other word, phrase or symbol in a manner that is confusing or misleading. No sign or flashing light shall be erected or maintained in any manner which, by reason of its size, location, context, coloring or manner of illumination, shall constitute a traffic hazard or which shall interfere with the visibility of any traffic control device.

(f) *Illumination.* Sign illumination shall comply with the following standards:

(1) *External illumination of signs and awnings.* External illumination of signs shall be limited to fully-shielded light fixtures per sign face that use a 150-watt metal halide, tungsten-halogen or incandescent lamps. Such fixtures shall be mounted above the sign face with all light directed downward and concentrated on the area of the sign to prevent glare upon the street or adjacent property.

(2) *Internal illumination of signs and awnings.* Internal illumination of awning signs is prohibited in the B-2 district. Internal illumination of awning signs is permitted in other zoning districts where more than 50 percent of the illuminated sign area is covered by semi-opaque colors and materials that have a color value and saturation of 50 percent or higher. Internal illumination of awnings shall be limited to one single-tube fluorescent fixture, provided that the fixture is recessed and the awning material is opaque except for any permitted sign copy area.

(3) *Animated lighting effects.* The use of light emitting elements including but not limited to light bulbs, fixtures, LEDs, or fiber optic lighting to create a flashing, scrolling, or animated effect on any sign visible from the exterior of the building is prohibited.

(4) *Electronically illuminated message sign change cycle.* The message displayed on signs with an electronically illuminated changeable copy area (often composed of LEDs) must be displayed for a minimum of one minute before changing.

(g) *Substitution.* Notwithstanding anything herein to the contrary, noncommercial copy may be substituted for commercial copy on any lawful sign structure, and any sign permitted by this article may contain a non-commercial message.

(h) *Obstruction prohibited.* No sign shall be placed so as to obstruct any fire escape, required exitway, window, or door opening used as a means of passage or as access for firefighting purposes.

(i) *Maintenance.* All signs, sign frames, sign copy area, panels, structural elements, lamps and electrical hardware shall be maintained in good repair and working order, so as to present a neat and orderly appearance. Non-galvanized or corrosion-resistant materials shall be painted when necessary to prevent corrosion.

(Ord. of 5-18-2009, § 9.102; Ord. No. 01-16, 10-3-2016)

Sec. 98-593. Signs permitted in all zoning districts without a permit.

The following non-illuminated signs are permitted accessory to a permitted use in any zoning district without obtaining a building permit prior to installation.

(a) *Temporary signs.* Temporary signs are subject to the following:

(1) Temporary signs shall only be ground or wall signs. The total area of temporary signs on any single lot shall not exceed 24 square feet in all residential districts and 48 square feet in any other zoning district.

(2) The maximum sign height of each temporary sign shall be four feet in all residential districts and six feet in any other zoning district.

(3) The maximum size of any single temporary sign shall be eight square feet.

(4) Temporary signs shall be located solely on private property outside of any street right-of-way or corner clearance area, with written permission from the property owner.

(b) Changes to sign copy within an approved changeable sign copy area.

(c) *Required signs.* Any sign required to be placed by law, including but not limited to address numbers legible from the street, is permitted.

(d) *Window signs.*

(1) *Sign area.* The total area of all window signs shall not exceed 20 percent of the total surface area of facade windows, and window signs may not occupy more than 40 percent of the area of any individual window. An individual window shall be determined by framing or other structural elements, divided light window panes or other glazing methods within a window frame are not considered individual windows.

(2) *In the B-2 district.* Temporary or permanent window signs are only permitted in street level facade windows for uses with street level space. The maximum area of window signs permitted accessory to a use with street level frontage in the B-2 district shall be determined by computing the area of street level facade windows only.

Upper story tenants that do not have street level frontage may have window signs. In such a case, the upper story window area shall be used for purposes of determining maximum permitted window sign area for the upper story tenant.

(e) *Parking lot identification signs.* Signs located in parking lots to identify limitations on the use of parking spaces, such as "customer parking," "reserved parking," or to identify barrier free accessible spaces are permitted, subject to the following:

(1) The signs shall identify limitations on parking space use only and shall not contain commercial messages of any kind.

(2) The signs shall have a maximum area of 1.5 square feet (a typical accessible barrier free parking space sign has a dimension of one foot times 1.5 feet).

(3) Such signs shall conform to design standards of the Michigan Manual on Uniform Traffic Control Devices (MMUTCD).

(f) *Official state historical registry signs shall be permitted within all use districts.* In all cases, the sign shall be posted within the property line boundary on which the building stands.

(g) Official city historical registry signs shall be permitted on a building and shall not exceed one square foot in area.

(h) *Directional signs.* All directional signs required for the purpose of orientation, when established by the city, county or state governments, shall be permitted in all use districts.

(i) *Incidental signs.* One incidental sign may be posted for every 150 feet of lot frontage on each side of a lot, provided that each sign is no more than two square-feet in area and located entirely upon private property.

(Ord. of 5-18-2009, § 9.103; Ord. No. 01-16, 10-3-2016)

Sec. 98-594. Signs permitted in all zoning districts with a permit.

The following signs shall be permitted in any zoning district, subject to the approval of a building permit and compliance with any design standards applicable to that type of sign.

(a) *Monument ground signs.* See section 98-597 for specific monument sign requirements by zoning district.

(b) *Building mounted signs, including wall, awning, and projecting signs.* See subsection 98-597(b) for specific building mounted sign requirements by zoning district.

(c) *On-site directional signs.* In the OS-1, B-1, B-2, B-3, I-1, I-C, and TRD districts, signs providing traffic or property use direction may be provided on the property to direct patrons or customers. Such signage shall in the aggregate not exceed 40 square feet of sign face, and no such single sign shall exceed ten square feet of sign face. Entry and exit signs shall be a maximum of two square feet in area and six feet in height, and shall be allowed provided the signs are two feet from any front lot line and 20 feet from any side or rear lot line of an adjacent residential district.

(d) *Site entry features including a sign.* Architectural features with signage may be erected at each entrance to a residential subdivision, apartment community, condominium development, mobile home park or office, business or industrial park or similar development from a major street, subject to the following:

(1) *Number of signs.* Maximum of one sign on each side of the entrance from a major street.

(2) *Setbacks.* Site entry features with signage shall be located outside of any street setback area or corner clearance area, and shall be set back a minimum of ten feet from the curbline of any driveway or street.

(3) *Sign area and height.* The maximum height and area permitted for all site entry signs on a road frontage shall be equal to the maximum permitted for a ground sign, as permitted in section 98-597.

(4) *Planning commission review.* The location and design of each site entry feature with signage shall be subject to review and approval by the planning commission.

(e) *Building directory.* Where a single building on a single lot is occupied by more than one business, dwelling or other use above the street level facade (such as a multiple-story office or commercial building), a building directory sign may be located at the primary or main customer entrance for these uses, subject to the following:

(1) The building directory shall be separate from any permitted signs accessory to the uses occupying the street level façade.

(2) The maximum sign area of the building directory shall be equal to five percent of the signable area of the building.

(f) *Temporary signs.* Temporary signs, other than those listed elsewhere in this article, shall be subject to the following:

(1) *Number of permitted signs.* A maximum of one such sign per street frontage and one sign per public entrance to the building shall be permitted per lot.

(2) *Maximum sign area and height.* Ground mounted signs shall not exceed six feet in height and 16 square feet in area. Building mounted temporary signs shall not exceed five percent of the signable area of the building space occupied by the use associated with the sign.

(3) *Sign removal.* A removal agreement or security bond to guarantee removal of such signs may be required. Signs must be removed by the date listed in such agreement.

(4) *Display period.* Such signs shall be temporarily displayed for the specific time period stated on the approved permit, which shall not exceed 90 days. Upon expiration of this time period, the sign must be removed or a new permit must be acquired.

(Ord. of 5-18-2009, § 9.104; Ord. No. 01-16, 10-3-2016)

Sec. 98-595. Signs permitted in the b-2 district with a permit.

A-frame signs and information display signs are permitted only in the B-1, B-2, and B-3 districts with a permit. Refer to section 98-597 for sign standards specific to each district.

(Ord. of 5-18-2009, § 9.105; Ord. No. 01-16, 10-3-2016)

Sec. 98-596. Prohibited signs.

The following signs are prohibited in all zoning districts:

(a) *Obscene material.* Display of obscene material upon any sign is prohibited.

(b) Roof signs.

(c) Portable signs.

(d) *Outline lights signs.* Outline lights signs are prohibited, with the exception of historic neon signs that are included in a site plan approval as part of a historic building/site restoration.

(e) *Mechanical signs.* Signs that have any visible moving parts, mechanical movement or other apparent visible movement achieved by electrical or mechanical means or action of normal wind currents.

(f) *Signs not expressly permitted.* Signs not expressly permitted by this article are prohibited.

(Ord. of 5-18-2009, § 9.106; Ord. No. 01-16, 10-3-2016)

Sec. 98-597. Sign design standards.

(a) *Monument ground signs.*

Zoning District[1]	Maximum		Setback Requirements
	Sign Height	Sign Area	
RA-1 RA-2 RT ERC PRD MH RM-1 RM-2	6 ft.	32 sq. ft.	• 10 feet from front lot line • 20 feet from side or rear lot line

OS-1	6 ft.	16 sq. ft.	• ½ the required front yard setback for the district • 20 feet from any side or rear lot line adjacent to a residential district
B-1	8 ft.	40 sq. ft.	• ½ the required front yard setback for the district • 40 feet from any side or rear lot line adjacent to a residential district
B-2	8 ft.	80 sq. ft.	• 10 feet from the front lot line • 40 feet from any side or rear lot line
B-3	8 ft.	80 sq. ft.	• 10 feet from the front lot line • 40 feet from any side or rear lot line adjacent to a residential district
I-C I-1 TRD	8 ft.	80 sq. ft.	• ⅓ the required front yard setback for the district • 40 feet from any side or rear lot line adjacent to a residential district

[1] Monument ground signs are only permitted on lots with buildings greater than 5,000 square feet in RA-1, RA-2, RT, ERC, PRD, MH, RM-1, and RM-2 districts.

(1) *Monument base required.* All ground signs in the city shall be low-level monument style ground signs. Pole signs are not permitted. The monument ground sign shall be provided with a base that is at least 80% of the width of the sign.

(2) *Number of signs.* One monument ground sign shall be permitted per lot or parcel. Lots that have more than 100 feet of frontage on two or more public streets shall be permitted one ground sign for each street frontage. The additional monument ground signs shall have a maximum area of 75 percent of that otherwise permitted for a monument ground sign in the zoning district.

(3) *Setback.* Monument ground signs shall be set back a minimum of five feet from the right-of-way of any street, or as required by the above table, whichever is greater. All monument ground signs shall be located outside of corner clearance areas pursuant to subsection 98-592(d), above.

(4) *Materials.* Monument ground signs shall be constructed out of decorative materials that complement the design of principal buildings within the development. Natural materials such as stone, decorative masonry, wood, or metal are preferred sign construction materials.

(5) *Landscaping.* Low level landscaping shall be provided around the base of the sign, but shall not obscure any part of the sign message.

(6) Monument ground signs not intended to be viewable from a public right-of-way, such as signs serving a drive-through facility, may have a maximum height of six feet and a maximum area of 32 square feet, and shall not be included in the computation of total sign area for the parcel unless such signs are legible from a point of observation off the premises. All such monument ground signs shall have a decorative base at least as wide as the sign.

(b) *Building mounted signs.* Building mounted signs, including wall, awning, projecting and window signs shall comply with the following requirements:

(1) *Location.*

a. *In the B-2 district.* Building mounted signs shall be located only on a street facing facade of the building. Signs for first floor tenants should be located at the storefront level. Upper story tenants may only have window signs. Each business use in the B-2 district may have an additional secondary wall sign at each entrance that does not face a street.

b. *In the RA-1, RA-2, and RT districts.* One unlighted building mounted sign, not exceeding eight square feet may be substituted for one temporary sign. This sign may be a ground sign if indicated on the permit application.

c. *In the OS-1, B-1, B-3, I-1, I-C, TRD, RM-1 and RM-2 zoning districts.*

1. Building mounted signs may be located on any facade that faces a street, parking area, or vehicle circulation area that provides access to more than one parcel, or on a facade where a public entrance is located. Illuminated building mounted signs may not be located on a facade that faces a property line that abuts a residential zoning district unless the sign is set back at least 200 feet from the property line or screening is provided that will completely obscure the view of the sign from the adjacent residential district.

2. In the case of a building that contains two or more businesses (including but not limited to a shopping center or office center), each business that is directly accessible from the exterior of the building may have a building mounted sign on the facade where the primary or main customer entrance is located.

For the purposes of calculating signable area in such multi-tenant buildings, the frontage controlled by each tenant on the facade where the entrance is located shall be used to calculate linear frontage.

(2) *Sign area.*

a. *In the B-2 district.* The total sign area of all building-mounted signs shall not exceed 100 square feet or ten percent of the signable area of the building space occupied by the use associated with the sign, whichever is less. See section 98-600 for a definition of signable area.

An extra ten square feet of sign area is permitted per business where a building contains three or more uses. The additional sign area shall be divided between the businesses located in the building.

Secondary wall signs at entrances that do not face a street shall not exceed 16 square feet.

b. *In the OS-1, B-1, B-3, I-1, I-C, and TRD zoning districts.* The total area of all building mounted signs shall not exceed three square feet for each one linear foot of building frontage on the street facade of the building, or 100 square feet, whichever is less.

c. *In the RM-1 or RM-2 zoning districts.* For rental or management offices in the RM-1 or RM-2 districts, one wall sign not to exceed six square feet is permitted.

(3) *Minimum height.* Awning and projecting signs shall maintain a minimum clearance of eight feet between the grade level below the sign and the lowest part of the sign (including sign support devices).

(4) *Materials.*

a. Building mounted signs shall incorporate exterior materials, finishes and colors that are the same, similar, or complimentary to those used on the principal building.

b. Building mounted signs shall be professionally constructed using high-quality materials such as metal, stone, hard wood, or brass. The use of exposed neon tubing in conjunction with other types of materials to emphasize the sign copy is permitted, however, internal neon lighting or any other use of neon tubing is prohibited.

c. Internally lit plastic sign copy or plastic box signs are prohibited in the B-2 district.

d. To minimize irreversible damage to masonry, all mounting and supports should be inserted into mortar joints and not into the face of the masonry.

(5) *Wall signs.* No surface of a wall sign may project beyond or overhang any wall or permanent architectural feature by more than one foot.

(6) *Awning signs.* Sign copy may comprise up to 35 percent of the total exterior surface of an awning. Awnings with back-lit graphics or other kinds of internal illumination are prohibited.

(7) *Projecting signs.*

a. Projecting signs shall be secured to the building by metal anchors, bolts, supports, rods or braces.

b. Projecting signs are limited to four square feet of sign area per sign face.

c. A projecting sign may not be located closer than eight feet to another projecting sign.

d. A minimum vertical clearance of eight feet shall be provided between the lowest point of the sign and the sidewalk.

e. Projecting signs may not be mounted above a second-floor window sill on multi-story buildings.

(c) *B-1, B-2, and B-3 district signs.* A-Frame, and Information display signs are permitted only in the B-1, B-2, and B-3 districts and shall comply with the following requirements:

(1) *A-frame signs.* A-Frame signs are permitted within the B-1, B-2, and B-3 districts subject to the following requirements:

a. A-frame signs may have a maximum area of six square feet per side.

b. A-frame signs may be located on the sidewalk within six feet of a building entrance. A-frame signs shall be located such that they will not impede pedestrian traffic on the sidewalk, and such that they will not present a hazard to vehicular traffic.

c. A-frame signs may not be permanently affixed to any object, structure, or the ground.

d. A-frame signs shall be stored indoors when not in use.

e. Each business may have a maximum of one A-frame sign.

(2) *Information display signs.* Information display signs may be mounted on the exterior wall of a building, and shall be located in a permanently mounted display box on the surface of the building adjacent to the entry. Information display signs may have a maximum area of three square feet.

(Ord. of 5-18-2009, § 9.107; Ord. No. 01-16, 10-3-2016; Ord. No. 03-17, 9-5-2017)

Sec. 98-598. Nonconforming signs.

Nonconforming signs shall be permitted to continue as such until removed or altered, provided that such signs are maintained in accordance with the following requirements:

(a) *General standards.* Nonconforming signs shall be maintained in accordance with the requirements for all signs specified in section 98-592, above.

(b) *Expansion or relocation prohibited.* Nonconforming signs shall not be expanded or relocated.

(c) *Servicing.* Painting, servicing, cleaning, minor repairs, or changes in sign copy panel area (sign face changes) to a nonconforming sign shall be permitted, provided that the sign is restored to its original design and all work is in compliance with applicable structural and electrical codes and the requirements for all signs specified in section 98-592, above.

(d) *Alterations.* Alterations or changes to the sign frame or structural elements of a nonconforming sign shall be subject to the following conditions:

(1) The sign shall be brought into compliance with the requirements for all signs specified in section 98-592, above.

(2) The sign shall be brought into compliance with all applicable sign height and sign area standards for the type of sign, as specified in this article.

(3) Nonconformities caused by inadequate ground sign setback at a ground sign's current location may be permitted to continue so that the existing support structure and wiring may be re-used, provided that permitted alterations will not increase this nonconformity, and provided that the ground sign is located entirely outside of all street rights-of-way and corner clearance areas.

(4) Approval of appropriate permits by the building official.

(Ord. of 5-18-2009, § 9.108; Ord. No. 01-16, 10-3-2016)

sec. 98-599. Sign removal by city action.

(a) *Obsolete or abandoned signs.*

(1) Any sign that identifies a business that has permanently ceased operations or that identifies an activity or event that has already occurred shall be considered abandoned and shall be removed by the owner, agent, or person having use of the building or structure. Signs associated with seasonal businesses need not be removed during seasons in which the business is not in operation.

(2) Upon vacating a commercial or industrial establishment, the proprietor shall be responsible for removal of all signs used in conjunction with the business within 180 days of the premises being vacated. The city may remove the signs after a ten-day notice has been given to the property owner to remove the signs and the cost of removal will be charged to the property owner.

(3) However, where a conforming sign structure and frame are typically reused by a current occupant in a leased or rented building, the building owner shall not be required to remove the sign structure and frame in the interim periods when the building is not occupied, provided that the sign structure and frame are maintained in good condition.

(b) *Damaged signs.* Signs determined to be in a damaged condition by the building official shall be repaired, replaced or removed to the satisfaction of the building official by the owner, operator or person having beneficial use of the property upon which the sign is located. If such action is not taken by the owner within ten days, such signs may be repaired or removed by the city at the expense of the owner of the property upon which the sign is located. The city may then place a lien on the property, adding necessary removal expenses to the tax bill for the property.

(c) *Nonconforming signs.* The elimination of nonconforming signs in the city is hereby declared to be for a public purpose and for a public use. The city council shall have the authority to institute and prosecute proceedings for the condemnation of nonconforming signs determined to be in violation of the requirements for such signs specified in section 98-592 (nonconforming signs). For the purpose of removal, the city council may, at its discretion, acquire and remove nonconforming signs by purchase, condemnation or otherwise with the cost paid from general funds.

(d) *Temporary signs.* Temporary signs erected or displayed within a street right-of-way or corner clearance area, or without a valid permit or after the expiration of a permit, may be removed by the city without notice.

(e) *Unsafe signs.* Signs determined to be unsafe by the building official shall be immediately removed or repaired to the satisfaction of the building official by the owner, operator or person having beneficial use of the property upon which the sign is located. If such action is not taken by the owner within 24 hours, such signs may be removed by the city at the expense of the owner of the property upon which the sign is located.

The city may then place a lien on the property, adding necessary removal expenses to the tax bill for the property.

(Ord. of 5-18-2009, § 9.109; Ord. No. 01-16, 10-3-2016)

Sec. 98-600. Definitions.

The following words used in this article shall have the following meanings:

Abandoned sign. A sign is considered abandoned if:

(1) It does not display a well-maintained message for a consecutive 30-day period;

(2) The use to which the sign is accessory is discontinued or terminated for more than 180 consecutive days;

(3) The owner of the sign cannot be located at the owner's last known address as reflected on the records of the City; or

(4) A structure designed to support a sign no longer supports the sign for a period of 30 consecutive days.

A-frame sign. A moveable sign designed to stand on its own that is usually placed along public sidewalks and is stored inside when not in use.

Building-mounted sign. A display sign that is painted on, adjacent to or attached to a building wall, door, window or related architectural feature. Such signs include, but are not limited to awning, projecting, wall and window signs.

(1) *Awning sign.* A sign that is painted on, attached to, or an integral part of an awning or canopy.

(2) *Projecting sign.* A display sign attached to and projecting away from a structure. A projecting sign is mounted more or less perpendicular to the wall or structure to which it is attached. A marquee sign is a form of a projecting sign.

(3) *Wall sign.* A display sign that is painted on, adjacent to or attached to a building wall, door, window or related architectural feature and projecting not more than one foot from the wall. The signable area of a wall sign shall be more or less parallel to the wall or surface to which the sign is attached.

(4) *Window sign.* A sign applied or attached to the exterior or interior of a window or located in such a manner within a building that it is visible from the exterior of the building through a window.

Clearance. The vertical distance between the surface grade beneath the sign and the lowest point of the sign, including framework and embellishments.

Damaged sign. A sign or supporting structure which is torn, defaced, dented, smashed, broken, vandalized or destroyed.

Decorative display. A decorative, temporary display designed for the entertainment or cultural enrichment of the public and intended to serve as a cosmetic adornment rather than to convey a message.

Directional sign. A sign that uses arrows or words like "enter" and "exit" to regulate on-site traffic and parking.

Illegal sign. A sign for which no valid permit was issued by the city at the time such sign was erected, or a sign that is not in compliance with the current zoning ordinance and does not meet the definition of a nonconforming sign.

Incidental sign. A sign that is meant to be read in close proximity on the premises, and is not generally legible from the street. Such signs shall be no greater than two square feet in area.

Information display sign. A sign for displaying information near the entry of a building using a display case or structure attached to a wall. An information display sign has a pedestrian scale and is only legible to persons on foot.

Monument ground sign. A freestanding sign supported by a pedestal or base with permanent attachment to the ground.

Mural. A graphic displayed on the exterior of a building, including but not limited to painting, fresco, or mosaic, intended to serve as a cosmetic adornment for the building, rather than to convey a message.

Nonconforming sign. A sign for which the city issued a permit at the time such sign was erected, but which is not in compliance with current zoning ordinance provisions for signs. Such signs must be located outside of any existing right-of-way, away from any public or private easement and wholly upon the parcel to which it is associated. Such signs must have all necessary structural and decorative parts, including, but not limited to supports, sign box or enclosure and electrical equipment. The sign face or sign copy area must be intact and illuminated signs must be capable of immediate illumination.

Outline lights sign. A sign consisting of a string of lights including neon, LED, fluorescent or other outline tubing that outlines windows, doors, or other architectural features and is intended to draw attention to a sign or other message rather than to serve as a cosmetic adornment.

Portable sign. A sign and sign structure which is not attached to a building and is capable of being moved within the zoning lot on which it is located or from one zoning lot to another.

Roof sign. A display sign which is erected, constructed and maintained on or above the roof of the building, or that extends above the roofline.

Sign. Any surface, fabric, device, display or visual medium, including the component parts, which bears writing, representations, emblems, logos, pictorial forms, sculptured matter or any figures of similar character, together with any frame, tower, or other materials, color or internally-illuminated area forming an integral part of the display to convey information or attract attention. Signs shall include banners, bulbs, other lighting devices, streamers, pennants, balloons, propellers, flags, electronic products, or similar devices. Murals and decorative displays, as defined by this chapter, shall not be construed to be signs. The term "sign" includes the sign structure, supports, braces, guys and anchors.

Signable area. The area of the street level facade of a building as determined by multiplying the width of the building by height of the building to the eaves line of a single story building or the second story floor elevation of a multiple-story building. Where more than one business or use occupies space on the street level facade of a building, the signable area shall be divided among the businesses or uses in proportion to the size of their occupied space. Where a building has two or more street level facades (as on a corner lot), the signable area shall equal the area of the largest street level facade.

Sign area. The gross surface area within a single continuous perimeter enclosing the extreme limits of all sign copy or surface of any internally-illuminated sign, awning or canopy. Such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display. Where a sign has two or more faces, the sign area shall equal the total area of all sign faces, except where two faces are placed back to back and are at no point more than three feet apart, the sign area shall equal the area of the larger single sign face.

Sign copy. Writing, representations, emblems, logos, pictorial forms, sculptured matter or any figures of similar character, together with any frame, tower, or other materials, color or internally-illuminated area forming an integral part of a display to convey information or attract attention.

(1) *Animated copy.* Sign copy that flashes, moves, revolves, cycles or is otherwise altered or changed by mechanical or electrical means at intervals of less than once per hour.

(2) *Changeable copy.* Moveable letters or other forms of sign copy, not including animated copy that can be altered by natural, mechanical or electrical means without replacing the sign copy area.

Sign height. The vertical distance measured from the average grade at the sign location to the highest point of the sign.

Site entry feature with signage (entrance sign). A sign located at the entrance to the development from a thoroughfare or collector road for a residential subdivision, apartment community, condominium development, mobile home park, or office, business or industrial park.

Street level façade area. The area of the front wall measured from grade level to a height of eight feet, including doors and windows, of the principal building facing a public street where the address or primary public entrance is located. Buildings on corner lots may have up to two front faces if each face satisfies the above criteria. If the building is devoted to two or more uses or businesses, the front face area for each use or business shall be determined by the zoning administrator based upon the proportionate share of the building occupied by each use or business.

Temporary sign. Display signs, banners, balloons, festoons or other signs constructed of cloth, canvas, fabric, plastic or other light temporary material, with or without a structural frame, or any other sign intended for a limited period of display, but not including decorative displays.

(Ord. of 5-18-2009, § 9.110; Ord. No. 01-16, 10-3-2016)

Sec. 98-601. Waivers.

The planning commission, after a public hearing that meets the requirements of the State of Michigan and this zoning ordinance, shall have the ability to waive or modify any of the above standards, provided that the following criteria are met. A waiver granted under this section shall apply for the lifespan of the sign in question, but shall not be transferable to any other sign or premises:

(a) The applicant provides all requested information and pays all applicable application and review fees, to be determined by the city council.

(b) The proposed sign does not endanger the public health, safety, and welfare by virtue of being distracting to drivers, obscuring vision, being unnecessarily bright, being designed or constructed poorly, or in any other way.

(c) The design of the sign is consistent with character of the surrounding area.

(d) The sign does not block the view of other nearby signs to the extent that it would harm the ability of neighboring businesses to operate.

(e) The sign will not be a nuisance to any residential uses.

(f) A sign designed to meet the standards of the ordinance would not adequately serve the purpose desired by the applicant.

(Ord. No. 01-16, 10-3-2016)

Secs. 98-602—98-630. Reserved.

ARTICLE X. LANDSCAPING AND SCREENING

DIVISION 1. GENERALLY

Sec. 98-631. Statement of intent.

The purposes and intent of this article are to:

(a) Minimize the transmission from one land use to another of nuisances associated with noise, dust, glare, and litter.

(b) Minimize visual pollution that may otherwise occur within an urbanized area. Minimal screening provides an impression of separation of spaces, and more extensive screening can entirely shield the visual effects of an intense land use from a less intense land use.

(c) Establish a greater sense of privacy from visual or physical intrusion of intense land uses, the degree of privacy varying with the intensity of screening.

(d) Establish aesthetically pleasing, functionally appropriate and sustainable landscaping design for the long-term enhancement of the appearance of development in the community.

(e) Safeguard the public health, safety and welfare, and preserve and enhance aesthetic qualities that contribute to community character.

(Ord. of 5-18-2009, § 10.101)

Sec. 98-632. Scope.

Wherever in this chapter a greenbelt, planting, and/or plant material is required, the landscaping shall be planted prior to the issuance of any temporary or final certificate of occupancy and shall thereafter be reasonably maintained consistent with the intent of the approved landscaping design plan. If it is not possible to install the landscaping prior to the issuance of a certificate of occupancy, a performance guarantee shall be posted consistent with section 98-637.

(Ord. of 5-18-2009, § 10.102)

Sec. 98-633. Design standards.

(a) *Visibility.* Landscaping and screening materials shall be laid out in conformance to the requirements of section 98-522 (corner clearance), and shall not conflict with visibility for motorists or pedestrian access.

(b) *Plantings near utility lines and fire hydrants.* Required plant materials and screening shall be arranged to avoid conflicts with underground and overhead utility lines and access to or visibility of fire hydrants. The anticipated height at maturity of trees planted near overhead utility lines shall not exceed the line height above grade.

(c) *Protection.* Where pavement and landscape areas interface, concrete curbing or similar measures shall be provided to protect plants from vehicle encroachment.

(Ord. of 5-18-2009, § 10.103)

Sec. 98-634. Walls.

(a) Walls required under this article shall have no openings for vehicular traffic or other purposes, except such openings as may be approved by the city. All walls required in this ordinance shall be constructed of decorative stone or brick. The height of the wall shall be measured from the prevailing grade of the land on the side of the wall facing the less intense use. Walls shall be erected on a concrete foundation which shall

have a minimum depth of 42 inches below a grade approved by the building department and shall not be less than four inches wider than the wall to be erected.

(b) A six-foot tall decorative opaque vinyl fence or densely planted evergreen landscaping sufficient to form a living green wall with a minimum height of six feet may be permitted by the planning commission in lieu of a masonry wall when the characteristics of the two abutting uses would make such a substitution appropriate.

(Ord. of 5-18-2009, § 10.104)

Sec. 98-635. Irrigation.

To assist in maintaining plant materials in a healthy condition, all landscaped areas (including lawns) shall be provided with an automatic underground or drip irrigation system, subject to the following:

(a) The director of development services may approve an alternative form of irrigation for a particular site, or may waive this requirement upon determining that underground irrigation is not necessary for the type of proposed plant materials.

(b) All automatic irrigation systems shall be designed to minimize water usage, and shall be shut off during water emergencies, periods of protracted rainfall, or water rationing periods.

(Ord. of 5-18-2009, § 10.105)

Sec. 98-636. Location of screening.

Screening required under this article shall be located directly adjacent to the lot line except where underground utilities interfere. Upon approval of the planning commission and when mutually agreeable to affected property owners, required screening may be located on the opposite side of an alley right-of-way when a nonresidential district abuts a residential district. The continuity of the required screening on a given block shall be a major consideration of the planning commission in reviewing such request.

(Ord. of 5-18-2009, § 10.106)

Sec. 98-637. Performance guarantee.

(a) *Performance bond.*

(1) Whenever a site plan requires any type of landscaping, the applicant may be required to post a performance bond prior to the issuance of a temporary or final certificate of occupancy to ensure the completion of landscaping (including irrigation) if the landscaping is not 100 percent complete when any certificate of occupancy is requested. The city will inspect the landscaping and determine the percentage of completion and a performance bond must be submitted to the city by the developer in the sum equal to the unfinished portion of the landscape work. If the landscaping is 100 percent compete and approved no performance bond will be required.

(2) If a performance bond is required it must be a cash bond or a corporate surety bond or irrevocable bank letter of credit in the full amount of the sum due as determined by the city.

(b) *Maintenance bond.* A maintenance bond in the sum of 25 percent of estimated cost of landscaping (including irrigation) must be posted prior to the issuance of any certificate of occupancy (including temporary). The maintenance bond is held for a period two years, at the end of which time the city shall inspect the landscaping. Once any issues identified during the inspection are addressed the unused balance of the maintenance bond will be released.

(Ord. of 5-18-2009, § 10.107)

Sec. 98-638. Maintenance.

The owner of the property shall be responsible for all maintenance of site landscaping, as follows:

(a) Landscaping shall be kept in a neat, orderly and healthy growing condition, free from debris and refuse.

(b) Pruning shall be minimal at the time of installation, only to remove dead or diseased branches. Subsequent pruning shall assure proper maturation of plants to achieve their approved purpose.

(c) All dead, damaged, or diseased plant material shall be removed immediately and replaced within six months after it dies or in the next planting season, whichever occurs first. For purposes of this Section, the planting season for deciduous plants shall be between March 1 and June 1 and from October 1 until the prepared soil becomes frozen. The planting season for evergreen plants shall be between March 1 and June 1. Plant material installed to replace dead or diseased material shall be as close as practical to the size of the material it is intended to replace. The city may notify property owners of the need to replace dead, damaged, or diseased material.

(d) The approved landscape plan shall be considered a permanent record and integral part of the site plan approval. Unless otherwise approved in accordance with the aforementioned procedures, any revisions to or removal of plant materials or non-compliance with the maintenance requirements of this section will place the parcel in non-conformity with the approved landscape plan and be a violation of this chapter.

(e) If protected trees are damaged, a fine shall be issued on an inch-by-inch basis at a monetary rate as defined by the city based on the replacement cost of the damaged tree.

(Ord. of 5-18-2009, § 10.108)

Sec. 98-639. Installation.

All landscaping shall be installed in a manner consistent with the standards of the American Association of Nurserymen, the approved site plan, and the following:

(a) *Deadline for installation.* Installation of required screening and landscaping shall be completed prior to or at the time of completion of building construction, except when building construction is completed during the off-season when plants cannot be installed, in which case the owner shall provide a performance guarantee to ensure installation of required landscaping in the next planting season.

(b) *Extension.* The city may extend the deadline to allow installation of required plant materials by the end of the next planting season upon determination that weather conditions, development phasing, or other factors would jeopardize required plant materials and prevent their installation by the deadline specified in this section.

(c) *Performance guarantee.* Installation and maintenance bonds may be required. Refer to section 98-637, above.

(Ord. of 5-18-2009, § 10.109)

Secs. 98-640—98-650. Resereved.

DIVISION 3. PLANT MATERIAL STANDARDS

All plant materials shall comply with the following standards:

Sec. 98-651. Generally.

Whenever a landscape planting screen or other plantings are required under this ordinance, such plantings shall be installed according to accepted good planting procedures and in a sound, workmanlike manner. All plant material shall meet current standards of the American Association of Nurserymen and approved by the American National Standards Institute, Inc. (ANSI 260.1, 1996).

(a) All plant material shall be true to name in conformance to the current edition of Standardized Plant Names established by the American Joint Committee on Horticultural Nomenclature, or other source accepted by the city.

(b) All plant material shall be nursery grown in a northern climate; hardy to the climate of Michigan; appropriate for the soil, climatic and environmental conditions; and resistant to disease and insect attack.

(c) A minimum four inches of topsoil shall be provided for all lawn areas, ground covers, and planting beds.

(d) Artificial plant material is prohibited and shall not be used to meet the requirements of this article.

(Ord. of 5-18-2009, § 10.201)

Sec. 98-652. Groundcovers.

The following shall apply to all groundcover materials:

(a) Lawn areas shall be planted in species of grass normally grown as permanent lawns in Michigan. Grass may be sodded or hydro-seeded, provided that adequate measures are taken to minimize soil erosion. Sod or seed shall be clean and free of weeds and noxious pests or disease.

(b) A minimum four-inch layer of shredded hardwood bark shall be placed in all planter beds containing trees or shrubs and around the base of all trees planted within lawn areas (mulch cover the entire planting pit width). To aid in maintenance operations all shrubs planted within lawn areas are to be planted in groups and mulched as a group, and hedgerows are to be mulched as one continuous strip.

(c) Live groundcovers such as myrtle (Vinca minor), blue rug junipers (Juniperus horizontalis 'Wiltonii'), Baltic ivy (Hedera helix 'Baltica', Pachysandra (Pachysandra terminalis) and other similar vines and plant material should be mulched with a two-inch layer of shredded hardwood bark.

(Ord. of 5-18-2009, § 10.202)

Sec. 98-653. Permitted landscape materials.

Landscape materials used to satisfy the requirements of this Article shall be common to the area and suitable for their intended use. Species native to southern Michigan are encouraged. The development services

department will maintain on file a list of prohibited plant materials that may not be used to satisfy the requirements of this article. Bare root stock of any kind is not permitted.

(Ord. of 5-18-2009, § 10.203)

Sec. 98-654. Plant material spacing.

Spacing of plant materials required under this article shall be as follows:

(a) Plant materials shall not be placed closer than four feet from the fence line or property line.

(b) Deciduous and all shrubs may not be planted within five feet, and evergreen trees may not be planted within ten feet of any a curb or public walkway.

(c) Trees and shrubs may not be planted within ten feet of a fire hydrant.

(d) Where plant materials are planted in two or more rows, planting shall be staggered in rows.

(e) Where shrub plantings are required to form a continuous hedge or used for screening purposes, the plants shall not be spaced more than 36 inches on center at planting, and shall have a minimum height and spread of 30 inches at planting. Shrubs that will not attain sufficient width to form a complete hedge spaced 36 inches on center shall be planted at a spacing that will allow them to form a complete hedge within two years of planting.

(Ord. of 5-18-2009, § 10.204)

Sec. 98-655. Existing vegetation.

Healthy existing trees on a site may be used to satisfy any of the requirements of this article, subject to the following:

(a) Site plans shall show all existing trees which are located on the portions of the site and on portions of adjacent sites within 20 feet of the site that will be built upon or otherwise altered, and are six inches or greater in caliper, measured 4.5 feet above grade. Trees shall be labeled "to be removed" or "to be saved" on the site plan, with tree species and caliper noted for trees to be saved. Only trees six inches in caliper or greater may be used to satisfy any landscaping requirement of this chapter.

(b) The reviewing authority may require city inspection of existing plant materials prior to or as a condition of site plan approval to determine the health and desirability of such materials.

(c) Protective fencing shall be placed at the drip-line of existing trees, and around the perimeter of other preserved plant materials, with details of protective measures noted on the site plan. No vehicle or other construction equipment shall be parked or stored within protected areas.

(d) In the event that healthy plant materials which are intended to meet the requirements of this chapter are cut down, damaged or destroyed during construction, said plant material shall be replaced with an equivalent species to the damaged or removed tree. Replacement trees shall be provided at the ratio of one replacement tree for each six inches in caliper measured one foot above grade level or fraction thereof of tree that is cut down, damaged, or destroyed, up to a maximum of four replacement trees unless otherwise approved by the city based on consideration of the site and building configuration, available planting space, and similar considerations.

(e) Transplanting of trees within the site is prohibited without the prior approval of the reviewing authority. If such trees are transplanted, their actual replacement value must be calculated and 100 percent of the replacement value must be included in the maintenance bond required by 98-637.

(Ord. of 5-18-2009, § 10.205)

Sec. 98-656. Size and variety of plant materials.

(a) To ensure adequate variety, and to avoid monotony and uniformity within a site, required plant materials shall not include more than twenty percent of any single plant species, and shall comply with the following schedule for minimum sizes at planting:

PLANT MATERIAL REQUIREMENTS

Screening Materials	Minimum Size at Installation
Deciduous Shade Trees	3 caliper-inches*
Evergreen Trees	10 feet height and 5 feet spread
Deciduous Ornamental Trees	2 caliper-inches* or 6 feet overall height
Shrubs	30 inches in height, 24 inches in spread when used for screening or buffering purposes, or 3 gallon container size when used for other purposes
Groundcovers	Shall be from flats

*Caliper-inches measured 12 inches above grade.

(b) The reviewing authority may approve modifications from the above table for appropriate landscape materials that do not meet the above minimum size requirements or are not readily available at landscape supply yards in the required size. If smaller materials are approved the difference for the smaller materials shall be compensated with additional material being provided. In approving such a modification, the reviewing authority shall determine that the substituted plant material size will meet the intent of this article, and that providing a landscape material that meets the above size requirements is impractical or not feasible.

(Ord. of 5-18-2009, § 10.206)

Secs. 98-657—98-670. Reserved.

DIVISION 3. LANDSCAPE REQUIREMENTS

Sec. 98-671. Buffer requirements.

Buffers or greenbelts and obscuring walls or fencing are intended to mitigate any potential negative impacts that a proposed land use may have on intensive neighboring land uses, or to obscure unsightly items or areas from view off the site. The buffer or greenbelt is a designated unit of yard or open space together with any plant materials, barriers and screening designed to minimize negative impacts of adjacent land uses. Both the amount of land and the type and amount of landscaping specified are intended to minimize potential nuisances such as noise, glare, dirt, litter unsightly areas and similar impacts.

These buffer requirements are designed to be flexible. A single standard applied to all circumstances may not function as well and might impose unnecessary difficulties on development and lead to monotony. It is the intent of the following provisions to provide flexibility to the developer or property owner through the manipulation of four basic elements: distance, plant material type, plant material density and structural or land forms.

Buffers shall be required as indicated in the following table. Such buffers shall be provided along site perimeters without road frontage, except to permit driveways or other necessary site improvements.

(a) *Buffer descriptions and requirements.* The following is a description of the intended character and function of each buffer type. The specific requirements for each buffer are listed in subsection B, and the type of buffer required between land uses is listed in subsection (c).

(1) *Type A:* Intended to separate uses, provide vegetation in densely developed areas, and to enhance the appearance of individual properties.

(2) *Type B:* Low density screening to partially block visual contact between zoning classifications.

(3) *Type C:* Medium density screen to partially block visual contact between zoning classifications and to create spatial separation.

(4) *Type D:* Medium-high density screen intended to substantially block visual contact between zoning classifications and create spatial separation. Must form an opaque screen to a height of SIX feet within three years of planting.

(5) *Type E:* High density screen intended to substantially block visual contact between zoning classifications and create spatial separation. Type E planting buffers reduce light and noise trespass that would otherwise intrude upon adjacent zoning classifications. Must form an opaque screen to a height of eight feet within three years of planting.

(b) *Buffer requirements.* The following table (Buffer Standards) lists the minimum amount of plant material required in each buffer type. The following table lists only the minimum requirement, and nothing shall prevent a property owner from providing additional landscaping. Landscaping required by the following table may be planted in clusters at appropriate locations within the buffer or spaced regularly throughout the buffer, provided that the landscape plan meets the intent of the buffer type listed in subsection (a), above.

BUFFER STANDARDS					
	Buffer Type				
	A	B	C	D	E
Buffer Yard Minimum Width	6	10	20	25	50
Buffer Yard Minimum Width (with wall[1, 2])	N/A	N/A	8	8	10
Deciduous Trees (per 100 lineal feet)	1.5	2	2	2.5	2.5
Ornamental Trees (per 100 lineal feet)		1.5	1.5	1.5	1.5
Evergreen Trees (per 100 lineal feet)	1	2	4	5	6
Shrubs (per 100 lineal feet)	4	4	6	8	10
Berm Height[3]					6 ft.

Notes:

[1] All screen walls shall be six (6) feet in height, consist of brick or stone, and capped with a stone or concrete cap. The color and material shall be coordinated with the materials of the principal building. All required buffers within residential developments must be placed within defined landscape buffer easements and may not be part of any individual residential lot.

[2] For narrow buffer yards with a wall, no evergreen trees are required. Instead, additional deciduous trees and shrubs shall be provided at the rate of 0.5 deciduous trees and two shrubs for each evergreen tree that would otherwise be required in the buffer yard. These

additional deciduous trees and shrubs are in addition to the deciduous trees and shrubs otherwise required in the buffer yard.

[3] The berm requirement may be waived if existing vegetation that provides an equal or greater screen than would otherwise be provided is proposed to remain undisturbed. Earth berms required under this ordinance shall consist of raised earth with side slopes of 3:1 or flatter with a four-foot-wide flat or slightly rounded crest contoured to the side slopes to facilitate maintenance. Berms shall be covered with grass or other ground cover to prevent erosion.

(c) *Required buffers.* The following table lists the required buffers that must be provided by the use in the developing zoning district against uses in other zoning districts.

REQUIRED BUFFERS											
Adjoining Zoning District	Developing Zoning District										
	RA[1, 3]	RM	RT	MH	B-1	B-2	B-3	I-1	I-C	OS-1	TRD
RA	—	C[2]	C[2]	—	D[2]	D[2]	D[2]	E[2]	E[2]	C	D
RM	B[2]	—	C	B[2]	C	C	C	E[2]	E[2]	C	D
RT	B	B[2]	—	B	D	D	D	E[2]	E[2]	C	D
M-H	B	B	C[2]	B	D	D	D	D	D	B	D
B-1	B	B	B	B	—	—	—	D	D	B	D
B-2	B	B	B	B	—	—	—	D	D	B	D
B-3	B	B	B	B	—	—	—	D	D	B	D
I-1	B	C	D	B	A	A	A	—	—	B	D
I-C	B	C	D	B	A	A	A	—	—	B	D
OS-1	B	E	C	B	B	B	B	D	D	—	D
TRD	B	E	C	B	B	B	B	C	C	B	—

Table Notes:

[1] Landscape requirements apply only to subdivision or condominium development in one family residential zoning districts. The buffer yard may be accommodated on or within lots, and need not be provided in a separate landscape area.

[2] The planning commission may require a six-foot tall decorative masonry screen wall in addition to the landscape requirements.

[3] Where the rear yard of lots or units in a plat or condominium face an arterial or minor arterial road as defined by the comprehensive plan, a minimum eight-foot tall opaque screen shall be provided along the entire length of frontage. Such screen may be provided by preserving existing vegetation and/or by additional plantings. No screen is required if the side or front yard faces such a street.

(Ord. of 5-18-2009, § 10.302)

Sec. 98-672. Parking lot landscaping.

The development of land for parking lot purposes alters natural topography, disturbs existing vegetation and creates impervious surface, all of which can have a negative effect on the ecological balance of an area by causing increases in air temperature and accelerating the processes of runoff, erosion, and sedimentation. Recognizing that the preservation or installation of vegetative cover in parking lots promotes the health, safety and general welfare by aiding in the stabilization of the environment's ecological balance by contributing to the process of air

purification, ground water recharge, and storm water runoff retardation while at the same time aiding in noise, glare and heat abatement the following requirements for the landscaping of parking and outdoor display areas are enacted.

(a) *Interior landscaping.* Interior landscaping shall be provided within the boundaries of the parking lot unless otherwise approved by the reviewing authority. If interior landscaping is provided along the perimeter of the parking lot, it shall be in addition to the perimeter landscaping requirements.

(1) Interior landscaping areas equivalent to five percent of the vehicle use area shall be required in all parking lots of 20 spaces or more. One deciduous shade tree shall be required for each 150 square feet of required interior landscape area. The vehicle use area includes all areas used for vehicular circulation and parking.

(2) Terminal landscape islands shall be provided at the end of each row of parking spaces to separate parking from adjacent drive aisles. Terminal islands shall be curbed, and shall be at least 144 square feet in area and 18 feet long for each single row of parking spaces. Each landscape island shall have a minimum of one (1) shade tree. The reviewing authority may waive the requirement for terminal landscape islands in the interest of meeting barrier free requirements.

(3) Interior landscape islands shall have a minimum area of 160 square feet and a minimum width of eight feet (measured from the back of curb). Each landscape island shall have a minimum of one deciduous shade tree.

(4) Parking lot divider medians with a minimum width of eight feet (measured from the back of curb) may be used to meet interior landscape requirements and shall form a continuous strip between abutting rows of parking. One shade tree or two ornamental trees shall be required for each 25 lineal feet of divider median or fraction thereof. Shrubs shall be planted to form a continuous hedge the full length of divider medians which separate parking areas from access drives.

(5) Two feet of interior landscape areas (except parking lot divider medians) may be part of each parking space required under Article XI of this chapter. Wheel stops or curbing shall be installed to prevent vehicles from encroaching more than two feet into any interior landscaped area. If a landscape area is used for parking overhang, at least two feet of clear area planted with lawn or covered with mulch shall be provided where cars will overhang the curb to protect landscape plantings from damage.

(b) *Perimeter landscaping.* Perimeter landscaping shall be provided along the edge of any parking lot facing and located 100 feet of a public right-of-way, unless, in the opinion of the reviewing authority, the parking lot will be sufficiently screened from view by buildings or other site features or improvements. Parking lot perimeter landscaping shall comply with the following standards:

(1) Perimeter parking lot landscaping shall include a minimum of one deciduous shade tree per each 25 linear feet or fraction thereof and one ornamental tree per each 35 linear feet or fraction thereof.

(2) Wherever a parking lot or vehicle parking space is located within 30 feet of a public street or right-of-way, the perimeter landscaping shall also include a continuous hedge of deciduous or upright evergreen shrubs planted not more than 30 inches on center between the parking area and the street.

(c) *Curbing required.* All landscaping and perimeter screening shall be protected from vehicle encroachment with concrete curbing or similar permanent means.

(d) *Snow storage area.* Adequate snow storage area shall be provided within the site. Plant materials in snow storage areas shall be hardy, salt-tolerant groundcovers characterized by low maintenance requirements.

(Ord. of 5-18-2009, § 10.302)

Sec. 98-673. Loading, storage, and service area screening.

Vehicle use areas, including service areas, loading areas shall be screened from adjacent residential areas and from the public right-of-way. Such screening may be accomplished by a masonry wall, building wing wall, or densely planted landscape buffer, or other means acceptable to the reviewing authority.

(Ord. of 5-18-2009, § 10.303)

Sec. 98-674. Storm water management pond landscaping.

Where any pond, retention basin, detention basin, or other constructed storm water management facility is required, it shall comply with the following requirements:

(a) Basin configurations shall be incorporated into the natural topography to the greatest extent possible. Where this is not practical, the basin shall be shaped to emulate a naturally formed or free form depression. The basin edge shall consist of sculptured landforms to filter and soften views of the basin.

(b) Basins shall be designed to avoid the need for perimeter fencing. Where such fencing is necessary, the location and design shall be subject to Planning Commission approval.

(c) Basins shall be planted with a mixture of groundcover and wetland-based plantings native to Michigan, such as native grasses or wildflowers.

(d) A perimeter greenbelt buffer shall be provided in accordance with section 98-671 (buffer requirements) and the following:

(1) Plantings shall be clustered around the basin to achieve a variety of plant materials and to replicate a natural environment. Deciduous shade trees shall be clustered around the south and west sides of the basin to provide shade and minimize solar heating of the water.

(2) Trees shall be planted above the freeboard line of the basin. Any plantings proposed below the freeboard line shall be tolerant of wet or moist soil conditions. The location of plant materials shall take into consideration the need to provide access for routine basin maintenance.

(Ord. of 5-18-2009, § 10.304)

Sec. 98-675. Right-of-way landscaping.

Public rights-of-way and other public open-space areas adjacent to required landscaped areas and development sites shall be landscaped in a manner that enhances the visual character of city streets and minimizes adverse impacts of vehicular traffic on adjacent uses. Right-of-way landscaping shall be subject to the following:

(a) *Street trees.* Street tree plantings shall be required for all development projects adjacent to or along the margins of street rights-of-way in the city, subject to the following:

(1) Street trees shall consist of deciduous shade trees planted at a minimum concentration of one street tree per 35 linear feet of right-of-way. Required trees may be planted at regular intervals or in groupings.

(2) Existing trees in good condition and of a desirable species located near or within street rights-of-way shall be preserved where feasible, and be counted toward the street tree planting requirement should the existing trees be four inches in caliper or greater.

(3) Permits may be required by the Lenawee County Road Commission or Michigan Department of Transportation for installation of street trees within rights-of-way under their jurisdiction. Where such plantings are not permitted within a street right-of-way, required street trees shall be planted within the front yard setback area, or at an alternative location approved by the reviewing authority.

(b) *Ornamental trees.* Ornamental trees shall be required for all development projects along the margins of street rights-of-way in the city. One ornamental tree shall be planted for every 75 lineal feet of right-of-way frontage. Ornamental trees may be clustered or planted at regular intervals.

(c) *Groundcover plantings within street rights-of-way.* Street rights-of-way shall be irrigated and sodded with lawn grasses.

(d) *Maintenance of right-of-way landscaping.* Right-of-way landscaping shall be maintained by the owner of the abutting lot(s), including any irrigation of the right-of-way.

(e) *Corner clearance.* Right of way landscaping shall comply with the corner clearance requirements of section 98-522.

(Ord. of 5-18-2009, § 10.305)

Sec. 98-676. Landscaping of yards in nonresidential districts.

Any portion of a front, side or rear yard not utilized for storage, parking, loading or unloading in a zoning district other than RA-1, RA-1, RT, or M-H shall be planted and maintained in a neat condition. A minimum of one tree per 3,000 square feet of planted yard area shall be provided, in addition to any other landscaping requirements of this article.

(Ord. of 5-18-2009, § 10.306)

Sec. 98-677. Modification of landscape requirements.

Recognizing that a wide variety of land uses and the relationships between them can exist, and that varying circumstances can mitigate the need for landscaping, the reviewing authority may reduce or waive the screening and buffer requirements of this article and approve an alternative screening plan. The reviewing authority shall find that the following standards have been met whenever it modifies any landscaping requirement:

(a) The landscape/screening plan shall protect the character of new and existing residential neighborhoods against negative impacts such as noise, glare, light, air pollution, trash and debris, and hazardous activities.

(b) The alternate width and type of buffer zone and screening provided therein will ensure compatibility with surrounding and nearby land uses because:

(1) The development is compatible with and sensitive to the immediate environment of the site and neighborhood relative to architectural design, scale, bulk, building height, identified historical character, disposition and orientation of buildings on the lot and visual integrity.

(2) The site has natural existing vegetation and/or topography, natural bodies of water or wetland areas or other existing conditions which offer screening consistent with the standards set forth in this Article X. The reviewing authority shall require the preservation of these natural features as a condition of site plan approval.

(3) The arrangement, design and orientation of buildings on the site maximize privacy and isolate adjacent and nearby land uses from any potential negative impacts of the project.

(Ord. of 5-18-2009, § 10.307)

Secs. 98-678—98-690. Reserved.

DIVISION 4. TREE PROTECTION

Sec. 98-691. Purpose and intent.

The purpose and intent of this division is to protect and maintain trees and woodlands within the city for the following reasons:

(a) Trees are proven producers of oxygen, a necessary element for the survival of mankind;

(b) Trees play an important role in the hydrologic cycle, transpiring considerable amounts of water each day, thereby precipitating dust and other particulate airborne pollutants from the air;

(c) Trees play an important role in neutralizing wastewater, which passes through the ground from the surface to groundwater tables and lower aquifers;

(d) Trees, through their root systems, stabilize the soil and play an important and effective part in soil conservation, erosion control and flood control;

(e) Trees are an invaluable physical and psychological addition to the city, making life more comfortable by providing shade, by cooling both air and land, by reducing noise levels and glare, and by breaking the visual monotony of development on the land;

(f) Trees provide wildlife habitat and play other important ecological roles; and

(g) The protection of trees within the city is not only desirable, but essential to the present and future health, safety, and welfare of all the citizens of the city; and

(h) Trees are matters of paramount public concern as provided by Article IV, Section 52 of the Constitution of the State of Michigan, as well as the Natural Resources and Environmental Protection Act of 1994 (PA 451 of 1994, as amended).

(Ord. of 5-18-2009, § 10.401)

Sec. 98-692. Applicability.

This division shall apply to any land or development activity for which a site plan is required in accordance with Article II, Division 2 of this chapter. It shall be unlawful for any person to remove any protected tree, relocate any protected tree, or substitute any tree in place of a protected tree upon land requiring site plan approval for development, unless the reviewing authority has first authorized such action by approval of a site plan including a tree survey and a tree removal and replacement plan.

(Ord. of 5-18-2009, § 10.402)

Sec. 98-693. Removing, damaging, or destroying trees.

It shall be a violation of this division for any person to remove, damage or destroy a tree; or cause a tree to be removed, damaged or destroyed unless such removal, damage or destruction is in compliance with the

requirements of this Chapter or is authorized by a site plan approved pursuant to Article II, Divison 2 of this chapter.

(Ord. of 5-18-2009, § 10.403)

Sec. 98-694. Definitions.

Critical root zone means the area where a tree's roots are located. The critical root zone is described by a circle around the tree with one foot of radius for each one inch D.B.H. of the tree.

Diameter at breast height or *D.B.H.* means a tree's diameter in inches measured 54 inches above grade level.

Tree or *protected tree* or *regulated tree* means a living, woody, self-supporting plant with a diameter of eight inches or greater D.B.H.

Tree removal plan means a one inch (or more) equals 200 feet scale aerial or drawing to scale, plotted by accurate techniques, that provides the location of all trees protected under the provisions of this division and the common name of all such trees together with their D.B.H.; tree protection measures; and a tree replacement plan. The Tree removal plan shall be prepared by and signed and sealed by a registered landscape architect, registered forester, or certified arborist.

(Ord. of 5-18-2009, § 10.404)

Sec. 98-695. Site plan requirements.

Each site plan submitted to the city on and after the effective date of this chapter shall show the location, common name, and D.B.H. of all trees protected by this Chapter that are then growing upon the land to which the site plan applies. The site plan approved by the planning commission (or other body or individual having site plan approval authority) shall show the location, common name and D.B.H. of all protected trees retained, relocated, substituted or otherwise required.

(Ord. of 5-18-2009, § 10.405)

Sec. 98-696. Tree removal.

Before any protected tree is removed or relocated on land requiring site plan approval, the owner of the land involved shall make application to the city for a tree removal permit. The application shall include a tree location survey including a tree removal and replacement plan.

The reviewing authority shall not approve the removal of any tree unless it determines that one or more of the following conditions exist:

(a) The tree poses a safety hazard to pedestrian or vehicular traffic or unmanageably threatens to cause disruption to public utility services.

(b) The tree poses a safety hazard to buildings or structures.

(c) The tree completely prevents access to a lot or parcel, without any reasonable alternative means of access.

(d) The tree unreasonably prevents development of a lot or parcel, or the physical use thereof.

(e) The tree is diseased or has been weakened by age, storm, fire or other injury that was not inflicted or caused by or on behalf of the landowner and that the resulting condition of the tree poses a real danger to persons or property.

(f) All reasonable alternatives to removal of the tree must first have been considered and rejected as impractical or unfeasible.

(Ord. of 5-18-2009, § 10.400)

Sec. 98-697. Protection.

(a) *Identifying trees to be removed.* All trees that have been approved for removal shall be identified on site by fluorescent orange spray paint or by red flagging tape prior to development. Trees selected for transplanting shall be flagged with a separate distinguishing color. All tree flag colors to be used in the field shall be noted on the tree removal plan.

(b) *Critical root zone.* No person shall conduct activity within the critical root zone of any tree designated for preservation, including but not limited to the storage or placing of solvents, building materials, construction equipment or soil deposits, or the parking of any vehicles.

(c) *Tree protection fence.* Prior to any development, land clearing, grading, or other site work commencing on the site, the developer or builder shall provide and maintain tree protection fences around the critical root zone of all trees to be preserved.

(1) *Construction.* Tree protection fencing shall be constructed of one-inch by one-inch boards, or similar sturdy stock, to shield protected trees. Snow fencing or other similar temporary fencing using vinyl or plastic as the primary fence material are not suitable. Details of the tree protection fences must be included on the tree removal plan.

(2) *Exceptions.* Street rights-of-way, utility easements, and large areas separate from construction or land clearing activities where no equipment or materials will be stored may be cordoned by placing stakes a minimum of 50 feet apart and tying ribbon, plastic tape, or other brightly visible materials at least 30 inches above the ground along the outside perimeter of areas to be cleared.

(d) *Tree protection fence inspection.* The location and construction of tree protection fences on the site must be inspected and approved by the city before any construction activity, tree removal, or land balancing activity commences. Protective fences shall remain in place until the City authorizes their removal or issues a final certificate of occupancy, whichever occurs first.

(e) *Attachments prohibited.* No damaging attachment, wires (other than supportive wires for a tree), signs or permits may be fastened to any tree protected by this section.

(Ord. of 5-18-2009, § 10.407)

Sec. 98-698. Tree replacement.

(a) *Replacement required.*

(1) Any regulated tree to be removed shall be replaced on a one-to-one basis. Replacement trees shall have a minimum caliper size of three inches.

(2) As an alternative or partial alternative, the reviewing authority may approve replacement trees that are smaller than three inches caliper size in situations where the intent is to create or recreate a densely wooded area or wood lot on the site. Such grouping of trees shall consist of tightly grouped trees with a minimum caliper size of one inch. When this alternative is used, three trees shall be provided for every tree to be removed.

(b) *Location of replacement trees.* Replacement trees shall, if practicable, be located on the same site as the trees to be removed.

(c) *Relationship to other landscaping requirements.* Replacement trees shall not be counted towards any other landscaping requirement of this chapter.

(d) *Maintenance.* Replacement trees shall be staked, fertilized, watered and mulched to ensure their survival in a healthy growing condition. Stakes and associated materials shall be removed after one year, and any dead replacement trees shall be replaced by the property owner.

(Ord. of 5-18-2009, § 98-698)

Sec. 98-699. Emergency tree removal.

When in the interest of public safety, health and general welfare, it becomes necessary to remove trees damaged or destroyed by high winds, storms, tornados, floods, freezes, snows, fires, or manmade and natural disasters not inflicted or condoned by the landowner or his or her agent, the building official may excuse noncompliance with this section, provided that the landowner so notifies the planning commission of such removal and the reason therefore within ten days of the disaster.

(Ord. of 5-18-2009, § 10.409)

Sec. 98-700. Penalty.

A violation of this division shall be treated as a violation of the this chapter shall be subject to the following penalty provisions:

(a) *Misdemeanor offense.* Any person who shall violate any provision of this division shall be guilty of a misdemeanor offense and shall be punished by a fine of not more than $500.00 and costs of prosecution or by imprisonment for not more than 90 days, or both such fine and imprisonment in the discretion of the court.

(b) *Repeated offenses.* Each regulated tree removed or damaged in violation of this chapter shall constitute a separate misdemeanor offense.

(c) *Injunctive and other relief authorized.* Any act or omission in violation of this division is hereby declared to be a nuisance per se and may be abated by order of a court of competent jurisdiction.

(Ord. of 5-18-2009, § 10.410)

Secs. 98-701—98-720. Reserved.

ARTICLE XI. PARKING and LOADING

DIVISION 1. GENERALLY

Sec. 98-721. Purpose.

Off-street facilities designed for the parking of self-propelled motor vehicles for occupants, employees and patrons of buildings erected, used, altered or extended after the effective date of adoption or amendment of this chapter shall be provided and maintained in accordance with the provisions of this article. Such facilities shall be maintained and not encroached upon so long as the principal use remains, unless an equivalent number of spaces are provided elsewhere in conformance with this chapter.

The purpose of this article is also to protect water quality and the capacity of drainage and stormwater management systems; to limit the number of off-street parking spaces and amount of impervious surfaces that may be permitted on a parcel of land or accessory to a use or building; to establish flexible minimum and maximum standards for off-street parking and loading; and to promote the use and development of shared parking facilities and cross-access between sites.

(Ord. of 5-18-2009, § 11.101)

Sec. 98-722. Scope.

Adequate off-street parking and loading spaces shall be provided in all districts in accordance with the provisions in this article whenever a structure or use is established, constructed, altered, or expanded, an existing use is replaced by a new use (change of use), or the intensity of a use is increased through additional dwelling units, an increase in floor area or seating capacity or similar means. Such spaces shall be provided in accordance with the provisions of this Article, and shall be constructed prior to the issuance of a certificate of occupancy.

(Ord. of 5-18-2009, § 11.102)

Sec. 98-723. General standards.

(a) *Location of spaces.*

(1) *Proximity to site.* Off-street parking for other than residential use shall be either on the same lot or within 400 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant.

(2) *Rear yards.* Parking may be located in any rear yard in any zoning district.

(3) *Front and required side yards.* Off-street parking shall not be permitted in a side or front yard except as follows:

a. Off-street parking may be permitted to occupy a required front yard in the I-1, I-C, B-1, and B-3 districts after approval of the parking plan layout, provided that there shall be maintained a minimum unobstructed and landscaped setback of 20 feet in I-1 and I-C (industrial) districts and ten feet in the B-1 and B-3 districts between the nearest point of the off-street parking area, exclusive of driveways, and the nearest existing or proposed right-of-way line. The buffer area between the parking lot and the right-of-way line shall be landscaped in accordance with section 98-672.

b. Off-street parking may be located in a required side yard abutting a nonresidential zoning district in the I-1, I-C, TRD, B-1, B-2, B-3, and OS-1 districts provided that there shall be an unobstructed and landscaped setback of at least ten feet maintained between the nearest point of the off-street parking lot, exclusive of driveways, and the side lot line. Such unobstructed and landscaped setback shall extend continuously and uninterrupted along the side lot line from the edge of the parking area nearest the front lot line to the rear yard.

The unobstructed and landscaped setback of at least ten feet may be reduced or waived by the reviewing authority upon determining that such reduction or waiver is compatible with and/or part of a comprehensive plan with the adjacent properties.

(4) *Setback from residential districts and uses.* Parking areas, and circulation or access drives shall be setback from adjoining or abutting residentially zoned property as follows:

a. Where the parking lot or drive abuts a residential district at the side or rear lot line said parking lot or drive shall be setback a minimum of ten feet from said lot line.

b. Where the parking lot or drive shares common, contiguous street frontage with an abutting residentially zoned parcel, said parking lot or drive shall maintain the same minimum front or street side setback required for the residential parcel dependent upon orientation to the common street of said parcel and other residential parcels in the same block.

c. Private roads, private drives and off-street parking areas, including maneuvering lanes, shall not be permitted within required yards in the RM-1 and RM-2 districts where the adjacent property is zoned one-family residential.

(5) *Setback from buildings.* Parking, loading areas, and circulation or access drives shall set back at least seven feet from any building or structure. Concrete curbing shall be installed along the perimeter of the vehicular use area to prevent encroachments.

(b) *Residential parking spaces.* Residential off-street parking spaces shall consist of parking strip, driveway, garage, or combination and shall be located on the premises they are intended to serve.

(c) *Alteration of existing parking.* In all districts except the B-2 central business district, off-street parking existing at the effective date of the ordinance from which this chapter derives in connection with the operation of an existing building or use shall not be reduced to an amount less than required in this Article for a similar new building or use. Off-street parking spaces provided to meet the minimum parking requirements may not be changed to any other use unless equal facilities are provided elsewhere in compliance with this chapter.

(d) *Pedestrian circulation.* The parking lot layout shall accommodate pedestrian circulation. Pedestrian crosswalks shall be provided, distinguished by textured paving or pavement striping, and integrated into the sidewalk network.

(e) *Cross access.* Common, shared parking facilities are encouraged. As such, wherever feasible, cross-access connections between adjacent parking lots or a future connection when no adjacent parking lot exists but can reasonably be expected to be constructed on an adjacent parcel at a future date are required. Blanket cross-access easements across the entire parking lot area shall be provided for connected lots under separate ownership or management. The cross-access easement shall be without limitation and shall be recorded with the county register of deeds.

(f) *Prohibited activities.* The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited in off-street parking areas.

(g) *Permit required.* No parking lot shall be constructed unless a permit is issued by the building inspector. Applications for a permit shall be submitted to the city in such form as may be determined by the building inspector and shall be accompanied with two sets of plans for the development and construction of the parking lot showing that the provisions of this article will be fully complied with.

(Ord. of 5-18-2009, § 11.103)

Secs. 98-724—98-730. Reserved.

DIVISION 2. NUMERICAL PARKING REQUIREMENTS

Sec. 98-731. General provisions.

(a) *Uses not listed.* For uses not specifically listed in section 98-736, the default parking standard for that type of use shall apply (if one exists), unless the director of development services or his designee determines that a standard for another use is more appropriate.

(b) *Uses meeting more than one category.* Where more than one use is present in a building or on a site (such as a gas station with a convenience store and/or restaurant, or a place of worship with a day care center and community center) the various components of the use shall comply with the parking requirement applicable to each component. In such a case, the applicant must provide information regarding the floor area, employees, or other relevant information about each use in order to allow the city to determine the minimum parking requirement for the building or site. The shared parking provisions of section 98-732 may be applied if applicable.

(c) *Fractional spaces.* When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall require one parking space.

(d) *Units of measurement.* The following units of measurement are used in calculating required parking:

(1) *Floor area.* Where floor area is the unit for determining the required number of parking spaces, said unit shall mean gross floor area.

(2) *Usable floor area.* Usable floor area shall mean the floor area used for service to the public and shall not include floor area used for storage or processing and packaging of merchandise where it is undertaken in a room in which service to the public is not involved. When usable floor area is not known at the time of site plan submittal, 80 percent of the total floor area shall be used for usable floor area for parking computations.

(3) *Places of assembly.* For places of worship, sports arenas or similar places of assembly in which those in attendance occupy benches, pews or similar seating, each 24 inches of such seating shall be counted as one seat.

(4) *Employees.* For requirements stated in terms of employees, the calculation shall be based on the maximum number of employees on the premises during the largest shift.

(Ord. of 5-18-2009, § 11.201)

Sec. 98-732. Shared parking.

Different types of uses have different peak usage times, for instance, residential land uses generate the most parking demand during evening and night hours, while office uses generate the most parking demand during business hours. Therefore, the minimum parking requirement may be adjusted by a shared parking factor that considers a mixture of uses sharing a common parking facility. The uses that share a common parking facility may be located within a single building or in separate buildings located on the same or different sites.

(a) *Shared parking procedure.* The number of shared parking spaces required for two or more land uses sharing a parking lot or located on the same parcel of land shall be determined by the following procedure:

(1) Multiply the minimum parking required for each individual use, as set forth in the following shared parking factors table, by the appropriate percentage indicated in the Shared Parking Factors table below for each of the six designated time periods.

(2) Add the resulting sums for each of the six columns.

(3) The minimum parking requirement shall be the highest sum among the six columns resulting from the above calculations.

(4) *Other uses.* If one or all of the land uses proposing to make use of shared parking facilities do not conform to the general land use classifications in the Shared Parking Factor table, as determined by the planning commission, the applicant shall submit sufficient data to indicate the principal operating hours of the uses. Based upon this information, the planning commission shall determine the appropriate shared parking requirement, if any, for such uses.

(4) *Other uses.* If one or all of the land uses proposing to make use of shared parking facilities do not conform to the general land use classifications in the Shared Parking Factor table, as determined by the planning commission, the applicant shall submit sufficient data to indicate the principal operating hours of the uses. Based upon this information, the planning commission shall determine the appropriate shared parking requirement, if any, for such uses.

SHARED PARKING FACTORS						
Land Use	Weekdays			Weekends		
	1 a.m. to 7 a.m.	7 a.m. to 7 p.m.	7 p.m. to 1 a.m.	1 a.m. to 7 a.m.	7 a.m. to 7 p.m.	7 p.m. to 1 a.m.
Residential	95%	25%	95%	95%	75%	95%
Commercial/Retail	0%	95%	75%	0%	90%	75%
Office/ Service	5%	95%	5%	0%	10%	0%

(b) *Agreement.* A written agreement between joint users in a form approved by the city shall be filed with the Lenawee County Register of Deeds. The agreement shall assure the continued availability of the parking facility for the uses it is intended to serve.

(Ord. of 5-18-2009, § 11.202)

Sec. 98-733. Banked parking.

If the minimum number of required parking spaces exceeds the amount necessary to serve a proposed use, the planning commission may approve construction of a lesser number of parking spaces, subject to the following:

(a) The banked parking shall be shown on the site plan and set aside as landscaped open space.

(b) The banked parking shall be constructed if the city documents three incidents of problem parking on the site within any one year period.

(c) Banked parking shall be located in areas that are suitable for future parking and comply with the requirements of this chapter.

(Ord. of 5-18-2009, § 11.203)

Sec. 98-734. Modification of parking requirements.

The planning commission may modify the numerical requirements for off-street parking based on evidence submitted by the applicant that another standard would be more reasonable because of the level of current or future employment or customer traffic.

The planning commission may attach conditions to the approval of a modification of the requirements of 98-736 that bind such approval to the specific use in question.

(Ord. of 5-18-2009, § 11.204)

Sec. 98-735. Maximum parking permitted.

In order to minimize excessive areas of pavement which negatively impact aesthetic standards and contribute to high volumes of storm water runoff, the maximum amount of off-street parking permitted for any use shall not exceed 130 percent of the minimum parking requirements of section 98-736. This requirement shall not apply to single-family or two-family dwellings. The planning commission may permit additional parking over and above the maximum parking limit based on documented evidence indicating that the maximum parking permitted will not be sufficient to accommodate the use on a typical day.

(Ord. of 5-18-2009, § 11.205)

Sec. 98-736. Minimum parking required.

Off street parking shall be provided in compliance with the minimum requirements in the following table:

USE	MINIMUM PARKING REQUIRED
	COMMUNITY and RECREATION USES:
Default Parking Standard	1 space per 3 persons permitted at maximum occupancy
School, elementary or middle	1 space per employee + 1 space per 3 persons permitted at maximum occupancy for auditoriums and gyms
School, high	1 space per employee + 1 space per each 10 students + 1 space per 3 persons permitted at maximum occupancy for auditoriums and gyms
Hospital or urgent care center	1 space per 3 beds
Municipal buildings and uses	1 space per employee
Nursery schools, day nurseries, and child care centers	1 space per 10 pupils + 1 space per employee + 5 stacking spaces for drop-off and pick-up
Places of worship	1 space per 3 persons permitted in the main worship area at maximum occupancy
	COMMERCIAL, OFFICE and RETAIL USES:
Default parking standard	1 space per 300 sq. ft. of floor area.
Car wash	1 space per employee + 4 stacking spaces per wash line or bay + 1 exit stacking space for post-wash detailing
Drive-in or drive-through facility	• 3 stacking spaces per general use service window or station, or • 10 stacking spaces per restaurant service window
Hotel, motel, or other lodging	1.1 spaces per room
Office, medical or professional	1 space per 350 sq. ft. of floor area
Places of assembly*	1 space per 3 persons permitted at maximum occupancy
Restaurant	1 space per 2 persons permitted at maximum occupancy
Retail sales and service establishments	1 space per 300 sq. ft. of floor area
	INDUSTRIAL, RESEARCH and TECHNOLOGY USES:
Light industrial and manufacturing (default parking standard)	1 space per 550 sq. ft. of shop or manufacturing floor area + 1 space per 350 sq. ft. of office floor area
Mini-warehouses	3 spaces + 1 space per employee

Warehousing or distribution	1 space per 1,800 sq. ft. of floor area + 1 space per 350 sq. ft. of office area
	RESIDENTIAL USES:
Elderly housing, independent	1.25 spaces per dwelling unit
Elderly housing, dependent	0.75 spaces per sleeping room
Foster care small or large group home	0.25 spaces per resident or client at maximum occupancy
Congregate care community>	
State licensed residential facility	
Group child day care home>	
Multiple family dwelling unit	1.5 spaces per dwelling unit with 2 or fewer bedrooms + 2 spaces per dwelling unit with 3 or more bedrooms + 0.25 visitor spaces per dwelling unitSingle family dwelling unit
(default parking standard)	2 spaces for each dwelling unit

*Places of assembly are commercial uses where parking demand is generated by occupancy rather than floor area. Examples include movie and live action theatres, banquet halls, fraternal organizations, etc.

(Ord. of 5-18-2009, § 11.206)

Secs. 98-737—98-750. Reserved.

DIVISION 3. PARKING DESIGN STANDARDS

Off-street parking facilities, other than parking for one or two-family dwellings, shall be designed, constructed, and maintained in accordance with the following:

Sec. 98-751. Parking layout.

The layout of off-street parking facilities shall be in accordance with the following minimum requirements:

PARKING LAYOUT					
Parking Pattern (degrees)	Maneuvering Lane Width	Space Width	Space Length	Width of Maneuvering Lane Plus:	
				One Row (X)	Two Rows (Y)
0° (parallel)	24 feet (two-way)	8 feet	22 feet	20 feet (one-way)	40 feet (two-way)
0° to 29°	15 feet (one-way)	9 feet	18 feet	33 feet	50 feet
30° to 53°	15 feet (one-way)	9 feet	18 feet	36 feet	56 feet
54° to 74°	20 feet (one-way)	9 feet	18 feet	40 feet	60 feet
75° to 90°	24 feet (two-way)	9 feet	18 feet	42 feet	60 feet

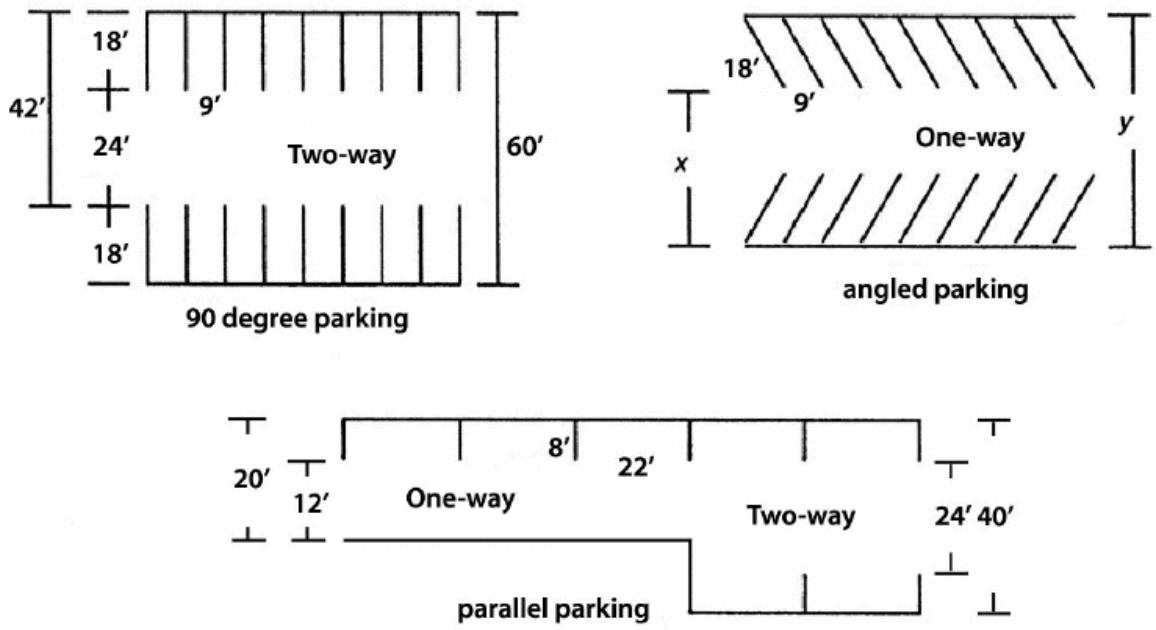


Figure 5. Parking Layout

(a) The depth and width of parking spaces and the width of maneuvering lanes shall be measured from the face of the curb, or when no curb is proposed, parking spaces and maneuvering lanes shall be measured from the edge of pavement. If any fixed objects, including, but not limited to, bollards, posts, building edges, bumper posts and light poles, are located within the pavement area of a parking space or maneuvering lane, the depth and width of the parking space and the width of the maneuvering lane shall be measured from the edge of the fixed object.

(b) Fire hydrants shall not be located closer than five feet from the back of the curb adjacent to any parking space, loading area, fire lane or maneuvering lane.

(c) Parking aisles shall not exceed 300 feet in length without a break in circulation.

(d) All parking lots shall be provided with wheel stops or bumper guards so located that no part of parked vehicles will extend beyond the lot boundaries, into required screening or landscaping, or across sidewalks or pedestrian pathways.

(e) Parking structures may be built to satisfy off street parking regulations when located in other than residential districts subject to the area, height, bulk and placement regulations of such district in which located.

(f) When a wall extends to an alley which is a means of ingress and egress to and from an off-street parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.

(g) Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least 20 feet distant from any adjacent property located in any single-family residential district.

(Ord. of 5-18-2009, § 11.301)

Sec. 98-752. Barrier free parking requirements.

Barrier free parking spaces shall be provided per the state construction code, shall be accessible from and conveniently located near each primary building entrance, and shall be identified by above-grade signs and pavement striping.

The following table is a summary of the barrier free parking space requirements in effect at the effective date of this Ordinance:

BARRIER FREE PARKING REQUIREMENTS			
Number of Parking Spaces Provided	Minimum Number of Barrier-Free Spaces Required	Van Accessible Parking Spaces Required	Accessible Parking Spaces Required
Up to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1,000	2% of total parking provided in each lot	1 out of every 8 accessible spaces	7 out of every 8 accessible spaces
1,001 and over	20 plus 1 per 100 spaces over 1,000	1 out of every 8 accessible spaces	7 out of every 8 accessible spaces

(Ord. of 5-18-2009, § 11.302)

Sec. 98-753. Lighting and landscaping.

Parking lot landscaping shall be provided as required by Article X and lighting shall be provided as required by Article VIII, Division 2.

(Ord. of 5-18-2009, § 11.303)

Sec. 98-754. Pavement striping.

All parking spaces shall be clearly striped with double four (4) inch wide lines, spaced twenty-four (24) inches apart, to facilitate movement and to help maintain an orderly parking arrangement. Refer to Figure 6:

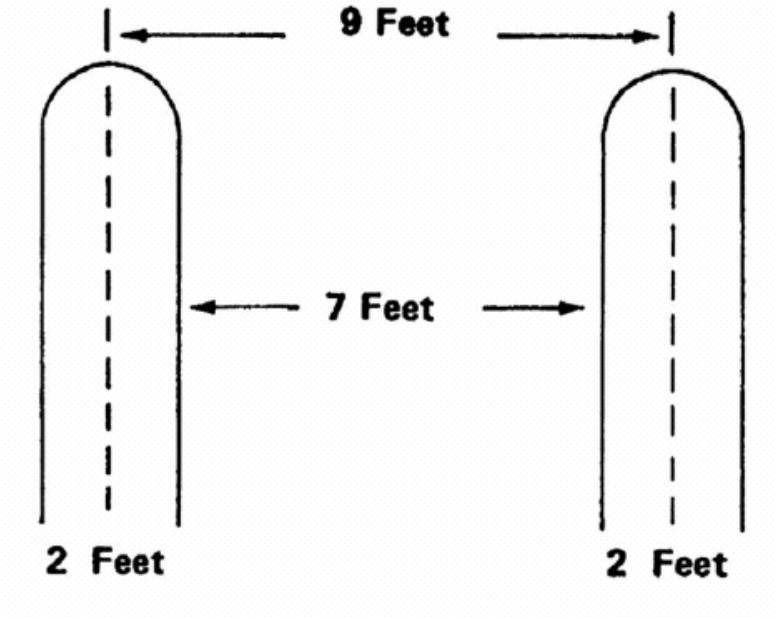


Figure 6. Parking Lot Double Striping

(Ord. of 5-18-2009, § 11.304)

Sec. 98-755. Off-street stacking spaces.

Where required by this chapter, stacking spaces shall be eight feet wide by sixteen feet long. Stacking spaces shall not intrude into any street right-of-way or interior maneuvering lane.

(Ord. of 5-18-2009, § 11.305)

Sec. 98-756. Off-street loading.

There shall be provided and maintained on the same premises with every structure, use or part thereof involving the receipt or distribution of vehicles, equipment, materials or merchandise adequate space for standing, loading, and unloading to avoid undue interference with public use of dedicated rights-of-way. Such space shall be provided as follows:

(a) *Spaces Required—OS-1, B-1, B-2, and B-3 districts*. In the OS-1 and B districts a minimum of one loading space shall be provided per establishment or building, whichever is less. Such off-street loading spaces shall be located in the rear yard, and shall have a minimum dimension of 10 feet by 40 feet.

(b) *Spaces Required—I-1, I-C, and TRD districts.* All spaces in the I-1, I-C, and TRD districts shall measure ten by 50 feet, or 500 square feet in area, with a clearance of at least 14 feet in height. Loading dock approaches shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent durable and dustless surface. All spaces shall be provided in the following ratio of spaces to usable floor area:

(1) Buildings up to and including 2,000 square feet of floor area shall not be required to provide a dedicated loading space.

(2) Buildings with more than 2,000 square feet in floor area, but less than 20,000 square feet of gross floor area shall provide at least one (1) space.

(3) Buildings with more than 20,000 square feet in floor area, but less than 100,000 square feet shall provide a minimum of one (1) space plus one space for each 20,000 square feet in excess of 20,001 square feet.

(4) Buildings 100,001 square feet and greater in floor area shall provide five (5) spaces plus one (1) space for each additional 40,000 square feet or fraction thereof.

(c) *Location of loading spaces.* The location and arrangement of loading spaces shall be subject to the following:

(1) Off-street loading space may be completely enclosed within a building, or may occupy a portion of the site outside of the building. Where any portion of a loading space is open to view from a public right of way or residential zoning district, screening shall be provided in accordance with Article X of this chapter (Landscaping and Screening).

(2) All loading and unloading in an I-1, I-C or TRD district shall be provided off-street in a rear or side yard. Loading and unloading facilities shall be prohibited in the front yard.

(3) Off-street loading facilities that make it necessary or possible to back directly into a public street shall be prohibited. All maneuvering of trucks and other vehicles shall take place on the site and not within a public right-of-way.

(4) Off-street loading facilities shall be located so as to not interfere with pedestrian access.

(5) Cross-access agreements between adjacent properties to facilitate off-street truck maneuverability are encouraged.

(d) *Loading restrictions.* Delivery vehicles and trailers shall load or unload or park only in designated loading/unloading zones as indicated on the approved site plan. Delivery vehicles and trailers shall not park or load or unload elsewhere on the premises. Under no circumstances shall a delivery vehicle or trailer park or be allowed to park in a designated loading/unloading zone for longer than 48 hours.

(e) *Modification of loading space requirements.* The planning commission may modify or waive the requirement for off-street loading areas, upon determining that adequate loading space is available to serve the building or use, or that provision of such loading space is unnecessary or impractical to provide.

(Ord. of 5-18-2009, § 11.306)

Sec. 98-757. Grading and drainage.

Driveways and parking areas shall be graded and provided with adequate drainage to dispose of surface waters in accordance with applicable construction and design standards established by the City. Surface water shall not drain on to adjoining lots, towards buildings or across a public street, except in accordance with an approved drainage plan.

(Ord. of 5-18-2009, § 11.307)

Sec. 98-758. Construction.

The entire parking area, including parking spaces and maneuvering lanes required under this section, shall be provided with asphaltic or concrete surfacing in accordance with specifications approved by the city engineer. The parking area shall be surfaced within one year of the date the permit is issued. Off-street parking areas shall be drained 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 or toward buildings, and plans shall meet the approval of the city engineer.

(Ord. of 5-18-2009, § 11.308)

Sec. 98-759. Maintenance.

All parking and loading areas shall be maintained in accordance with the provisions of this article, an approved site plan and the following:

(a) Alterations to an approved parking or loading facility that are not in accordance with an approved site plan shall be considered a violation of this chapter.

(b) All parking areas, perimeter landscaped areas, and required screening shall be kept free from tall grass, weeds, trash, and debris. Surfacing, curbing, lighting fixtures, signage, and related improvements shall be kept in good repair.

(c) Parking and loading areas shall be diligently kept clear of snow. Up to ten perent the parking area may be used for snow deposit.

(d) Parking lots shall be maintained in a clean and debris free manner.

(Ord. of 5-18-2009, § 11.309)

Secs. 98-760—98-780. Reserved.

ARTICLE XII. DEFINITIONS

Sec. 98-781. Rules of construction.

The following rules of construction apply to the text of this chapter:

(a) The particular shall control the general.

(b) 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.

(c) The word "shall" is always mandatory and not discretionary. The words "may" or "should" are permissive and discretionary.

(d) Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

(e) A "building" or "structure" includes any part thereof. The word "dwelling" includes "residence". The word "lot" includes the words "plot" or "parcel".

(f) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" or "occupied for."

(g) The word "person" includes an individual, a firm, an association, an organization, a corporation (public or private), a partnership or co-partnership, a limited liability company, an incorporated or unincorporated association, a trust, or any other entity recognizable as a "person" under the laws of Michigan.

(h) 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" or "either ... or," the conjunction shall be interpreted as follows:

(1) "And" indicates that all the connected items, conditions, provisions or events shall apply.

(2) "Or" indicates that all the connected items, conditions, provisions or events shall apply singly or in any combination (i.e., "or" also means "and/or").

(3) "Either ... or" indicates that the connected items, conditions, provisions or events may apply singly.

(i) The terms "this zoning ordinance" or "this chapter" includes the Zoning Ordinance of the City of Tecumseh and any amendments there to.

(j) The terms "abutting" or "adjacent to" include property "across from", such as across a street, alley, or an easement. This term shall also apply to adjacent zoning districts in an adjacent community.

(k) The word "he" includes "she."

(l) The phrase "such as" shall mean "such as, but not limited to."

(m) The word "including" shall mean "including, but not limited to."

(n) Terms not defined in Article XII of this chapter (Definitions), or elsewhere in this chapter shall have the meaning customarily assigned to them.

(Ord. of 5-18-2009, § 12.101)

Sec. 98-782. Definitions.

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

Accessory building. A type of structure that: has a roof which is supported by columns or walls; is intended for the shelter or enclosure of persons, animals, goods or property; and is further intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same zoning lot as the principal use to which it is exclusively related.

Examples of accessory buildings include: garages, storage sheds, gazebos, play houses, greenhouses, pump houses, and dog houses.

Accessory building, attached. An accessory building that is physically joined to the principal structure by a wall, roof, rafter, or other structural component.

Accessory structure. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location, and that is intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot or parcel as the principal use to which it is exclusively related. Examples of accessory structures include: accessory buildings, swimming pools, play structures, HVAC units, generators, and tennis courts.

Accessory use. A use that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot or parcel as the principal use to which it is exclusively related.

Adjacent. Lots are adjacent when at least one boundary line of one lot touches a boundary line or lines of another lot. Exception: when the only touching boundary lines are located within a road easement or right-of-way.

Alley. Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

Alteration. Any change, addition or modification in construction or type of occupancy, or in the structural members of a building such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to as altered or reconstructed.

Apartment. A suite of rooms in a multiple-family building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

Appearance. The outward aspect visible to the public.

Appropriate. Sympathetic, or fitting, to the context of the site and the whole community.

Architectural ambiance. The architectural character or tone of buildings in an area, as determined by building scale and design, amount and type of activity, intensity of use, location and design of space, and related factors that influence the perceived quality of the environment.

Architectural and urban scale. The relationship of a particular project, development or building in terms of size, height, bulk, intensity, and aesthetics, to its surroundings and to general character and scale of the City.

Architectural features. Steps, window sills, belt courses, brick and/or wrought iron wing walls, chimneys, architraves and pediments.

Assisted living facility. A facility providing responsible adult supervision or assistance with routine living functions of an individual in instances where the individual's condition necessitates that supervision or assistance.

Automobile repair. See VEHICLE SERVICE.

Awning and *canopy.* A roof like structure which projects from the wall of a building for the purpose of providing shielding from the elements.

Bakery or *confectionary.* A use involved in the transformation of livestock and agricultural products primarily for final consumption on the premises or sale directly to customers. Products manufactured on the site may be sold or distributed to other retailers for distribution to customers as an incidental use.

Basement. That;; portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.A basement shall not be counted as a story.

Bed and breakfast. A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit and a use in which transient guests are provided a sleeping room and board in return for payment.

Berm. A mound of soil graded, shaped and improved with landscaping in such a fashion to provide screening.

Block. 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, un-subdivided acreage, lake, river or live stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of the city.

Board of appeals. The zoning board of appeals as established under this chapter.

Building. Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels or property of any kind.

Building height. The vertical distance from the established sidewalk grade at the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line for mansard roof, and the mean height between the eaves and the ridge for gable, hip and gambrel roofs. Penthouses, towers, cupolas, steeples, antennas and other roof structures used only for mechanical operation of the building shall not be included as the height of the building. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall. See Figure 7 below.

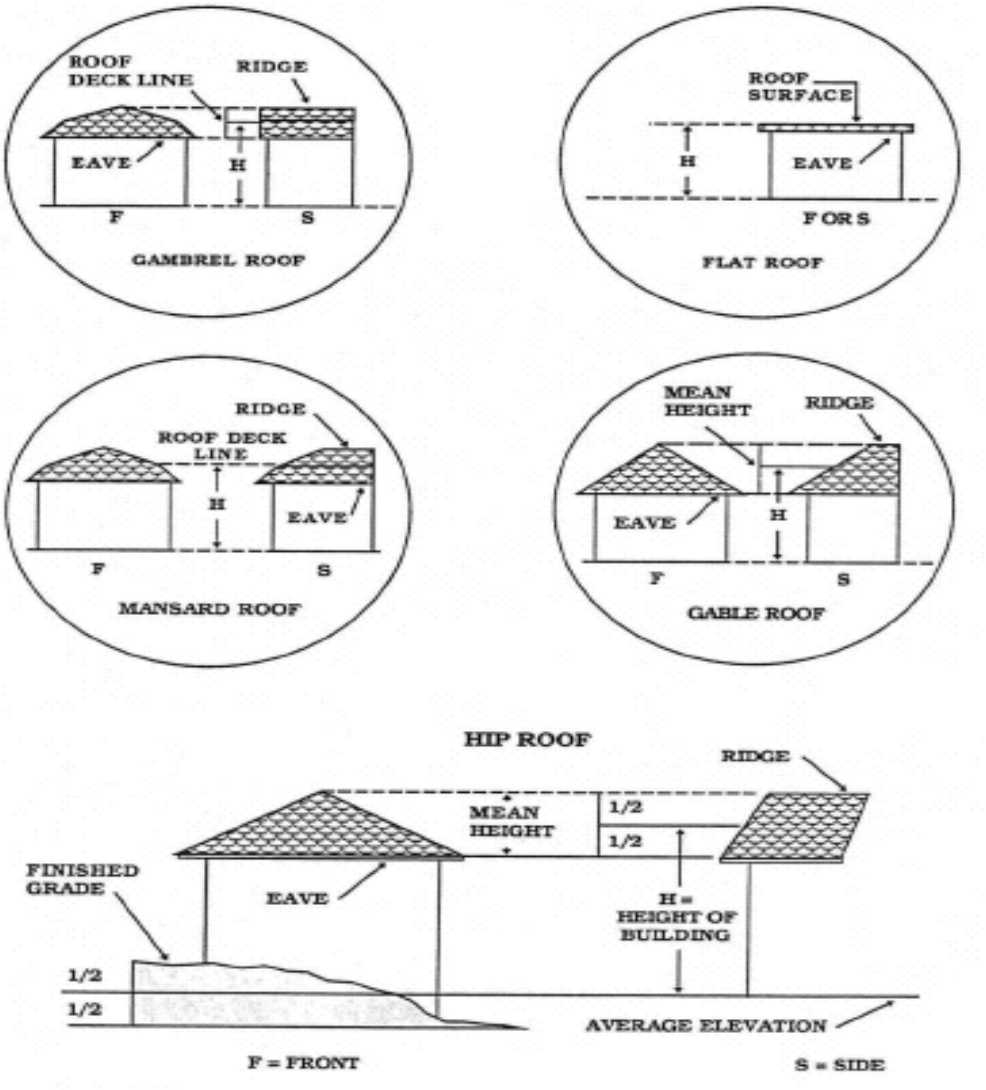


Figure 7. Building Height

Building line. A line formed by the face of the building; and for the purposes of this chapter, a minimum building line is the same as a front setback line.

Building, main or principal. A building in which is conducted the principal use of the lot on which it is situated.

Child care center. A facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents are not immediately available to the child.

Clinic. A place for the care, diagnosis and treatment of sick or injured persons, and those in need of medical or minor surgical attention. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation or to the service of its patients, but may not include facilities for inpatient care of major surgery.

Club. An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics or the like, but not operated for profit.

Commercial recreation:

(1) *Large scale indoor.* Indoor facilities such as gymnasiums, handball, racquetball, tennis clubs, ice or roller skating rinks, swimming pools, archery or indoor shooting ranges, etc. that are greater than 25,000 sq. ft. in floor area. This classification may include restaurants, snack bars, and other incidental food and beverage service to patrons.

(2) *Small scale indoor.* Indoor facilities such as gymnasiums, handball, racquetball, tennis clubs, ice or roller skating rinks, swimming pools, archery or indoor shooting ranges, poolrooms, arcades, etc. that are less than 25,000 sq. ft. in floor area. This classification may include restaurants, snack bars, and other incidental food and beverage service to patrons.

(3) *Outdoor.* Outdoor sports and recreation facilities such as sports fields, amusement or theme parks, racetracks, golf driving ranges not in conjunction with a golf course, etc. This classification may include restaurants, snack bars, and other incidental food and beverage service to patrons.

Comprehensive plan. The comprehensive community plan, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development ofthe city, and includes any unit or part of such plan, and any amendment to such plan or parts of the plan.

Condominium definitions.

(1) *Condominium Act* means Public Act No. 59 of 1978 (MCL 559.101 et seq.).

(2) *Condominium document* means the master deed, recorded pursuant to the condominium act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

(3) *Condominium subdivision plan* means the drawings and information prepared in accordance with section 66 ofthe condominium act (MCL 599.166).

(4) *Condominium unit* means the portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.

(5) *Consolidating master deed* means the final amended master deed for a contractible or expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

(6) *Contractible condominium* means a condominium project which any portion of the submitted land or buildings may be withdrawn in accordance with this chapter and the condominium act.

(7) *i;Conversion condominium* means a condominium project containing condominium units some or all of which were occupied before the filing of a notice of taking reservations under section 7 of the condominium act (MCL 599.107).

(8) *Expandable condominium* means a condominium project to which additional land may be added in accordance with this chapter and the condominium act.

(9) *Master deed* means the condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by section 8 of the condominium act (MCL 599.108). (10) Notice of proposed action means the notice required by section 71 of the condominium act (MCL 599.171), to be filed with the city and other agencies.

(10) *Site condominium* means a condominium development containing residential, commercial, office, industrial or other structures for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a parcel of land defined in this section as a condominium unit, as described in the master deed, as well as a described space in a building located on a condominium unit.

Condominium subdivision (site condominium). A method of subdivision where land ownership of sites is regulated by the condominium act, Public Act No. 59 of 1978 (MCL 559.101 et seq.) as opposed to the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq.). Condominium subdivision shall be equivalent to the term "subdivision" as used in this chapter and in chapter 46.

Conference center. A facility used for business or professional conferences and seminars with accommodations for sleeping, eating and recreation.

Convalescent or nursing home. A home for the care of children, the aged, the infirm, or a place of rest for persons suffering serious bodily disorders, wherein two or more persons are cared for. A convalescent or nursing home is subject to the licensing requirements of applicable State laws (Public Act 139 of 1956, as amended).

Decorative fence. See "Fence, decorative."

Decorative items. Windsocks, open flags, or similar decorations.

Development. The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

District. A portion of the incorporated area of the city within which certain regulations and requirements or various combinations apply under the provisions of this chapter.

Drive-in establishment. A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in or momentarily stepped away from their motor vehicles, rather than within a building or structure, so that consumption within motor vehicles may be facilitated.

Drive-through establishment. A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to service patrons from a window or booth while in their motor vehicles, rather than within a building or structure, so that consumption off the premises may be facilitated.

Dwelling. A residential unit providing complete, independent living facilities for one family including permanent provisions for living, sleeping, cooking, eating and sanitation.

(1) *Apartment.* A suite of rooms or a room in a multiple-family or commercial building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

(2) *Attached dwelling.* A dwelling unit attached to two or more dwelling units by common major structural elements. There are three types of attached dwelling unit:

a. *Apartment building.* A building divided into apartments and designed for residential occupancy by three or more families and so designed and arranged as to provide cooking and kitchen accommodations and sanitary facilities for three or more families with each floor having two means of egress, exclusive of an elevator. Dwelling units in a multiple family building may be directly accessible and independent for each dwelling unit, or accessible via an internal corridor or hallway.

b. *Stacked flats building.* A type of attached dwelling unit building occupied by three (3) or more families, where dwellings are divided by party walls in the horizontal plane and floor-ceiling assemblies in the vertical plane in an appropriate manner for multiple-family uses. Each dwelling unit is capable of individual use and maintenance without trespassing upon adjoining properties, and utilities and service facilities are independent for each property.

c. *Townhouse.* A type of attached dwelling unit building that is divided from the dwelling adjacent to it by a party wall extending the full height of the building with no visible separation between walls or roof. Each townhouse dwelling shall be capable of individual use and maintenance

without trespassing upon adjoining dwellings, and access, utilities and service facilities shall be independent for each dwelling.

(3) *Detached dwelling.* A dwelling unit which is not attached to any other dwelling unit by any means.

(4) *Efficiency apartment.* A dwelling unit with a bathroom and principal kitchen facilities designed as a self contained unit for living, cooking, and sleeping purposes, and having no separate designated bedroom.

(5) *Manufactured home dwelling.* A dwelling unit that is transportable in one or more sections, which is built upon a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Recreational vehicles as described and regulated herein shall not be considered "manufactured homes" for the purposes of this chapter.

(6) *Modular dwelling.* A dwelling which consists of prefabricated units transported to the site in two or more sections on a removable undercarriage or flat-bed and assembled for permanent location upon a permanent foundation on the lot, and to which such major elements as the heating system or a substantial portion of the siding are installed after transport, and shall not be considered a mobile home.

(7) *Site built dwelling.* A dwelling unit which is substantially built, constructed, assembled, and finished on the premises which are intended to serve as its final location. Site-built dwelling units shall include dwelling units constructed of precut materials, and paneled wall, roof and floor sections when such sections require substantial assembly and finishing on the premises which are intended to serve as it final location.

(8) *Single-family dwelling.* A building designed exclusively for residential occupancy by not more than one family.

(9) *Two-family (duplex) dwelling.* A building designed exclusively for residential occupancy by two families, and arranged to provide separate kitchen and sleeping accommodations and sanitary facilities for each family.

Erect. To build, construct, reconstruct, move, attach, hang, place, suspend, affix, paint or undertake any physical operation on the premises required for development of a building, sign, site or structure; including, but not limited to construction, grading, excavations, fill and drainage activities.

Essential services. The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection therewith, but not including buildings which are necessary for the furnishing of adequate services by such utilities or municipal departments for the general health, safety or welfare. Wireless communication towers or antennas, utility buildings and storage yards are not considered essential services under this chapter.

Established building line. The established building line is equal to the average front yard setbacks of adjacent dwellings within 200 feet and on the same side of the street as the subject parcel. The front setback of an adjacent structure shall be measured at the shortest distance between the structure's exterior surface and the front lot line. In the event that any of the parcels located within 200 feet of the subject parcel is vacant, the minimum front yard setback required for that district shall be used as the front yard setback for that parcel in calculating the average setback.

Excavation. Any breaking of the ground to hollow out by cutting, digging, or removing any soil or rock matter, except for common household gardening and general farm care.

Family.

(1) An individual or group of two or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or

(2) A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition does not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

Fence. A structure constructed for the purpose of or to have the effect of enclosing the area it is constructed upon.

Fence, decorative. A fence consisting of wrought iron, galvanized steel, aluminum, vinyl, wood or similar materials fabricated into a design with specific pattern elements or ornamentation. All spaces in the fence shall be open and unobstructed and the fence shall not block vision to an extent greater than forty percent (40%). Ornamental fences shall not include chain-link or wire fences or fences of similar construction.

Floor area. The sum total of the area of all buildings on a site excluding utility rooms and mechanical rooms, measured between the outer perimeter walls of the buildings, provided that space in a building or structure used for parking of motor vehicles shall not be computed in the floor area. Courtyards or balconies open to the sky and roofs which are utilized for recreation, etc., shall not be counted in the floor area but shall be a part of the recreational space. See Figure 8 below.

Floor area, gross (GFA). 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, includes 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. Any space devoted to off-street parking or loading shall not be included in floor area. Areas of basements, utility rooms, breezeways, unfinished attics, porches (enclosed or unenclosed) or attached garages are not included. See Figure 4

Floor area, residential. The sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

Floor area, usable (UFA). 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 to customers, patrons, clients or patients, including areas occupied by fixtures or equipment used for the display or sale of goods or merchandise, but not including areas used or intended to be used for the storage of merchandise, utility or mechanical equipment rooms, sanitary facilities, or service hallways or corridors. In the case of a half story, the usable floor area shall be considered to be only that portion having a clear height above it of four feet or more. See Figure 8 below.

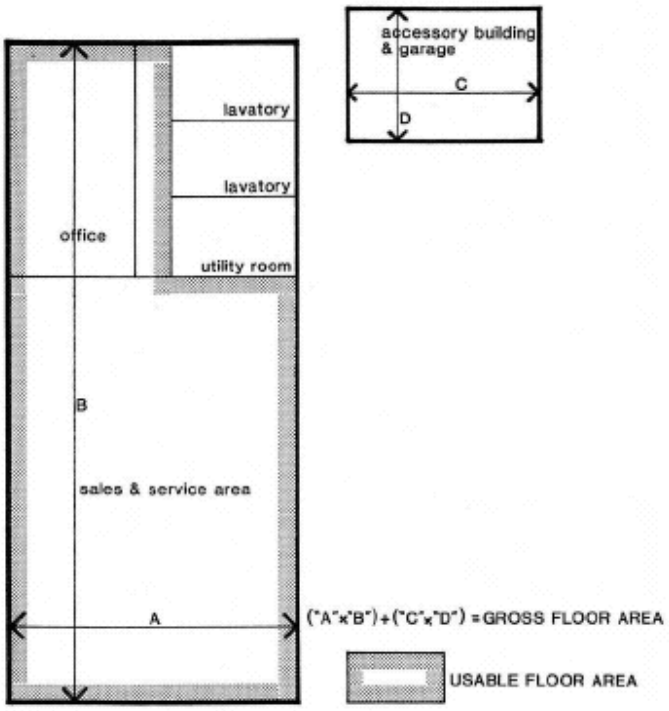


Figure 8. Floor Area Terminology

Floor plate: the horizontal area of the first floor of a building measured to the exterior face or exterior walls at grade level. The "floor plate" does not include the area of upper stories or basements.

Food manufacturing. The transformation of livestock and agricultural products for intermediate consumption. Food products manufactured at this type of operation are intended primarily for distribution to wholesalers or retailers.

Garage, enclosed. An accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory and having walls on all sides with access by means of closable doors.

Garage, private. An accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles and such other lawn and home care equipment owned and used by the occupant of the building to which it is accessory.

Garage sale. Any sale of personal effects, jewelry or household items, furnishings and equipment belonging to the owner or occupant of the property held in any district by the owner, occupant or his personal representative.

Grade. A reference plane representing the average of the finished ground level adjoining the building at all exterior walls established for the purpose of regulating the number of stories and the height of buildings. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building/dwelling.

Greenbelt. A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this chapter.

Guarantee. A cash deposit, certified check, irrevocable bank letter of credit, or such other instrument acceptable to the city.

Hardship. A situation created by circumstances unique to an individual property that do not generally occur to land or buildings in the neighborhood or zoning district of the property in question and which circumstances make the use of such property unfeasible under conditions imposed by this chapter. Hardship shall not include personal or financial hardship or economic disadvantage, nor shall it constitute circumstances that are self-created. Home occupation means an occupation carried on by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

Hemp product. A product that contains a compound, blend, extract, infuse, or derivative of industrial hemp that is intended to either be used or consumed by a consumer.

Home occupation. An occupation or profession customarily carried on by the occupant of a dwelling unit at the dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

Hospice. A lodging place for the ill where persons are housed and furnished meals and attendant care.

Hospital. A building, structure or institution in which sick or injured persons are given medical or surgical treatment and operating under license by the health department and the state, and that is used for primarily inpatient services, and including such related facilities as laboratories, outpatient departments, central service facilities, and staff offices.

Hotel or *motel.* A building or part of a building, with a common entrance, in which the dwelling units or rooming units are used primarily for transient occupancy, and in which one or more of the following services are offered: maid service, furnishing of linen, telephone, secretarial or desk service, and bellboy service. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.

Housing for the elderly:

(1) *Independent elderly housing* is housing for the elderly or seniors provided in a multiple-family or cluster housing form with full facilities for self-sufficiency in each individual unit. A community center for this overall development may be provided.

(2) *Dependent elderly housing* is housing for the elderly or seniors provided in a multiple-family housing form with central dining facilities provided as a basic service to each unit. Dependent elderly housing may also include congregate care or assisted care facilities where some assistance with the activities of daily living is provided.

Human scale. The relationship between the person and his or her environment, whether natural or created which is comfortable, intimate, and contributes to the individual's sense of accessibility.

Improvements. Those features and actions associated with a project which are considered necessary by the city to protect natural resources or the health, safety and welfare of the residents ofthe city, and future users or inhabitants of the proposed project or project area, including parking areas, landscaping, roadways, lighting, utilities, sidewalks, screening and drainage. Improvements do not include the entire project which is the subject of zoning approval.

Industrial hemp: A crop that is limited to types of the plant Cannabis Sativa Linnaeus having no more than three-tenths of one percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

Industrial hemp facility: A person authorized to manufacture hemp products in the city.

Junkyard. An area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A junkyard includes automobile wrecking yards and includes any open area of more than 200 square feet for storage, keeping or abandonment of junk.

Kennel. Any lot or premises on which three or more dogs, cats or other household pets are either permanently or temporarily boarded or bred and raised for remuneration.

Loading space. An off-street space on the same lot with a building or group of buildings for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

Lot. A parcel of land occupied or intended to be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and accessory uses, together with such yards and open spaces as are required under the provisions of this chapter. A lot mayor may not be specifically designated as such on public records. Lot shall mean the same as homesite and condominium unit in site condominium developments.

Lot area, gross. The total horizontal area within the lot lines of the lot.

Lot area, net. Gross lot area minus any portions of the lot located within dedicated rights-of-way, drainage easements, or bodies of water.

Lot, corner. 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 shall be considered a corner lot for the purposes 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 or the straight street line extended, form an interior angle of less than 135 degrees. See Figure 9 below.

Lot coverage. The part or percentage of the lot occupied by buildings, including accessory buildings and including but not limited to patios, decks, pools and similar structures.

Lot depth. The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot, interior. Any lot other than a corner lot. See Figure 9 below.

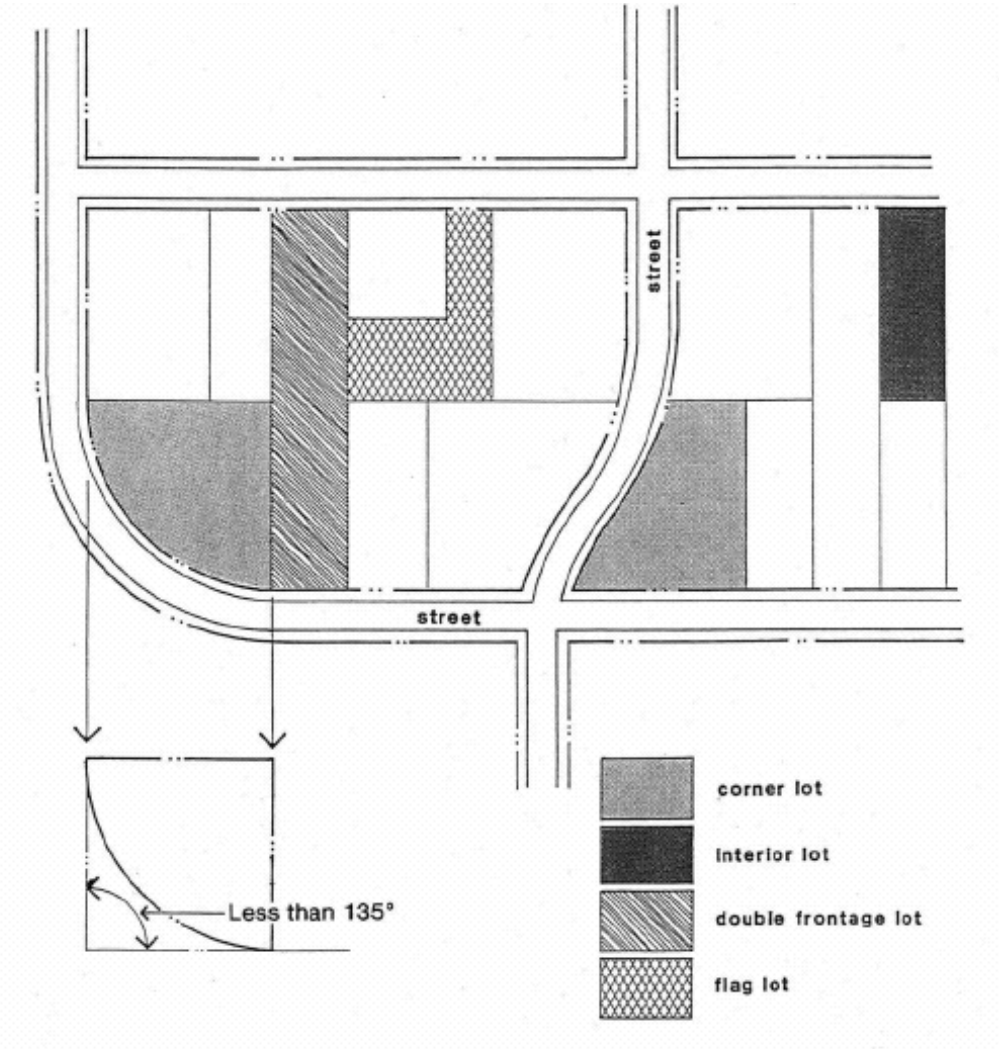


Figure 9. Lot Types

Lot line. Any line dividing one lot from another lot, or from a street right-of-way or from any public place. See Figure 11 below.

(1) *Front lot line.*

a. In the case of an interior lot, the line separating the lot from the street, except if the shape of the parcel, or some other reason, makes it impractical to use such line as the front line, another line may be used as the front upon approval by the Zoning Board of Appeals, if the placement of the structures and resulting yards are consistent with, and more easily blend with, the other buildings and development in the adjoining area.

b. In the case of a corner lot, the front lot line is that line separating such lot from the street which is designated as the front street in the plat and in the application for a building permit or zoning occupancy permit. In the case of a double frontage lot the front line is that line separating such lot from that street which is designated as the front street in the plat, or in the request for a building permit.

(2) *Rear lot line.* The lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary 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 where this definition does not apply, the Planning Commission shall designate the rear lot line.

(3) *Side lot line.* Any lot lines other than the front lot line or 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 is an interior side lot line.

Lot of record. A parcel of land the dimensions of which are shown on a document or map on file with the county register of deeds or in common use by city or county officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder of the parcel.

Lot, through. Any interior lot having frontage on two more-or-less parallel streets as distinguished from a corner lot. In the case of a row of double-frontage lots, all yards of lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required. See Figure 9 above.

Lot width. The horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines. See Figure 10 below.

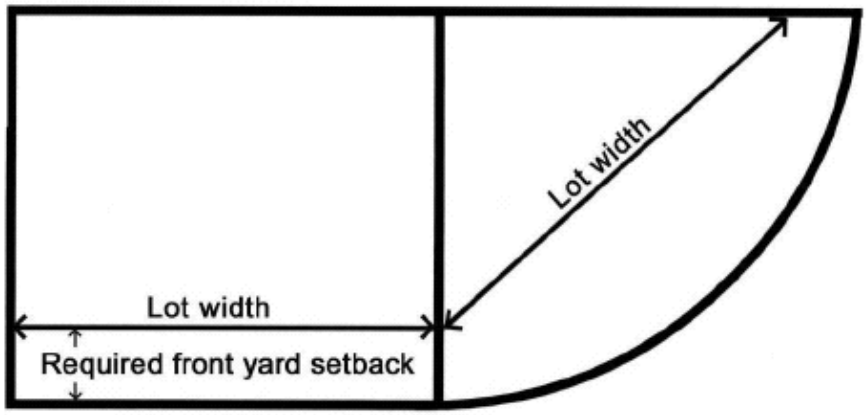


Figure 10. Lot Width Measurement

Lot, zoning. A single tract of land, located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this chapter with respect to area, size, dimensions and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the county register of deeds, but may include one or more lots of record.

Makerspace. A non-residential space designed to be used for personal-scale, low-impact artisan production of wholesale goods. Examples include, but are not limited to: Artwork, foodstuffs, beverages, handmade furniture luthiers, jewelry, other handcrafted small-batch products. The use shall not cause negative impacts on surrounding properties due to noise, odor, dust, or vibration. Similar uses may be considered for makerspaces by a determination of the city council, with the advice of planning commission, per section 98-23; excluding uses that may cause negative impacts on surrounding properties due to noise, odor, dust, or vibration, which shall be considered general manufacturing or industrial uses.

Manufactured home. A structure, transportable in one (1) or more sections, which is built on a non-motorized chassis and designed to be used with or without a permanent foundation as a dwelling when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. A mobile home shall not include modular homes, motor homes, house trailer, trailer coach, or travel trailers.

Manufactured housing park. A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home, subject to the rules and requirements of the Mobile Home Commission Act, Public Act 96, of 1987, as amended (MCL 139.2301 et seq.) and the Manufactured Housing Commission General Rules. A person, as used in this definition, means an individual, partnership, association, trust, corporation or any other legal entity or combination of legal entities.

Microbrewery, small winery, and craft distillery. A microbrewery produces malt or brewed beverages in a quantity of 7,000 barrels (US barrels) or less per year. A small winery is an agricultural processing facility used for the fermenting and processing of grape juice into wine, and the refermenting of still wine into sparkling wine that produces less than 5,000 cases per year. A craft distillery is a facility that produces spirits for consumption, by distillation, in an amount less than 150,000 gallons per year.

Accessory uses that are clearly incidental to the production of brewed beverages, wine, and spirits are permitted, including tap rooms, food service and retail establishments open to the public for on-site and/or off-site consumption. All microbreweries, small wineries, and craft distilleries are further subject to all licensing and regulatory requirements of the State of Michigan.

Mini warehouse.. Storage buildings for lease to the general public for storage of personal and household effects and for dry storage of office or business effects, not including the warehousing of products or supplies.

Mobile home. See "manufactured home" or "manufactured housing park."

Nonconformities.

(1) *Nonconforming structure.* A structure or portion thereof lawfully existing at the effective date of this chapter or amendments thereto that does not conform to provisions of this chapter for the district in which it is located, but is otherwise in compliance with all other applicable federal, state, county and city laws, ordinances, regulations and codes.

(2) *Nonconforming use of land.* A use that lawfully occupied a parcel or contiguous parcels of land or structure and land in combination at the effective date of the ordinance from which this chapter derives or amendments thereto that does not conform to the use regulations of the district in which it is located, or does not have special approval where provisions of this chapter require such approval, but is otherwise in compliance with all other applicable federal, state, county and city laws, ordinances, regulations and codes.

(3) *Nonconforming lot of record.* A platted or unplatted parcel of land lawfully existing at the effective date of this ordinance or amendments thereto that does not conform to the provisions of this chapter for the district in which it is located.

(4) *Nonconforming site.* A parcel of land that was developed or improved with structures and other site improvements prior to the date of adoption of current zoning ordinance provisions for site design, landscaping, pedestrian access, exterior lighting, paving and other site elements.

(5) *Illegal structure.* A structure or portion thereof, which is not a conforming or a nonconforming structure, or is not in compliance with all applicable federal, state, county and city laws, ordinances, regulations and codes.

(6) *Illegal use of land.* A use that occupies one or more contiguous parcels of land, or structures and land in combination, which is not a conforming or a nonconforming use, or is not in compliance with all applicable federal, state, county and city laws, ordinances, regulations and codes.

(7) *Cessation.* To terminate, abandon or discontinue a use of land for a period of time that, under the provisions of this chapter, would prevent the use from being resumed.

Nuisance. An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as but not limited to noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people particularly at night, passenger traffic, invasion of nonabutting street frontage by traffic, a burned structure, or a condemned structure.

Nursery, plant material. A space, building or structure, or combination, for the storage of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping. The definition of nursery within the meaning of this chapter does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

Nursery school. A facility which has as its main objective a development program for preschool children and whose staff meets the educational requirements established by the state.

Nursing home. See "convalescent or nursing home."

Office, medical. A room or group of rooms used by physicians, dentists, or other medical professions.

Office, professional. A room or group of rooms used for conducting a business profession, service, or government. Such facilities may include, but are not limited to, offices of attorneys, engineers, architects, accountants, financial institutions, real estate companies, insurance companies, financial planners, or corporate offices. Offices exclude manufacturing activities.

Off-street parking lot. A facility providing off-street vehicular parking spaces and drives or aisles for the parking of more than three vehicles.

Open storage. The storage of any materials or objects outside the confines of a building.

Parking space. An area of definite length and width, exclusive of access drives, aisles or entrances, fully accessible for the parking of permitted vehicles.

Performance standard. A criterion developed to control nuisance factors.

Personal service establishment. A business that performs services on the premises for persons residing in nearby residential areas including but not limited to shoe repair, tailoring, beauty parlors, nail salons, or barbershops.

Pet boarding facility. A business for the temporary boarding and care of common household pets generally during daytime hours, but in some cases including overnight boarding. Pet boarding facilities may provide related services such as grooming or training. No animals may be bred or sold at a pet boarding facility.

Place of worship. A religious institution, or a site used for the regular assembly of persons, for the conducting of religious services, and for related accessory uses, including offices and living quarters for church ministry and other members of the religious order who carry out their duties primarily on the site, religious education classes, day care and limited recreation facilities. Rescue missions, tent revivals and other temporary assemblies are not included in this definition.

Planned residential development. A specific parcel of land or several contiguous parcels of land, located entirely within the PRD districts, under single ownership and control for which a comprehensive physical plan meeting the requirements of this chapter and establishing functional use areas, density patterns, a fixed system of residential collector streets, provisions for public utilities, drainage and other essential services, and similar factors necessary or incidental to residential development has been approved by the city council and which has been or will be developed in accordance with the approved plan.

Planning commission. The Planning Commission of the City as designated in Public Act No. 33 of 2008.

Porch, enclosed. A covered entrance to a building or structure which is totally enclosed, which projects out from the main wall of such building or structure and which has a separate roof or an integral roof with the principal building or structure to which it is attached.

Porch, open. A covered entrance to a building or structure which is unenclosed, except for columns supporting the porch roof, which projects out from the main wall of such building or structure and which has a separate roof or an integral roof with the principal building or structure to which it is attached.

Principal use. The main use to which the premises are devoted and the principal purpose for which the premises exist.

Public institution A government operated or non-profit organization dedicated to the preservation or promotion of educational, cultural, or historical objects or values. Examples of public institutions include libraries and museums.

Public service. Public service facilities within the context of this chapter shall include such uses and services as voting booths, pumping stations, fire halls, police stations, temporary quarters for welfare agencies, public health activities and similar uses including essential services.

Public utility. A person, firm, corporation, city department, board or commission duly authorized to furnish and furnishing under federal, state or city regulations to the public, gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

Recreation equipment. Travel trailers, pickup campers or coaches, motorized dwellings, tent trailers, boats and boat trailers, snowmobiles, horse trailers, dune buggies, and other similar equipment and conveyances.

Retail sales establishment. Any generally recognized retail business that supplies commodities on the premises to the general public. Commodities supplied may include groceries and similar food products for consumption off the premises. Restaurants or any similar establishment that serves prepared food as its primary business is not considered a retail sales establishment.

Room. For the purpose of determining lot area requirements and density in a multiple-family district, a living room, dining room or bedroom, equal to at least 80 square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing one-, two- or threebedroom units and including a den, library or other extra room shall count such extra room as a bedroom for the purpose of computing density.

Setback. The distance required to obtain minimum front, side or rear yard open space provisions of this chapter. Setbacks for buildings shall be measured from the foundation wall.

Sign. See section 98-600 for sign definitions.

Special event. Any festival, fair, event, bazaar, historic tour or other specially scheduled activity, sponsored by a church, fraternal organization, nonprofit corporation, or service club where persons are permitted to sell goods, wares or merchandise, or are permitted to accept donations at a location not customarily used in such a manner.

Special land use. A use specified in this chapter as permissible in a specific use district only after special conditions are met.

Sponsor. Any person or organization responsible for planning, promoting or making arrangements for any special land use or special event.

State licensed residential facility. Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Michigan Public Act 116 of 1973 (the Child Care Licensing Act) or Michigan Public Act 218 of 1979 (the Adult Foster Care Facility Licensing Act). This definition includes adult foster care facilities, foster family homes, foster family group homes, family day care homes, and group day care homes (see Human Services Facilities Subject to State Licensing Chart).

	Number of Persons	Private Home?	Supplemental Use Standards
Less Than 24-Hour Care:			
Persons under age 18:			
Family Day Care Home	1—6	Yes	
Group Day Care Home	7—12	Yes	section 98-231
Child Care Center or Day Care Center	1 or more	No	section 98-225
24-Hour Care:			
Persons under age 18:			
Foster Family Home	1—4	Yes	section 98-231
Foster Family Group Home	4—6	Yes	section 98-231
> *Persons age 18 and Over:*			
Adult Foster Care Family Home	1—6	Yes	section 98-231
Adult Foster Care Small Group Home	1—12	No	section 98-231
Adult Foster Care Large Group Home	13-20	No	section 98-231
Adult Foster Care Congregate Facility	20 or more	No	section 98-231
Nursing Home	2 or more	No	section 98-240

(1) *Adult foster care facility* means a residential structure that is licensed to provide foster care, but not continuous nursing care, for unrelated adults over the age of 17. Adult foster care facilities are subject to all applicable provisions, definitions, and regulations of Michigan Public Act 218 of 1979, as amended (MCL 400.701 et seq.).

a. *Foster care* means the provision of supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

b. *Adult foster care facility* does not include any of the following:

1. A licensed child caring institution, children's camp, foster family home, or foster family group home, subject to the limitations contained in section 3(4f) of Michigan Public Act 218 of 1979, as amended (MCL 400.703).

2. A licensed foster family home that has a person who is 18 years of age or older placed in the foster family home under section 5(7) of Michigan Public Act 116 of 1973, as amended (MCL 722.115).

3. An establishment commonly described as an alcohol or a substance abuse rehabilitation center; a residential facility for persons released from or assigned to adult correctional institutions; a maternity home; or a hotel or rooming house that does not provide or offer to provide foster care.

4. A veterans' facility created by 1885 PA 152, MCL 36.1 to 36.12.

c. The following types of adult foster care facilities are provided for by this chapter:

1. *Adult foster care family* home means a private home with the approved capacity to receive not more than six adults to be provided with foster care. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

2. *Adult foster care small group home* means an adult foster care facility with the approved capacity to receive not more than 12 adults to be provided with foster care. Facilities with the approved capacity for seven or more adults are subject to special use approval.

3. *Adult foster care large group home* means an adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care. Facilities are subject to special use approval.

4. *Adult foster care congregate facility* means an adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care. Facilities are subject to special use approval.

(2) *Family day care home* means a private home in which one but fewer than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

(3) *Foster family home* means a private home in which one but not more than four minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan adoption code, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

(4) *Foster family group home* means a private home in which more than four but fewer than seven minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan adoption code, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

(5) *Group day care home* means a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

(6) *Private home* means a private residence in which the licensee or registrant permanently resides as a member of the household, which residency is not contingent upon caring for children or employment by a licensed or approved child placing agency.

Story. That part of a building, other than a mezzanine, included between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor thereof. Specifically:

(1) *Top story attic.* A half story when the main line of the eaves is not above the middle of the interior height of said story.

(2) *First story.* The highest story having its interior floor surface not more than four feet above the curb level, or the average elevation of the finished grade along the front of the building were it set back from the street.

(3) *Basement.* A story if over 50 percent of its height is above the level from which the height of the building is measured, or if it is used for dwelling purposes by other than a janitor or domestic servant employed in the same building, including the family of the same.

(4) *Half-story.* 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 of the floor area of such full story, provided the area contains at least 200 square feet, with a clear height of at least seven feet six inches.

(5) *Mezzanine.* A full story when it covers more than 33 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.

Street. A dedicated public right-of-way, other than an alley, which affords the principal means of access to abutting property.

Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Subdivision. The partitioning or dividing of a parcel or tract of land by the proprietor or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development, where the act of division creates five or more parcels ofland, each of which is ten acres or less in area; or five or more parcels of land each of which is ten acres or less in area and created by successive divisions within a period of ten years.

Temporary use or building. A use or building permitted to exist during a specified period of time.

Traditional urban form. The combination of buildings, structures, and streetscapes that form a distinct neighborhood, or section of a city, or the city overall.

Type A industrial hemp facility. An industrial hemp business authorized to compound, blend, infuse, or otherwise make or prepare hemp products that contain a concentration of no more than three-tenths of one percent tetrahydrocannabinol (THC), but may not include extraction for industrial hemp products such as cannabinoids, including, but not limited to cannabidiol (CBD), from industrial hemp.

Type B industrial hemp facility. An industrial hemp business authorized to compound, blend, infuse, or otherwise make or prepare hemp products that contain a concentration of no more than three-tenths of one percent tetrahydrocannabinol (THC). Type B industrial hemp businesses are authorized to extract for industrial hemp products such as cannabinoids, including, but not limited to cannabidiol (CBD), from industrial hemp through natural solvent (olive oil or ethanol), CO2, or steam extraction methods, or other means approved by the city.

Use. The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

Variance. A variation or modification of this chapter granted by the zoning board of appeals relating to the construction, or structural changes in, equipment or alteration of buildings or structures or the use of land, buildings, or structures, where there is a practical difficulty or unnecessary hardship in the way of carrying out the strict letter of this chapter.

Vehicle fueling station. A place for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles but not including major automobile repair.

Vehicle service. A building or premises where the following services may be carried out in a completely enclosed building: major repairs, including, but not limited to, engine rebuilding and the rebuilding of motor vehicles; application of paint preservation materials; radiator repair and replacement; transmission repair and replacement; automobile and van customizing; collision service, such as body, frame or fender straightening and repair; the painting and rustproofing of automobiles; tire recapping; and upholstery work. Automotive repair garages may also include facilities and/or equipment allowing for the repair of other motor vehicles including trucks, recreational vehicles, vans and buses, among others.

Wall.

(1) *Obscuring.* An obscuring structure of definite height and location constructed of masonry, concrete or similar material.

(2) *Decorative.* A screening structure walls of definite height and location constructed of an aesthetically pleasing masonry or rock material, such as face brick, stone or simulated stone, split-face CMU or other decorative block.

Wireless communication tower. A radio, telephone, cellular telephone, or television relay structure of skeleton framework, or monopole attached directly to the ground or to another structure, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals.

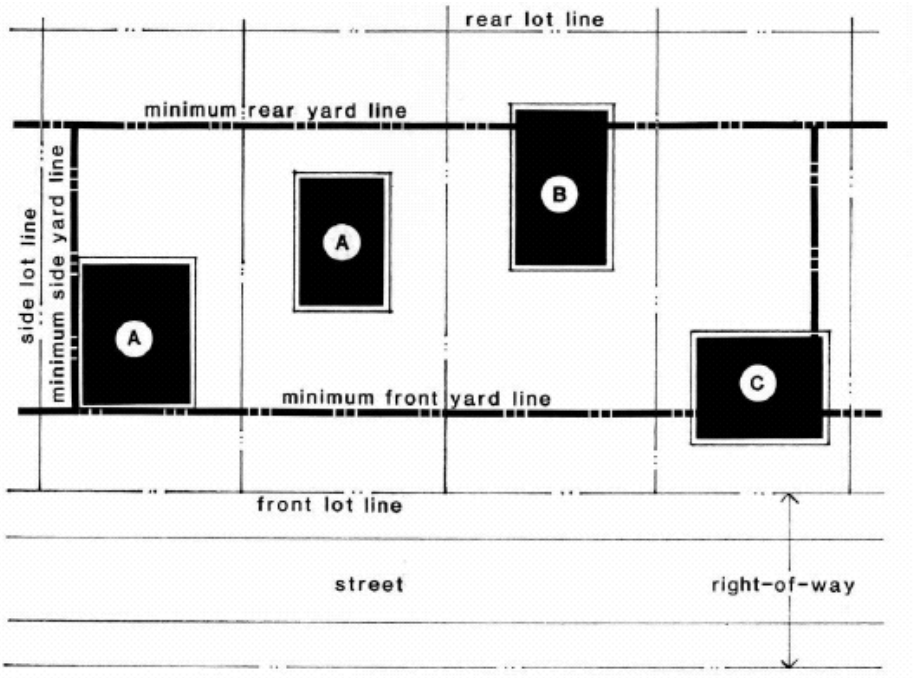
Yard. An open space other than a courtyard located on the same lot as a main building or use, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. In measuring to determine the width of a yard, the minimum horizontal distance between the lot line and the main building shall be used. See Figure 11 and Figure 12 below.

(1) *Front yard.* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line, a proposed right-of-way as indicated on the master right-of-way plan, or a private road easement used for ingress and egress, whichever is closest to the building which is to be located on the property, and the nearest point of the main building.

(2) *Rear yard.* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line or zoning district line, whichever is closer to the building, except for changes in the zoning districts involving only residential zoning districts, a proposed right-of-way as indicated on the master right-of-way plan, or a private road easement used for ingress and egress, whichever is closest to the building which is to be located on the property, and the nearest point of the main building.

(3) *Side yard.* An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line or zoning district line, whichever is closer to the building, except for changes in the zoning districts involving only residential zoning districts, a proposed right-of-way as indicated on the master right-of-way plan, or a private road easement used for ingress and egress, whichever is closest to the building which is to be located on the property, and the nearest point of the main building.

(4) *Required yard.* 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 which is unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.



Legend

A Structures satisfying minimum yard requirements

B Structure with deficient rear yard setback

C Structure with deficient front and side yard setbacks

Figure 11. Yard Requirements

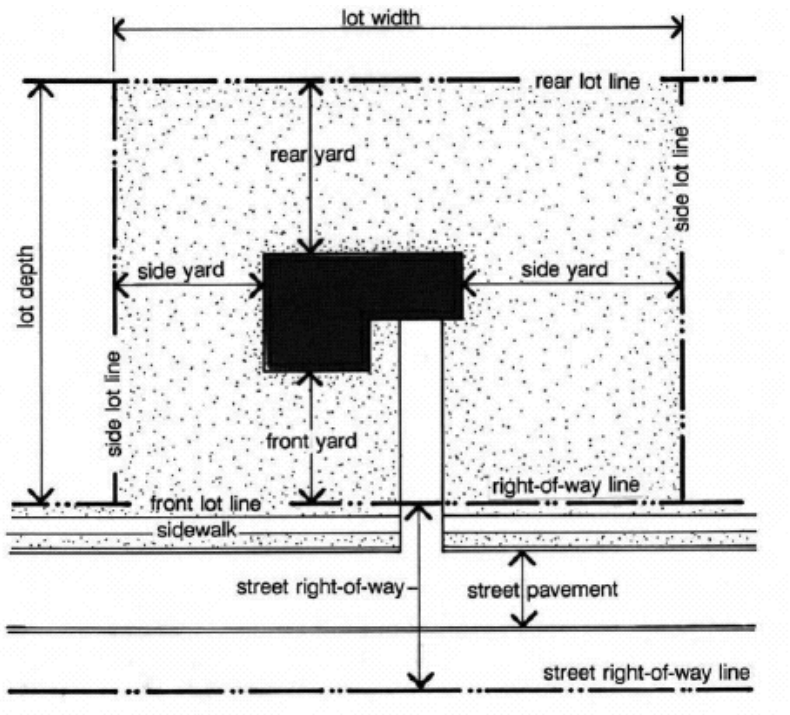


Figure 12. Open Space Terms

(Ord. of 5-18-2009, § 12.102; Ord. No. 1-10, 1-4-2010; Ord. No. 6-13, 12-2-2013; Ord. No. 01-21, § 1, 2-1-2021; Ord. No. 03-21, § 1, 4-5-2021)

APPENDIX A
FRANCHISES[79]

ARTICLE I. GAS FRANCHISES

GAS FRANCHISE
CITY OF TECUMSEH, MICHIGAN
Ord. No. 2-05 effective July 2, 2005

[79]Editor's note(s)—Printed herein are grants of franchises, as adopted by the City of Tecumseh. Amendments to the franchises will be indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original franchise. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

Cross reference(s)—Businesses, ch. 18; telecommunications, ch. 74; cable television rates, § 74-31 et seq.; utilities, ch. 82.

An ordinance, granting to Consumers Energy Company, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges, waterways, and other public places, and to do a local gas business in the City of Tecumseh, Lenawee County, Michigan, for a period of 30 years.

THE CITY OF TECUMSEH ORDAINS:

Sec. 1. Grant, term.

The City of Tecumseh, Lenawee County, Michigan, hereby grants to the consumers Energy Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee," the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges, waterways, and other public places, and to do a local gas business in the City of Tecumseh, Lenawee County, Michigan, for a period of 30 years.

Sec. 2. Consideration.

In consideration of the rights, power and authority hereby granted, said grantee shall faithfully perform all things required by the terms hereof.

Sec. 3. Conditions.

No highway, street, alley, bridge, waterway or other public place used by said grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same order and condition as when said work was commenced. All of grantee's pipes and mains shall be so placed in the highways and other public places as not to unnecessarily interfere with the use thereof for highway purposes.

Sec. 4. Hold harmless.

Said grantee shall at all times keep and save the city free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the structures and equipment hereby authorized. In case any action is commenced against the city on account of the permission herein given, said grantee shall, upon notice, defend the city and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.

Sec. 5. Extensions.

Said grantee shall construct and extend its gas distribution system within said city and shall furnish gas to applicants residing therein in accordance with applicable laws, rules and regulations.

Sec. 6. Franchise not exclusive.

The rights, power and authority herein granted, are not exclusive. Either manufactured or natural gas may be furnished hereunder.

Sec. 7. Rates.

Said grantee shall be entitled to charge the inhabitants of said city for gas furnished therein, the rates as approved by the Michigan Public Service Commission, to which commission or its successors authority and jurisdiction to fix and regulate gas rates and rules regulating such service in said city, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said city, acting by its city council, or by said grantee.

Sec. 8. Revocation.

The franchise granted by this ordinance is subject to revocation upon one (1) year's written notice by the party desiring such revocation.

Sec. 9. Michigan Public Service Commission, Jurisdiction.

Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas service in said city.

Sec. 10. Repealer.

This ordinance, when accepted and published as herein provided, shall repeal and supersede the provisions of a gas ordinance adopted by the city council on April 25, 1975 entitled:

> AN ORDINANCE, granting to CONSUMERS POWER COMPANY, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local gas business in the CITY OF TECUMSEH, LENAWEE COUNTY, MICHIGAN, for a period of thirty years.

and amendments, if any, to such ordinance whereby a gas franchise was granted to Consumers Energy Company.

Sec. 11. Effective date.

This ordinance shall take effect July 2, 2005 but shall not be less than ten days after adoption nor before publication thereof; provided, however, it shall cease and be of no effect after 30 days from its adoption unless within said period the grantee shall accept the same in writing filed with the city clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said city and said grantee.

Dated: June 20, 2005

ARTICLE II. CABLE TELEVISION FRANCHISES

CABLE TELEVISION FRANCHISE ORDINANCE
CITY OF TECUMSEH, MICHIGAN
Ord. No. 4-94, adopted June 20, 1994

THE CITY OF TECUMSEH ORDAINS:

Sec. 1. Definitions.

1.1. *Additional insureds* shall have the meaning defined in part [section] 6 [9.100.06].

1.2. *Authorized area* shall mean the entire area from time to time within the corporate limits of the City of Tecumseh excluding however all areas that are within such limits solely due to agreements executed under the authority of Public Act No. 425 of 1984 (MCL 124.21 et seq.), unless the agreement expressly so provides.

1.3. *Cable services* shall mean:

1.3.1. The one-way transmission to all subscribers of (i) video programming or (ii) other programming services, such as digital audio; and

1.3.2. Subscriber interaction, if any, which is required for the selection of such video programming or other programming service, where "video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

1.4. *Cable television business* shall mean the provision by the company of cable services solely by means of the cable television system.

1.5. *Cable television system* or *system* shall mean a facility consisting of a set of closed transmission paths and associated signal generation reception and control equipment that is designed and used solely to provide cable services to subscribers within the authorized area, but such term does not include (i) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (ii) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility uses any public right-of-way, (iii) a facility of a common or private carrier which is subject in whole or in part to the provisions of title II of the Communications Act of 1934, as amended, except that such a facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers.

1.6. *City* shall mean the City of Tecumseh.

1.7. *Company* shall mean Westmarc Development Joint Venture L.P., a Colorado limited partnership, currently doing business as TCI Cablevision of Greater Michigan, Inc.

1.8. *Event of default* shall have the meaning defined in part [section] 11 [9.100.11].

1.9. *FCC* shall mean Federal Communications Commission.

1.10. *Gross revenues* shall mean all amounts earned or accrued by company, or any entity in any way affiliated with company, in whatever form and from all sources which are in connection with or attributable to the operation of the cable television system within city or company's provision within city of cable services.

1.10.1. Gross revenues shall include without limitation all subscriber and customer revenues earned or accrued, net of bad debts, including revenues for basic cable services; additional tiers; premium services; pay per view; program guides; installation, disconnection or service call fees; fees for the provision, sale, rental, or lease of converters, remote controls, additional outlets and other customer premises equipment, revenues from the use of leased access channels, and advertising revenues from the system.

1.10.2. Advertising revenues shall be allocated to the City of Tecumseh based upon the percentage of subscribers in city compared to that served from the head-end serving city.

1.11. *PEG channels* shall have the meaning set forth in part [section] 5 [9.100.05].

1.12. *Public ways* shall mean all dedicated public rights-of-way, streets, highways, and alleys. "Public ways" shall not include property of city which is not a dedicated public right-of-way, street, highway, or alley.

1.13. *System* shall have the same meaning as cable television system.

1.14. *Transfer* or *transferred* shall mean any form of sale, conveyance, assignment, lease, sublease, merger, pledge, deed, grant, mortgage, transfer in trust, encumbrance or hypothecation in whole or in part, whether

voluntary or involuntary of any right, title or interest of company in or to this franchise or to the cable television system.

1.15. *Uncured event of default* shall have the meaning defined part [section] 11 [9.100.11].

Sec. 2. Grant of rights.

2.1. *Permission/franchise.* Subject to all the terms and conditions contained in this franchise, the city Charter and city ordinances as from time to time in effect, city hereby grants company permission to erect, construct, install, and maintain a cable television system in the authorized area, to transact a cable television business in such area and to transact such other business as may be permitted by section 2.1.2 [9.100.02(2.1.2)].

2.1.1. This franchise does not include leasing or subleasing wires, poles, conduits or space or spectrum on or in the same or allowing wires or other facilities which are not part of the cable television system as defined in section 1.5 [9.100.01(1.5)] above to be overlashed, affixed or attached to any portion of the cable television system. The preceding sentence shall not apply to the use of channel capacity by third parties under section 612 of the Cable Act Communications Policy Act of 1984, as amended (47 USC 532).

2.1.2. If company requests in writing the ability to transact other types of business, such as provide data services or telecommunications service, then such request will be deemed approved unless rejected in writing by the city manager within 60 days of receipt of same by city, with such approval not to be unreasonably withheld. Such request shall state the nature of the service to be provided, where it will be provided, when and to whom. Company shall supplement such request with such additional information as city may reasonably request.

2.2. *Nonexclusive.* This franchise and all rights granted thereunder are nonexclusive. City reserves the right to grant such other and future franchises as it deems appropriate. This franchise does not establish any priority for the use of the public rights-of-way by company or by any present or future franchisees or other permit holders. In the event of any dispute as to the priority of use of the public rights-of-way the first priority shall be to the public generally, the second priority to city in the performance of its various functions, and thereafter, as between franchisees and other permit holders, as determined by city in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.

2.2.1. If during the term of this franchise city grants a franchise or other permission ("other franchise") to any other person or entity allowing them to provide cable services to a substantial portion of the residents of the city, then company shall have the option on 30 days' written notice to city to adopt and comply with all the terms of such other franchise, except those terms of such other franchise corresponding to part [section] 8, part [section] 9 and part [section] 14 [9.100.08, 9.100.09 and 9.100.14] of this franchise, which three parts alone of this franchise shall continue to be binding on company and city.

2.3. *Universal service.* Company shall provide cable services to any and all persons requesting same at any location within the authorized area. No line extension charge shall be imposed for (a) the extension of service for 200 feet or less or where the extension of the cable television system passes seven occupied dwelling units per 1,320 feet of distribution or trunk cable (excluding drops to the dwelling unit), or (b) subscribers located within 200 feet of Blood Road or Macon Road.

2.4. *Channels; programming.* Company shall continue to provide a minimum of 33 channels to subscribers in the city, excluding, however, broadcast stations which utilize the retransmission consent provisions of the Cable Television Consumer Protection and Competition Act of 1992. Company shall continue to provide to subscribers in the city the following categories of programming: sports, news, entertainment, music, religion, health/lifestyle, cultural/arts, children's, minority, family and weather.

2.5. *Emergencies.* City may remove or damage the cable television system in the case of fire, disaster, or other emergencies threatening life or property, as determined by the mayor, city manager, fire chief or emergency services chief. In such event neither the city nor any agent, contractor or employee thereof shall be liable to the company for any damages caused to the company or the cable television system, such as for, or in connection with, protecting, breaking through, moving, removal, altering, tearing down, or relocating any part of the cable television system.

2.6. *Alert system.* The cable television system shall maintain an emergency alert system as prescribed by the FCC and the Cable Act of 1992. The emergency alert system shall continue to be activated only by the county sheriff (in which case on such conditions and procedures as company and sheriff may agree) or as city and company may from time to time agree. City and company will agree on the procedures for city to follow to expeditiously use such facility in the event of an emergency.

2.7. *Compliance with applicable law.* In constructing, maintaining and operating the cable television system, company will act in a good and workmanlike manner, observing high standards of engineering and workmanship and using materials of good and durable quality. Company shall comply in all respects with the National Electrical Safety Code (latest edition) and Michigan Electric Code (latest edition); all standards, practices, procedures and the like of the National Cable Television Association; the requirements of other utilities whose poles and conduits it uses, and all applicable federal, state, and local laws.

2.8. *Maintenance and repair.* Company will keep and maintain a proper and adequate inventory of maintenance and repair parts for the cable television system, and a workforce of skilled technicians for its repair and maintenance.

2.9. *Other permits.* This franchise does not relieve company of the obligation to obtain permits, licenses and other approvals from city necessary for the construction, repair or maintenance of the cable television system or provision of cable services or compliance with city ordinances such as compliance with building permits and the like.

Sec. 3. Public ways.

3.1. *Use of public ways.* Subject to the terms set forth herein company is granted the right and the obligation during the term of this franchise to erect, construct, install and maintain its cable television system in, over, under, along and across the public ways.

3.2. *No burden on public ways.* Company shall not erect, install, construct, repair, replace or maintain its cable television system in such a fashion as to unduly burden the present or future use of the public ways. If city in its reasonable judgment determines that any portion of the cable television system is an undue burden, company at its expense shall modify its system or take such other actions as city may determine are in the public interest to remove or alleviate the burden, and company shall do so within the time period established by city.

3.3. *Minimum interference.* The cable television system shall be erected and maintained by company so as to cause the minimum interference with the use of the public ways and with the rights or reasonable convenience of property owners who adjoin any of the public ways.

3.4. *Restoration of property.* Company shall restore at its sole cost and expense, in a manner approved by city, any portion of the public ways that is in any way disturbed by the construction, operation, maintenance or removal of the cable television system to (at company's option) as good or better condition than that which existed prior to the disturbance, and shall at its sole cost and expense immediately restore and replace any other property, real or personal, disturbed, damaged or in any way injured by or on account of company or by its acts or omissions, to as good or better condition as such property was in immediately prior to the disturbance, damage or injury. Such a restoration shall start promptly but no more than 15 days from company becoming aware of the problem in question.

3.5. *Tree trimming.* Company may trim trees upon and overhanging the public ways so as to prevent the branches of such trees from coming into contact with the cable television system. No trimming shall be performed in the public ways without previously informing city. All trimming of trees, except in an emergency, on public property shall have the approval of city and except in an emergency all trimming of trees on private property shall require the consent of the property owner.

3.6. *Relocation of facilities.* Company shall at its own cost and expense, protect, support, disconnect or remove from the public ways any portion of the cable television system when required to do so by city due to street or other public excavation, construction, repair, grading, regrading, traffic conditions; the installation of sewers, drains, water pipes, or municipally-owned facilities of any kind; or the vacation, construction or relocation of streets or any other type of structure or improvement of a public agency or any other type of improvement necessary for the public health, safety or welfare.

3.7. *Joint use.* Company shall permit the joint use of its poles, conduits and facilities located in the public ways by utilities and by the city or other governmental entities to the extent reasonably practicable and upon payment of a reasonable fee.

3.8. *Private property.* Company shall be subject to all laws, ordinances or regulations regarding private property in the course of constructing, installing, operating or maintaining the cable television system in city. Company shall comply with all zoning and land use restrictions as may exist or may hereafter be amended.

3.9. *Underground facilities.* If city in the future may require that, in a specific area of city, public utilities shall place their cables, wires, or other equipment underground, then company also shall place its existing and its future cables, wires, or other equipment underground within a reasonable period of time, not to exceed six months, of notification by city without expense or liability therefor to city.

3.10. *Temporary relocation.* Upon 15 business days' notice company shall temporarily raise or lower its wires or other equipment upon the request of any person including without limitation, a person holding a building moving permit issued by city. Company may charge a reasonable rate for this service, not to exceed its actual direct costs.

3.11. *Vacation.* If a public way is vacated, eliminated, discontinued or closed, all rights of company under this franchise to use same shall terminate and company at its expense shall immediately remove the cable television system from such public way.

3.12. *Discontinuance and removal of the cable television system.* Upon the revocation, termination, or expiration of this agreement, unless an extension is granted, company shall immediately (subject to the notice provision of section 9.2 [9.100.09(9.2)]) discontinue the provision of cable services and all rights of company to use the public ways shall cease. Company, at the direction of city, shall remove its cable television system, including all supporting structures, poles, transmission and distribution system and other appurtenances, fixtures or property from the public ways, in, over, under, along, or through which they are installed within six months of the revocation, termination, or expiration. Company shall also restore any property, public or private, to the condition in which it existed prior to the installation, erection or construction of its cable television system, including any improvements made to such property subsequent to the construction of its cable television system. Restoration of city property, including, but not limited to, the public ways, shall be in accordance with the directions and specifications of city, and all applicable laws, ordinances and regulations, at company's sole expense. If such removal and restoration is not completed within six months after the revocation, termination, or expiration, all of company's property remaining in the affected public rights-of-way shall, at the option of city, be deemed abandoned and shall, at the option of city, become its property or city may obtain a court order compelling company to remove same. In the event company fails or refuses to remove its cable television system or to satisfactorily restore all areas to the condition in which they existed prior to the original construction of the cable television system, city, at its option, may perform such work and collect the costs thereof from company. No surety on any performance bond nor any letter of credit shall be discharged until city has certified to company in

writing that the cable television system has been dismantled, removed, and all other property restored, to the satisfaction of city.

Sec. 4. Service.

4.1. *Notice of changes.* Company shall not do any of the following without giving city and its customers at least 30 days' advance notice of same.

4.1.1. Effect any change in the rates or charges paid by subscribers for or in connection with cable service, including for programming, equipment rental, program guides, installation, disconnection, late fees, or the like.

4.1.2. Change the position channel or number at which a given program appears on the television set, converter or other reception equipment of a subscriber.

4.1.3. Change the mix or level of programming which a subscriber receives, including retiering or changing the programs or programming which a subscriber receives for a given price or level of service.

4.2. *Negative options.* Company will not engage in the practice of "negative option" marketing, and will not charge a subscriber for any optional, a la carte or premium service or equipment which the subscriber has not affirmatively requested. Reasonable changes in the composition of a tier of service shall not constitute a negative option if permitted by FCC rules.

4.3. *Customer standards.* Company will comply with the more stringent of the customer service and consumer protection provisions of this franchise; those from time to time adopted by the company; those from time to time adopted by the FCC; or the service and consumer protection standards from time to time adopted by the National Cable Television Association.

4.4. *Reservation.* City reserves the right by ordinance to alter or amend the customer service and consumer protection matters set forth in this part [section] [9.100.04], including adopting ordinances stricter than or covering items not presently set forth in this part [section] [9.100.04]. City agrees to meet with company on the matters in question prior to taking such action, and to provide company with at least 30 days' notice of such action.

4.5. *Free service.* Company will provide without any installation charge or monthly charge one free outlet for cable service in each city-owned building (including, without limitation, city hall, fire stations, the civic auditorium, and wastewater treatment plant) and in each public and parochial school or college. If requested, company will add additional outlets at the preceding facilities and will do so at cost (no markup). City will not add additional outlets itself. None of the preceding shall be charged any fee during the term of this franchise for those channels comprising basic service or any expanded basic or cable programming service and these may not be resold.

4.5.1. For the preceding facilities, if the drop to the facility is more than 150 feet the owner of the facility will be charged only the incremental cost for drops or line extensions beyond 150 feet. Drops or installations of less than 150 feet shall be free.

4.6. *Access to service.* Company shall not deny service, deny access, or otherwise discriminate on the availability or rates, terms or conditions of cable services provided to subscribers on the basis of race, color, creed, religion, ancestry, national origin, sex, disability, age, marital status, location within city, or status with regard to public assistance. Company shall comply at all times with all applicable federal, state and local laws and regulations relating to nondiscrimination. Company shall not deny or discriminate against any group of actual or potential subscribers in city on access to or the rates, terms and conditions of cable services because of the income level or other demographics of the local area in which such group may be located.

4.7. *Programming/lockout.* Company for a fee shall provide all subscribers with the option of obtaining a device by which the subscriber can prohibit viewing of a particular cable service during periods selected by the subscriber.

4.8. *Pay per view.* Individual subscribers shall be given the option of not having pay per view or per-program service available at all.

4.9. *Blocking.* Upon request by a subscriber, for a fee company shall use a notch filter or equivalent to block such subscriber from receiving both the audio and video portion of a channel on which programming is provided on a per-program or pay per view basis.

4.10. *Notification.* Company will provide written information on at least each of the following areas at the time of installation of service, at least annually to all subscribers, and to individual subscribers at any time upon reasonable request.

4.10.1. Products and services offered.

4.10.2. Prices (rates) and options for cable services and conditions of subscription to cable service. Prices shall include those for programming, equipment rental, program guides, installation, disconnection, late fees and other fees charged by company.

4.10.3. Installation and service maintenance policies.

4.10.4. Instruction on how to use the cable service, including procedures and options for pay per view and premium channels.

4.10.5. Channel positions of programming carried on the cable television system.

4.10.6. Billing and complaint procedures, including the address and phone number of the person or position at the city responsible for cable matters.

4.10.7. Applicable privacy requirements as set forth in this franchise or otherwise provided for by law.

4.11. *Office/phone.* Company shall maintain within city a drop box to serve the purpose of paying bills. Company will consult with city as to the location of such drop box. Company shall have a local telephone number and a local special repair service telephone number for use by subscribers toll-free 24 hours per day, seven days per week. Company shall maintain a local office in the City of Adrian or in the central portion of Lenawee County which shall be open to receive inquiries or complaints in person or by telephone during normal business hours Monday through Friday, including the noon lunch hour, excluding legal holidays observed by the company.

4.11.1. Company shall provide reports to city quarterly (monthly if city shall request same) showing on a consistent basis, fairly applied, the number of telephone calls received by company and in addition measuring company's compliance with applicable telephone service standards.

4.12. *Continuity of service.* Company shall interrupt service only with good cause and for the shortest time possible except in emergency situations and as required by the FCC. Services may be interrupted between 1:00 a.m. and 5:00 a.m. for routine testing, maintenance and repair, without notification. In the event of a system upgrade, company shall both minimize any interruptions in service caused by the upgrade, and shall meet with city in advance to advise city of the nature, geographic extent and duration of any interruptions and obtain and where possible respond to city's comments on same. Any test required by the FCC will not require prior notice.

4.13. *Log of complaints.* Company shall maintain a written log of all subscriber complaints or an equivalent stored in computer memory and capable of access and reproduction in printed form, of all subscriber complaints. Such log shall list the date and time of such complaints, identifying the subscribers to the extent permitted by law and describing the nature of the complaints and when and what actions were taken by company in response thereto. Such log shall be kept at company's local office, reflecting the operations to date for a period of at least three years, and shall be available for city's inspection during regular business hours.

4.14. *Identification.* All service personnel of company or its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing their name and photograph. Company shall account for all identification cards at all times. Every service vehicle of company shall be clearly identifiable by the public.

4.15. *Disconnection.* Company may only disconnect a subscriber if at least 45 days have elapsed after the due date for payment of the subscriber's bill and company has provided at least ten days' written notice (such as in a bill) to the subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection; provided, however, notwithstanding the foregoing, company may disconnect a subscriber at any time if company in good faith and on reasonable grounds determines that the subscriber has tampered with or abused company's equipment; or is or may be engaged in the theft of cable services; or that the subscriber premises wiring violates applicable FCC standards. Company may not disconnect a subscriber for failure to pay amounts due to a dispute as to the correct amount of the subscriber's bill.

4.16. *Late payment.* Late payment charges imposed by company upon subscribers shall be fair and shall be reasonable.

4.17. *Privacy and monitoring.* Neither company and its agents nor city and its agents shall tap or monitor, or arrange for the tapping or monitoring, or permit any other person to tap or monitor, any cable, line, signal, input device, or subscriber facility for any purpose, without the written authorization of the affected subscriber. Such authorization shall be revocable at any time by the subscriber without penalty by delivering a written notice of revocation to company; provided, however, that company may conduct system-wide or individually addressed "sweeps" solely for the purpose of verifying system integrity, checking for illegal taps or billing.

4.18. *FCC technical standards.* The company shall meet or exceed the FCC's technical standards that may be adopted from time to time.

4.18.1. Upon request company shall provide city with a report of such testing. Such report shall state, in pertinent part, that the person doing the testing has been provided a copy of and reviewed this franchise; the rules and regulations of the FCC, the FCC order(s) adopting such rules and regulations, and all industry standards and other materials referenced therein; and that such testing when done fairly, in full compliance with the FCC rules and regulations shows full compliance with such rules and regulations; or in the alternative setting forth with specificity and in detail all areas of noncompliance, their actual or likely scope and causes and their professional recommendation of the best corrective measures to immediately and permanently correct the noncompliance.

4.18.2. Within six months of the receipt of such recommendation company shall have completed all corrective measures set forth therein.

4.18.3. City at its expense and with notice to company may test the cable television system in cooperation with the company for compliance with the FCC technical standards once per year and more often if there are a significant number of subscriber complaints. Company will reimburse city for the expense of any test (not to exceed $5,000.00 per calendar year for tests) which shows a noncompliance with such standards.

4.19. *Backup power.* Company shall maintain backup or standby electric power (such as from batteries or from electric generators) at all locations on company's cable television system where the loss of electric power might disrupt the provision of service within city such that the system and each portion of it will operate for at least four hours even if electric service from conventional utility lines is interrupted.

4.20. *Undergrounding.* If a subscriber requests underground cable service, company may charge any subscriber the differential between the cost of aerial and underground installation of the drop to the subscriber. This provision shall not apply where undergrounding is required by city ordinance or policy.

4.21. *Bond.*

4.21.1. Company shall provide city, no later than 30 days after the acceptance of this franchise agreement, a performance bond from a security company meeting the standards of section 6.9 [9.100.06(6.9)] in the amount of $20,000.00, in form reasonably acceptable to city as security for the faithful performance by company of the provisions of this agreement, and compliance with all orders, permits and directions of any agency of the city having jurisdiction over its acts or defaults under this agreement, and the payment of company of any claims, liens or taxes due the city which arise by reason of the construction, operation, maintenance or repair of the cable television system or provision of cable services.

4.21.2. The condition of such bond should be that if company fails to make timely payment to the city or its designee of any amount under this franchise or fails to make timely payment to the city of any penalty due under this franchise; or fails to make timely payment to the city of any taxes due; or fails to repay to the city within 30 days of written notification that such repayment is due, any damages, costs or expenses which the city shall be compelled to pay by reason of any act or default of grantee in connection with this agreement; or fails, after 30 days' notice of such failure from the city, to comply with any provisions of this franchise which the city reasonably determines can be remedied by an expenditure of the money, then city may demand and receive payment under such bond.

4.21.3. The rights reserved by the city with respect to this section, are in addition to all other rights of the city whether reserved by this franchise agreement or authorized by law, and no action, proceeding or exercise of a right with respect to such articles shall affect any other rights the city may have.

Sec. 5. Access to the system.

5.1. *Channels made available.* By January 1, 1995, the company shall provide on the cable television system in the basic tier of service (and in the lowest tier of service, if different) two noncommercial channels collectively known as "PEG Channels," as follows:

5.1.1. A combined public access and government channel administered by city, and on which the public access portion shall be available for use by members of the public and a governmental portion on which the programming shall be provided by city, city's designee or such other units of state or local government as city may from time to time appoint, and

5.1.2. An educational channel, administered by the Tecumseh Public Schools or its designee, and on which the programming shall be provided by Tecumseh Public Schools, its designees or other educational institutions upon each such entity entering into a contract with city regarding the provision of same.

5.1.3. City hereby elects to have the preceding two channels initially combined on one channel. On six months' written notice to company city may revoke such election and have the two channels provided separately on the system.

5.2. *Company use.* City may from time to time adopt and revise rules and procedures as to when and how company may use the PEG Channels for the provision of video programming when the PEG Channels are not being used for their respective purposes. Company will use the PEG Channels solely in accordance with such rules and procedures and otherwise shall have no responsibility or control with respect to the operation of such channels except as provided by law.

5.3. *PEG access assistance.* Company will assist city and the Tecumseh Public Schools in specifying and (upon request and agreement for reimbursement by city and the schools) acquiring the equipment necessary to use the PEG Channels.

5.4. *Lines and facilities.* Upon completion of the system upgrade, the company shall provide and maintain at its expense all lines and facilities necessary for the distribution of programming originating from city hall and from

the Tecumseh Public Schools on the PEG Channels on the cable television system, unless caused by the negligence of the city or school.

Sec. 6. Indemnity and insurance.

6.1. *Disclaimer of liability.* City shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of the construction, maintenance, repair, use, operation, condition or dismantling of company's cable television system or company's provision of cable service.

6.2. *Indemnification.* Company shall at its sole cost and expense, indemnify and hold harmless city and all associated, affiliated, allied and subsidiary entities of city, now existing or hereinafter created, and their respective officers, boards, commissions, attorneys, agents, and employees (hereinafter referred to as "indemnitees"), from and against:

6.2.1. Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys) which may be imposed upon, incurred by or be asserted against the indemnitees by reason of any act or omission of company, its personnel, employees, agents, or contractors resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, tradename, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance or condition of the cable television system (including those arising from any matter contained in or resulting from the transmission of programming over the system and including any claim or lien arising out of work, labor, materials or supplies provided or supplied to company, its contractors or subcontractors), the provision of cable services or the company's failure to comply with any federal, state or local statute, ordinance or regulation.

6.3. *Assumption of risk.* Company undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any city-owned or -controlled property, including public ways, and company hereby agrees to indemnify and hold harmless the indemnitees against and from any claim asserted or liability imposed upon the indemnitees for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the cable television system or company's failure to comply with any federal, state or local statute, ordinance or regulation.

6.4. *Defense of indemnitees.* In the event any action or proceeding shall be brought against the indemnitees by reason of any matter for which the indemnitees are indemnified hereunder, company shall, upon notice from any of the indemnitees, at company's sole cost and expense, resist and defend the same with legal counsel mutually agreeable to city and company; provided further, however, that company shall not admit liability in any such matter on behalf of the indemnitees without the written consent of city.

6.5. *Notice, cooperation and expenses.* City shall give company prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent city from cooperating with company and participating in the defense of any litigation by city's own counsel.

6.6. *Insurance.* At all times during the term of this franchise including any time for removal of facilities or management, company shall obtain, maintain, and pay all premiums for all insurance policies described in this section. Within 30 days from the effective date of this franchise, company shall file with city certificates of insurance evidencing coverage. Failure to obtain and maintain any insurance policy required by this section shall be deemed a material breach of this franchise and may be grounds for termination pursuant to this franchise.

6.6.1. *Property damage liability*—$100,000.00 per occurrence with a $10,000,000.00 umbrella policy. The property damage insurance required by this section shall indemnify, defend and hold harmless

company and city and the respective officers, boards, commissions, agents, and employees of each from and against all claims made by any person for property damage caused by the operation of company under the franchise herein granted or alleged to have been so caused or alleged to have occurred.

6.6.2. *Comprehensive public liability*—$1,000,000.00 per occurrence with a $10,000,000.00 umbrella policy. The comprehensive public liability insurance required by this section shall indemnify, defend, and hold harmless company and city and the respective officers, boards, commissions, agents, and employees of each from any and all claims made by any person on account of injury to, or death of a person or persons caused by the operations of company under this franchise, alleged to have been so caused or alleged to have occurred.

6.6.3. *Comprehensive automobile liability*—$1,000,000.00 per occurrence with a $10,000,000.00 umbrella policy. The comprehensive automobile liability insurance required by this section shall indemnify, defend and hold harmless company and city and the respective officers, boards, commissions, employees and agents of each from any and all claims made by any person on account of collision, personal injury or property damage caused by use of any owned, hired, or nonowned motor vehicles used in conjunction with the rights herein granted or alleged to have been so caused or alleged to have occurred.

6.6.4. *Workers' compensation*—Workers' compensation coverage which meets all requirements of applicable Michigan workers' compensation laws.

6.7. *[Notice of cancellation or change.]* The insurance policies called for herein shall require 30 calendar days' written notice to city and the company of any cancellation or change in the amount of coverage. Company shall, in the event of any cancellation notice, obtain, maintain, pay all premiums for, and file with city written evidence of payments or premiums, for an appropriate replacement insurance policies so canceled within 30 calendar days following receipt by city or company of notice of cancellation.

6.8. *[Limitation on liability.]* No recovery by city of any sum by reason of any insurance policy required by this franchise shall be any limitation upon the liability of company to city or to other persons.

6.9. *[Carrier to be licensed or on approved list.]* All insurance shall be effected under valid and enforceable policies insured by insurance carriers licensed to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commissioner's approved list of companies qualified to do business in Michigan.

Sec. 7. Fees and payments.

7.1. *Franchise fee.* Company shall pay city throughout the term of this franchise an amount equal to five percent of company's gross revenues. Such payments shall be made semiannually, by March 31 based upon gross revenues in the preceding July-December, and by September 30 based upon gross revenues in the preceding January-June.

7.1.1. Each payment shall be accompanied by a written report to city, verified by an officer of company containing an accurate statement in summarized form of company's gross revenues and the computation of the payment amount.

7.1.2. City may audit company to verify the accuracy of franchise fees paid city. If such audit indicates that the fees have been underpaid by five percent or more of the total franchise fee which should be paid for any calendar year, company shall pay city's cost of auditing that calendar year and such additional amount that is due within 30 days of city's submitting an invoice for such sum.

7.2. *Other payments.* The preceding fees and payments are in addition to all sums which may be due city for property taxes (real and personal), income taxes, license fees, permit fees, other fees or taxes.

7.3. *Interest.* All sums not paid when due shall bear interest at a rate of 12 percent per annum computed monthly, and if so paid with interest shall not constitute an event of default under section 11 [9.100.11].

7.4. *Prior fees.* By August 15, 1994, company shall pay all franchise fees due for the period January 1, 1993, through June 30, 1994, under the prior franchise between company and city.

Sec. 8. Rates and regulation.

8.1. *Rates.* Company's rates and charges for the provision of cable service (and for related services, such as equipment rental, deposits, and downgrade fees) shall be subject to regulation by city as expressly permitted by federal law.

8.2. *Regulation.* City reserves the right to regulate company, the cable television system, and the provision of cable service as expressly permitted by federal law.

Sec. 9. Term.

9.1. *Term.* The term of this franchise shall be the initial term plus any extended term.

9.1.1. The initial term shall be from July 1, 1994, until June 30, 2004.

9.1.2. The extended term shall be until June 30, 2009, upon a finding by city (on written request by company, on or before the expiration of the initial term) that company has generally complied with the customer service standards from time to time in effect during such initial term.

9.2. *Termination.* This franchise and all rights of company thereunder shall automatically terminate on the expiration of the term of this franchise, unless an extension is granted. City will give company 60 days' notice prior to taking action to enforce such termination.

9.3. *Reopeners.* City or company at its option may reopen this franchise as follows:

9.3.1. Within six months of the adoption of FCC regulations if such regulations affect city's ability to (a) regulate rates or (b) act to protect subscribers (such as on customer service matters, customer service standards or consumer protection matters). Such reopener shall be limited to the matters described in [subsections] (a) and (b).

Sec. 10. Transfers, ownership and control.

10.1. *Management of the cable television system.* Company shall personally manage the cable television system and the provision of cable services within city. It shall not directly or indirectly contract for, subcontract or assign in whole or in part, the management of the cable television system or the provision of cable services.

10.2. *[Prior consent.]* This franchise agreement and the cable television system shall not be sold, transferred, assigned, or otherwise encumbered, without the prior consent of the city, such consent not to be unreasonably withheld. Such consent shall not be required, for a transfer in order to secure indebtedness such as a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of company in the franchise or cable system.

10.2.1. The preceding prohibition shall not apply to the replacement or sale of components of the cable television system in the course of ordinary maintenance or day-to-day operation.

10.2.2. The preceding prohibition shall not apply to a transfer to an affiliate, which shall mean an entity controlling, controlled by, or under common control with company.

10.3. *Applications for consent.* If company seeks to obtain the consent of city to any transactions or matters otherwise prohibited by this part [section] 10 [9.100.10], company shall submit an application for such consent on

the forms prescribed by the FCC and shall submit or caused to be submitted to city all such documents and information as city may request.

Sec. 11. Defaults.

11.1. *Events of default.* The occurrence, at any time during the term of the franchise, of any one or more of the following events, shall constitute an event of default by the company under this franchise.

11.1.1. The failure of company to pay the franchise fee on or before the due dates specified herein.

11.1.2. Company's material breach or violation of any of the terms, covenants, representations or warranties contained herein or the company's failure to perform any obligation contained herein.

11.1.3. Company's failure to pay or cause to be paid any governmentally imposed taxes of any kind whatsoever, including but not limited to real estate taxes, income taxes and personal property taxes on or before the due date for same; provided, however, company shall not be in default hereunder with respect to the nonpayment of taxes which are being disputed in good faith in accordance with applicable law.

11.1.4. The entry of any judgment against company in excess of $500,000.00, which remains unpaid and is not stayed pending rehearing or appeal, for 45 or more days following entry thereof which may significantly impair company's provision of cable service in city.

11.1.5. The dissolution or termination, as a matter of law, of company or any general partner of company.

11.1.6. If company files a voluntary petition in bankruptcy; is adjudicated insolvent; obtains an order for relief under section 301 of the Bankruptcy Code (11 USC § 301); files any petition or fails to contest any petition filed against it seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any laws relating to bankruptcy, insolvency or other relief for debtors; seeks or consents to or acquiesces in the appointment of any trustee, receiver, master, custodian or liquidator of company, or any of company's property and/or franchise and/or of any and all of the revenues, issues, earnings, profits or income thereof; makes an assignment for the benefit of creditors; or fails to pay company's debts generally as they become due.

11.2. *Opportunity to cure.* City shall give company written notice of any event of default and company shall have the following reasonable time period to cure same: For an event of default which can be cured by the immediate payment of money to city or a third party, the company shall cure such default within 30 days of the date such sum of money was due and payable; for an event of default by company which cannot be cured by the immediate payment of money to city or a third party, company shall have 90 days to cure such default from written notice from city to company of an occurrence of such event of default except that if due to the nature of the default, such default cannot be cured within 90 days, company may request additional time (which request will not unreasonably be refused) to cure provided company shall promptly initiate reasonable steps to remedy such default and notify city of the steps being taken and the projected date they will be completed.

11.2.1. At the next regularly scheduled city council meeting that occurs more than seven days after company has been given written notice of an event of default such notice shall be placed on the council agenda for discussion, company shall be given notice of such meeting and company shall be allowed to make a presentation on such event of default and related matters.

11.2.2. If any event of default is not cured within the time period allowed for curing the event of default, as provided for herein, such event of default shall, without notice, become an uncured event of default, which shall entitle city to exercise the remedies provided for in section 12.1 and section 12.2 [9.100.12(12.1) and 9.100.12(12.2)].

Sec. 12. Remedies.

12.1. *Remedies.* Upon the occurrence of any uncured event of default as described in part [section] 11 [9.100.11], city shall be entitled to exercise any and all of the following cumulative remedies:

12.1.1. City shall have the right to forfeit and terminate the franchise and upon the forfeiture and termination thereof this franchise shall be automatically deemed null and void and have no force or effect, company shall remove the cable television system from city as and when requested by city and city shall retain any portion of the franchise fee and other fees or payments paid to it, or which are due and payable to it, to the date of the forfeiture and termination. City's right to forfeit and terminate the grant of the franchise pursuant to this section is not a limitation on city's right of revocation.

12.1.2. The commencement of an action against company at law for monetary damages.

12.1.3. The commencement of an action in equity seeking injunctive relief or the specific performance of any of the provisions which, as a matter of equity, are specifically enforceable.

12.2. *Remedies not exclusive.* The rights and remedies of city set forth in this franchise shall be in addition to and not in limitation of, any other rights and remedies provided by law or in equity. City and company understand and intend that such remedies shall be cumulative to the maximum extent permitted by law and the exercise by city of any one or more of such remedies shall not preclude the exercise by city, at the same or different times, of any other such remedies for the same uncured event of default.

12.3. *Liquidated damages.* Notwithstanding any other provision of this franchise (including, without limitation, sections 11.1, 11.2, 12.1, and 12.2 [9.100.11(11.1), 9.100.11(11.2), 9.100.12(12.1), and 9.100.12(12.2)], the city may assess liquidated damages for any violation of the agreement (whether or not it is an uncured event of default as defined in section 11.2.1 [9.100.11(11.2.1)]) as set forth herein. Recognizing the difficulty in calculating the actual monetary damages which would be sustained by the city in the event of a violation by the company of certain provisions of this agreement, the city and the company agree that the following shall constitute the liquidated damage amounts to be assessed against the company:

12.3.1. Failure of the company to pay the franchise fee or to pay any other monetary amounts on or before the due date specified in this agreement within 30 days' written notice of such failure, $200.00 per day.

12.3.2. Any violations of section 2 [9.100.02] or the FCC's customer service obligations, which as of the date of this ordinance are set forth in 47 CFR 76.309 which occur four times in any six-month period or six times in any 12-month period, $50.00 per occurrence beginning with the fourth or sixth violation, and $100.00 per occurrence after ten occurrences within any 12-month period.

12.3.3. Any violation of sections 2.1, 2.2, 2.4, 2.5, 2.6, 3.2, 3.4, 3.5, 3.6, 3.9, 3.10, 4.1, 4.3, 4.6, 4.7, 4.8, 4.10, 4.11, 4.12, 4.14, 4.15, 4.19, 5.1, 6.6, 10.1, and 13.4 [9.100.02(2.1), 9.100.02(2.2), 9.100.02(2.4), 9.100.02(2.5), 9.100.02(2.6), 9.100.03(3.2), 9.100.03(3.4), 9.100.03(3.5), 9.100.03(3.6), 9.100.03(3.9), 9.100.03(3.10), 9.100.04(4.1), 9.100.04(4.3), 9.100.04(4.6), 9.100.04(4.7), 9.100.04(4.8), 9.100.04(4.10), 9.100.04(4.11), 9.100.04(4.12), 9.100.04(4.14), 9.100.04(4.15), 9.100.04(4.19), 9.100.05(5.1), 9.100.06(6.6), 9.100.06(10.1), and 9.100.13(13.4)] of this agreement which is not corrected within 30 days' written notice of violation, $100.00 per day.

12.3.4. The foregoing liquidated damages shall be in addition to, and not a limitation upon, any other remedies or provisions of this agreement, including revocation.

Sec. 13. Provision of information.

13.1. *Financial reports.* Company will provide city on or before April 15 of each calendar year audited financial statements of its parent, publicly held company, for the prior calendar year certified by a national accounting firm.

13.2. *Lawsuits.* Company will provide city with copies of all pleadings in all lawsuits pertaining to the granting of this franchise and the operation of the cable system to which it is a party with five days of company's receipt of same.

13.3. *Filings.* Company will provide copies of all documents which company sends to the FCC or Michigan Public Service Commission and all records required by company to be maintained under § 76 of the FCC regulations (47 CFR 76) or successor sections upon request of the city.

13.4. *Books and records.* The city may review such of the company's books and records, during normal business hours and on a nondisruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, records required to be kept by the company pursuant to the rules and regulations of the FCC, and financial information underlying the summary report pertaining to the franchise fee. Notwithstanding anything to the contrary set forth herein, the company is not required to disclose personally identifiable subscriber information without the subscriber's consent in recognition of section 631 of the Cable Act, 47 USC 551, regarding the protection of subscriber privacy; nor shall the company be required to disclose its income tax returns or information underlying the preparation of any such returns. To the extent permitted by law, the city agrees to treat on a confidential basis any information disclosed by the company to it under this section. In so according confidential treatment, disclosure of the company's records by the city shall be limited to only those of its employees, representatives and agents that have a need to know, and that are in a confidential relationship with the city.

Sec. 14. General.

14.1. *Entire agreement.* This franchise, including the exhibits attached hereto, contain the entire agreement between the parties and all prior franchises, negotiations and agreements are merged herein and hereby superseded.

14.2. *Notices.* Except as otherwise specified herein, all notices, consents, approvals, requests and other communications (herein collectively "notices") required or permitted under this franchise shall be given in writing and mailed by registered or certified first-class mail, return receipt requested, addressed as follows:

If to City:	City Manager City of Tecumseh 309 E. Chicago Blvd. Tecumseh, MI 49286-0396
If to Company:	TCI Cablevision of Greater Michigan, Inc. 246 W. Maumee Adrian, MI 49221
	Westmarc Development J.V. 111 Pfingsten Road Deerfield, IL 60015

All notices shall be deemed given on the day of mailing. Either party to this franchise may change its address for the receipt of notices at any time by giving notice thereof to the other as provided in this section. Any notice given by a party hereunder must be signed by an authorized representative of such party.

14.3. *Conferences.* The parties hereby agree to meet at reasonable times on reasonable notice to discuss any aspect of this franchise, the provision of cable services or the cable television system during the term of this franchise.

14.4. *Governing law.* This franchise shall be construed pursuant to the laws of the State of Michigan and the United States of America.

14.5. *Waiver of compliance.* No failure by either party to insist upon the strict performance of any covenant, agreement, term or condition of this franchise, or to exercise any right, term or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this franchise, but each and every covenant, agreement, term or condition of this franchise shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

14.5.1. City may waive any provision of this franchise, in whole or in part, at any time. This includes but is not limited to instances of a claim or showing by company that the costs associated with the provision being waived would increase the rates company is legally allowed to charge subscribers, such as a claim that such costs are an external cost which allow company to increase its rates under the FCC rules.

14.6. *Independent contractor relationship.* The relationship of company to city is and shall continue to be an independent contractual relationship, and no liability or benefits, such as worker's compensation, pension rights or liabilities, insurance rights or liabilities or other provisions or liabilities, arising out of or related to a contract for hire or employer/employee relationship, shall arise or accrue to either party or either party's agents or employees as a result of the performance of this franchise, unless expressly stated in this franchise.

14.7. *Severability.* If any section, paragraph, or provision of this franchise shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this franchise.

14.8. *Effective date.* This ordinance and the franchise granted herein shall be effective as of July 1, 1994. Any prior franchise shall terminate as of midnight on June 30, 1994.

14.9. *FCC rules.* A copy of FCC rule 76.309 as in effect on the date of this ordinance is attached hereto as exhibit A.

14.10. *Acceptance.* This ordinance will without further action be revoked, null and void and of no effect after 30 days from its adoption unless within such period company accepts same in writing by filing with the city clerk the acceptance attached hereto as exhibit B. By such acceptance, company agrees to all the provisions, terms, and conditions contained in this ordinance.

EXHIBIT A—FCC RULE 76.309

§ 76.309 47 CFR Ch. 1 (10-1-93 Edition)

§ 76.309 Customer service obligations.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this section against cable operators. The franchise authority must provide affected cable operators 90 days' written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

(1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in paragraph (c) of this section;

(2) A franchising authority from enforcing, through the end of the franchise term, preexisting customer service requirements that exceed the standards set forth in paragraph (c) of this section and are contained in current franchise agreements;

(3) Any state or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or

(4) The establishment or enforcement of any state or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this section.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) *Cable system office hours and telephone availability:*

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed 30 seconds. These standards shall be met no less than 90 percent of the time under normal operating conditions, measured on a quarterly basis.

(iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three percent of the time.

(v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) *Installations, outages and service calls.* Under normal operating conditions, each of the following four standards will be met no less than 95 percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal

business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(3) *Communications between cable operators and cable subscribers:*

(i) *Notifications to subscribers:*

(A) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

(1) Products and services offered;

(2) Prices and options for programming services and conditions of subscription to programming and other services;

(3) Installation and service maintenance policies;

(4) Instructions on how to use the cable service;

(5) Channel positions programming carried on the system; and

(6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(B) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of 30 days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers 30 days in advance of any significant changes in the other information required by the preceding paragraph.

(ii) *Billing:*

(A) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(B) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

(iii) *Refunds.* Refund checks will be issued promptly, but no later than either:

(A) The customer's next billing cycle following resolution of the request or 30 days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(iv) *Credits.* Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) *Definitions:*

(i) *Normal business hours.* The term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

(ii) *Normal operating conditions.* The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) *Service interruption.* The term "service interruption" means the loss of picture or sound on one or more cable channels.

EXHIBIT B—TCI GREAT LAKES, INC.

ACCEPTANCE

Westmarc Development Joint Venture, L.P., a Colorado Limited Partnership, d/b/a TCI Cablevision of Greater Michigan, Inc. hereby accepts the right granted by the City of Tecumseh, Michigan, in its Ordinance No. 4-94 and subject to all the provisions and conditions contained in such ordinance.

Westmarc Development Joint Venture, L.P.

By: Allan H. Goodson

Its: Vice President

Date: July 20, 1994

111 Pfingsten Road, Suite 400
Deerfield, IL 60015
(708) 480-9292
FAX (708) 480-7462

ARTICLE III. ELECTRIC FRANCHISES

DIVISION 1. NORDIC ELECTRIC

NORDIC ELECTRIC, L.L.C. ELECTRIC
FRANCHISE ORDINANCE
CITY OF TECUMSEH, MICHIGAN
Ord. No. 6-96 adopted April 15, 1996

An ordinance granting to Nordic Electric, L.L.C., a Michigan limited liability company, its successors and assigns, the right, power, and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, cross- arms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local electric business in the City of Tecumseh, Lenawee County, Michigan, for a period of 30 years.

THE CITY OF TECUMSEH, LENAWEE COUNTY, MICHIGAN, ORDAINS:

Sec. 1. Grant term.

The City of Tecumseh, Lenawee County, State of Michigan, (hereinafter called "grantor"), hereby grants to Nordic Electric, L.L.C., a Michigan limited liability company, its successors and assigns, (hereinafter called "grantee") the right, power and authority to construct, maintain and commercially use electric lines, consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances, for the purpose of transmitting, transforming, and distributing electricity on, along, across and under the highways, streets, alleys, bridges and other public places and to do a local electric business in the City of Tecumseh, Lenawee County, Michigan, for a period of 30 years.

Sec. 2. Consideration.

In consideration of the rights, power and authority hereby granted, said grantee shall faithfully perform all things required by the terms hereof.

Sec. 3. Conditions.

(a) The grantee and its contractors and subcontractors shall not unduly burden or interfere with the present or future use of any of the highways, streets, alleys, bridges, waterways and other public places (hereafter called "public ways") within the grantor. No public ways used by grantee shall be obstructed longer than necessary during construction, maintenance or repair. The grantee and its contractors and subcontractors shall at the grantee's sole cost and expense repair the same and leave it in as good condition as before the opening or excavation was made. The grantee and its contractors and subcontractors shall complete such repair within the time specified on the permit issued by the grantor. In the event that the grantee and its contractors and subcontractors fail to make such repairs within the time specified on the permit, the grantor shall be entitled to complete the repair and the grantee shall pay the reasonable costs of the grantor for such repair.

All of grantee's structures and equipment shall be placed on either side of the public ways so as not to interfere unnecessarily with their use. All of grantee's electric lines shall be securely fastened so as not to endanger or injure persons or property in said public ways.

(b) Except in emergencies, no public way shall be opened for the installation or repair of any of the grantee's facilities unless an application is made to the grantor stating the nature of the proposed work and the route and upon obtaining a right-of-way permit from the grantor. No permit shall be issued unless the location and depth of grantee's facilities within the public ways are identified at the time of application.

(c) The grantee and its contractors and subcontractors shall, at the grantee's own costs and expense, protect, support, disconnect, relocate in or remove from the public ways any of its facilities when required to do so by the grantor due to street or other public excavation, construction, repair, grading, regrading; the installation of sewers, drains, water pipes, or municipally owned facilities of any kind; the construction, vacation or relocation of streets pursuant to the grantor's discharge of a governmental function; or other public improvements by the grantor.

(d) Grantee's representative shall attend when requested by the grantor preconstruction meetings conducted by the grantor in connection with any public improvement projects in the public ways in the grantor which may affect any of grantee's facilities. Grantee's representative shall notify the grantor and its contractors of any conditions of grantee's facilities which may affect the project and grantee shall make provisions as necessary to prevent grantee's facilities (or their conditions) from delaying or otherwise interfering with the project.

(e) Any easements over or under private property necessary for the construction, repair or maintenance of grantee's facilities shall be arranged and paid for by grantee. Any easements over or under property owned by the grantor other than the public ways shall be separately negotiated with the grantor. The grantor shall be under no obligation to grant such easements. The foregoing shall not be construed to negate or limit in any way grantee's right or ability to exercise its power of eminent domain pursuant to state law as it may presently exist or may hereafter be amended.

(f) The grantee and its contractors and subcontractors shall be subject to all applicable laws, ordinances or regulations in the course of constructing, installing, operating and maintaining its facilities in the grantor. Without limitation, grantee shall comply with the latest edition of the following, if applicable:

(1) The National Electrical Safety Code.

(2) The American National Standards Institute Standard for Tree Care Operations, ANSI Z-133.

(3) Rules, Regulations and Orders issued by the Michigan Public Service Commission.

(4) General Rules of the Construction Code Commission.

Grantee shall have the right to trim trees if necessary in the conducting of its local electric business in the grantor, subject to reasonable regulation by the highway authorities of the grantor consistent with the obligations of grantee as set forth above.

The grantee shall be and remain subject to all ordinances, rules and regulations of the grantor now in effect, or which might subsequently be adopted for the regulation of land uses or for the protection of the health, safety and general welfare of the public; provided however that nothing herein shall be construed as a waiver by grantee of any of its existing or future rights under state or federal law.

(g) The grantor may remove or damage grantee's facilities as reasonably necessary in the case of fire, disaster or other emergencies as determined by the grantor's mayor, city manager, police chief or fire chief. In such event, neither the grantor nor any agent, contractor, or employee thereof, acting at the direction of the grantor shall be liable to the grantee for any damages caused to the grantee or its facilities. However, the grantor shall hold grantee harmless for any injuries to or damages incurred by any of the grantor's employees, agents, or contractors, arising out of the exercise of the grantor's right to remove or damage grantee's facilities in the case of fire, disaster or other emergencies.

(h) Grantee shall keep reasonably accurate, complete and current maps and records of its facilities. If the grantor or its contractors are working on the public ways in the vicinity of grantee's facilities, grantee agrees, if requested by the grantor, to furnish maps and/or records of the specific area requested. Nothing herein shall be construed to modify the requirements of or the parties obligations under the Miss Dig Act (MCL 460.701 et seq.) as it now exists or may hereafter be amended.

Sec. 4. Hold harmless.

The grantee and its contractors and subcontractors shall use due care at all times in exercising the privileges herein contained. The grantee shall hold harmless, defend and indemnify the grantor and its officers, agents, and employees from and against all costs, claims, damages, liabilities, expenses, judgments and proceedings of whatever nature including, without limitation, attorney's fees, arising from the grantee's exercise of its rights pursuant to this ordinance (whether by the grantee or the grantee's contractors or subcontractors). Notwithstanding the foregoing, grantee shall not be required to hold harmless, defend and indemnify the grantor and its officers, agents, and employees from and against any costs, claims, damages, liabilities, expenses, judgments and proceedings of whatever nature which arise out of the negligence of the grantor and its officers, agents, and employees.

Sec. 5. Insurance.

Grantee shall obtain and maintain in full force and effect the following insurance covering all insurable risks associated with its exercise of the rights granted by this ordinance: comprehensive general liability insurance, including completed operations liability, independent contractors liability, contractual liability coverage and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage, in an amount not less than $2,000,000.00.

Grantor shall be named as an additional insured in all applicable policies. All insurance policies shall provide that they shall not be canceled or modified unless 30 days' prior written notice is given to grantor. Grantee shall provide grantor with a certificate of insurance evidencing such coverage and maintain on file with grantor a current certificate. All insurance shall be issued by insurance carriers licensed to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance and surplus line carriers shall be rated A+ or better by A.M. Best Company.

Sec. 6. Franchise not exclusive.

The rights, power and authority herein granted are not exclusive. The right to do electric business hereunder are several, and such rights may be separately exercised, owned and transferred.

Sec. 7. Extensions.

Said grantee shall from time to time extend its electric system to and within said grantor, and shall furnish electricity to applicants residing therein in accordance with applicable laws, rules and regulations.

Sec. 8. Rates.

The grantee shall be entitled to charge the inhabitants of said grantor for electricity furnished therein, the rates as approved by the Michigan Public Service Commission, to which commission or its successors authority and jurisdiction to fix and regulate electric rates and rules regulating such service in said grantor are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said grantor acting by its city council, or by said grantee.

Sec. 9. Revocation.

The franchise granted by this ordinance is subject to revocation at will and without cause upon 60 days' written notice by the party desiring such revocation.

Sec. 10. Michigan Public Service Commission jurisdiction.

Said grantee shall, as to all other conditions and elements of electrical service, not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service in said grantor.

Sec. 11. Effective date.

This ordinance shall take effect ten days after adoption and upon the publication thereof, provided however, it shall cease and be of no effect after 30 days from its adoption unless within said period the grantee shall accept the same in writing filed with the grantor's city clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said grantor and said grantee.

DIVISION 2. CMS ELECTRIC MARKETING FRANCHISE

CMS ELECTRIC MARKETING
ELECTRIC FRANCHISE ORDINANCE
Ord. No. 1-97
Adopted: February 17, 1997

An ordinance granting to CMS Electric Marketing, a Michigan corporation, its successors and assigns, the right, power, and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, cross- arms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local electric business in the City of Tecumseh, Lenawee County, Michigan, for a period of 30 years.

THE CITY OF TECUMSEH, LENAWEE COUNTY, MICHIGAN, ORDAINS:

Sec. 1. Grant term.

The City of Tecumseh, Lenawee County, State of Michigan, (hereinafter referred to as "grantor" or "the city"), hereby grants to CMS Electric Marketing, a Michigan corporation, its successors and assigns, (hereinafter called "grantee") the right, power and authority to construct, maintain and commercially use electric lines, consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances, for the purpose of transmitting, transforming, and distributing electricity on, along, across and under the highways, streets, alleys, bridges and other public places and to do a local electric business in the City of Tecumseh, Lenawee County, Michigan, for a period of 30 years.

Sec. 2. Consideration.

In consideration of the rights, power and authority hereby granted, said grantee shall faithfully perform all things required by the terms hereof.

Sec. 3. Conditions.

(a) Grantee and its contractors and subcontractors shall not unduly burden or interfere with the present or future use of any of the highways, streets, alleys, bridges, waterways and other public places (hereafter called "public ways") within the grantor. No public ways used by grantee shall be obstructed longer than necessary during construction, maintenance or repair. Grantee and its contractors and subcontractors shall at grantee's sole cost and expense repair the same and leave it in as good condition as before the opening or excavation was made. Grantee and its contractors and subcontractors shall complete such repair within the time specified on the permit issued by the grantor. In the event that grantee and its contractors and subcontractors fail to make such repairs within the time specified on the permit, grantor shall be entitled to complete the repair and grantee shall pay the reasonable costs of grantor for such repair. All of grantee's structures and equipment shall be placed on either side of the public ways so as not to interfere unnecessarily with their use. All of grantee's electric lines shall be securely fastened so as not to endanger or injure persons or property in said public ways.

(b) Except in emergencies, no public way shall be opened for the installation or repair of any of grantee's facilities unless an application is made to the grantor stating the nature of the proposed work and the route

and a right-of-way permit is obtained from the grantor. No permit shall be issued unless the location and depth of grantee's facilities within the public way are identified at the time of application.

(c) Grantee and its contractors and subcontractors shall, at grantee's own cost and expense, protect, support, disconnect, relocate in or remove from the public ways any of its facilities when required to do so by grantor due to street or other public excavation, construction, repair, grading, regrading; the installation of sewers, drains, water pipes, or municipally owned facilities of any kind; the construction, vacation or relocation of streets pursuant to the grantor's discharge of a governmental function; or other public improvements by grantor.

(d) Grantee's representative shall attend, when requested by grantor, preconstruction meetings conducted by grantor in connection with any public improvement projects in the public ways in the city which may affect any of grantee's facilities. Grantee's representative shall notify grantor and its contractors of any conditions of grantee's facilities which may affect the project and grantee shall make provisions as necessary to prevent grantee's facilities (or their condition) from delaying or otherwise interfering with the project.

(e) Any easements over or under private property necessary for the construction, repair or maintenance of grantee's facilities shall be arranged and paid for by grantee. Any easements over or under property owned by grantor other than the public ways shall be separately negotiated with grantor. Grantor shall be under no obligation to grant such easements. The foregoing shall not be construed to negate or limit in any way grantee's right or ability to exercise its power of eminent domain pursuant to state law as it may presently exist or may hereafter be amended.

(f) Grantee and its contractors and subcontractors shall be subject to all applicable laws, ordinances or regulations in the course of constructing, installing, operating and maintaining its facilities in the city. Without limitation, grantee shall comply with the latest edition of the following, if applicable:

(1) The National Electrical Safety Code.

(2) The American National Standards Institute Standard for Tree Care Operations, ANSI Z-133.

(3) Rules, Regulations and Orders issued by the Michigan Public Service Commission.

(4) General Rules of the Construction Code Commission.

Grantee shall have the right to trim trees if necessary in the conducting of its local electric business in the city, subject to reasonable regulation by the highway authorities of the city consistent with the obligations of grantee as set forth above.

Grantee shall be and remain subject to all ordinances, rules and regulations of the city now in effect, or which might subsequently be adopted for the regulation of land uses or for the protection of the health, safety and general welfare of the public; provided however that nothing herein shall be construed as a waiver by grantee of any of its existing or future rights under state or federal law.

(g) Grantor may remove or damage grantee's facilities as reasonably necessary in the case of fire, disaster or other emergencies as determined by the city's mayor, city manager, police chief or fire chief. In such event, neither the grantor nor any agent, contractor, or employee thereof, acting at the direction of grantor shall be liable to grantee for any damages caused to grantee or its facilities. However, grantor shall hold grantee harmless for any injuries to or damages incurred by any of grantor's employees, agents, or contractors, arising out the exercise of grantor's right to remove or damage grantee's facilities in the case of fire, disaster or other emergencies.

(h) Grantee shall keep reasonably accurate, complete and current maps and records of its facilities. If grantor or its contractors are working in the public ways in the vicinity of grantee's facilities, grantee agrees, if requested by grantor, to furnish maps and/or records of the specific area requested. Nothing herein shall be construed to modify the requirements of or the parties obligations under the Miss Dig Act (MCL 460.701 et seq.) as it now exists or may hereafter be amended.

Sec. 4. Hold harmless.

Grantee and its contractors and subcontractors shall use due care at all times in exercising the privileges herein contained. Grantee shall hold harmless, defend and indemnify grantor and its officers, agents, and employees from and against all costs, claims, damages, liabilities, expenses, judgments and proceedings of whatever nature including, without limitation, attorneys' fees, arising from grantee's exercise of its rights pursuant to this ordinance (whether by grantee or its contractors or subcontractors). Notwithstanding the foregoing, grantee shall not be required to hold harmless, defend and indemnify grantor and its officers, agents, and employees from and against any costs, claims, damages, liabilities, expenses, judgments and proceedings of whatever nature which arise out of the negligence of the grantor and its officers, agents, and employees.

Sec. 5. Insurance.

Grantee shall obtain and maintain in full force and effect the following insurance covering all insurable risks associated with its exercise of the rights granted by this ordinance: comprehensive general liability insurance, including completed operations liability, independent contractors liability, contractual liability coverage and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage, in an amount not less than $2,000,000.00.

Grantor shall be named as an additional insured in all applicable policies. All insurance policies shall provide that they shall not be canceled or modified unless 30 days' prior written notice is given to grantor. Grantee shall provide grantor with a certificate of insurance evidencing such coverage and maintain on file with grantor a current certificate. All insurance shall be issued by insurance carriers licensed to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance and surplus line carriers shall be rated A+ or better by A.M. Best Company.

Sec. 6. Franchise not exclusive.

The rights, power and authority herein granted are not exclusive. The rights to do electric business hereunder are several, and such rights may be separately exercised, owned and transferred.

Sec. 7. Extensions.

Grantee shall from time to time extend its electric system to and within the city, and shall furnish electricity to applicants residing therein in accordance with applicable laws, rules and regulations.

Sec. 8. Rates.

Grantee shall be entitled to charge the inhabitants of the city for electricity furnished therein, the rates as approved by the Michigan Public Service Commission ("commission"), to which commission or its successors authority and jurisdiction to fix and regulate electric rates and rules regulating such service in the city are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either the city acting by its city council, or by grantee.

Sec. 9. Revocation.

The franchise granted by this ordinance is subject to revocation at will and without cause upon 60 days' written notice by the party desiring such revocation.

Sec. 10. Michigan Public Service Commission jurisdiction.

Grantee shall, as to all other conditions and elements of electrical service, not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service in the city.

Sec. 11. Effective date.

This ordinance shall take effect ten days after adoption and upon the publication thereof; provided however, it shall cease and be of no effect after 30 days from its adoption unless within said period grantee shall accept the same in writing and file an acceptance with the city clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between grantor and grantee.

DIVISION 3. DTE ENERGY MARKETING, INC., FRANCHISE

ORDINANCE NO. 02-2000
[Adopted February 21, 1999]

DTE ENERGY MARKETING, INC.
ELECTRIC FRANCHISE ORDINANCE
City of Tecumseh, Lenawee County, Michigan

An ordinance granting to DTE Energy Marketing, Inc., a Michigan corporation, its successors and assigns, the right, power, and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local electric business in the City of Tecumseh, Lenawee County, Michigan, for a period of 30 years.

THE CITY OF TECUMSEH, LENAWEE COUNTY, MICHIGAN, ORDAINS:

Sec. 1. Grant term.

The City of Tecumseh, Lenawee County, State of Michigan, (hereinafter called "grantor"), hereby grants to DTE Energy Marketing, Inc., a Michigan corporation, its successors and assigns, (hereinafter called "grantee"), the right, power and authority to construct, maintain and commercially use electric lines, consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances, for the purpose of transmitting, transforming, and distributing electricity on, along, across and under the highways, streets, alleys, bridges and other public places and to do a local electric business in the City of Tecumseh, Lenawee County, Michigan, for a period of 30 years.

Sec. 2. Consideration.

In consideration of the rights, power and authority hereby granted, said grantee shall faithfully perform all things required by the terms hereof.

Sec. 3. Conditions.

(a) The grantee and its contractors and subcontractors shall not unduly burden or interfere with the present or future use of any of the highways, streets, alleys, bridges, waterways and other public places (hereafter called "public ways") within the grantor. No public ways used by grantee shall be obstructed longer than necessary during construction, maintenance or repair. The grantee and its contractors and subcontractors

shall, at the grantee's sole cost and expense, repair the same and leave it in as good condition as before the opening or excavation was made. The grantee and its contractors and subcontractors shall complete such repair within the time specified on the permit issued by the grantor. In the event that the grantee and its contractors and subcontractors fail to make such repairs within the time specified on the permit, the grantor shall be entitled to complete the repair and the grantee shall pay the reasonable costs of the grantor for such repair. All of grantee's structures and equipment shall be placed on either side of the public ways so as not to interfere unnecessarily with their use. All of grantee's electric lines shall be securely fastened so as not to endanger or injure persons or property in said public ways.

(b) Except in emergencies, no public way shall be opened for the installation or repair of any of the grantee's facilities unless an application is made to the grantor stating the nature of the proposed work and the route and upon obtaining a right-of-way permit from the grantor. No permit shall be issued unless the location and depth of grantee's facilities within the public way are identified at the time of application.

(c) The grantee and its contractors and subcontractors shall, at the grantee's own cost and expense, protect, support, disconnect, relocate in or remove from the public ways any of its facilities when required to do so by the grantor due to street or other public excavation, construction, repair, grading, regrading; the installation of sewers, drains, water pipes, or municipally owned facilities of any kind; the construction, vacation or relocation of streets pursuant to the grantor's discharge of a governmental function; or other public improvements by the grantor.

(d) Grantee's representative shall attend when requested by the grantor preconstruction meetings and conducted by the grantor in connection with any public improvement projects in the public ways in the grantor which may affect any of grantee's facilities. Grantee's representative shall notify the grantor and its contractors of any conditions of grantee's facilities which may affect the project and grantee shall make provisions as necessary to prevent grantee's facilities (or their condition) from delaying or otherwise interfering with the project.

(e) Any easements over or under private property necessary for the construction, repair or maintenance of grantee's facilities shall be arranged and paid for by grantee. Any easements over or under property owned by the grantor other than the public ways shall be separately negotiated with the grantor. The grantor shall be under no obligation to grant such easements. The foregoing shall not be construed to negate or limit in any way the grantee's right or ability to exercise its power of eminent domain pursuant to state law as it may presently exist or may hereafter be amended.

(f) The grantee and its contractors and subcontractors shall be subject to all applicable laws, ordinances or regulations in the course of constructing, installing, operating and maintaining its facilities in the grantor. Without limitation, grantee shall comply with the latest edition of the following, if applicable:

(1) The National Electrical Safety Code.

(2) The American National Standards Institute Standard for Tree Care Operations, ANSI Z-133.

(3) Rules, Regulations and Orders issued by the Michigan Public Service Commission.

(4) General Rules of the Construction Code Commission.

Grantee shall have the right to trim trees if necessary in the conducting of its local electric business in the grantor, subject to reasonable regulation by the highway authorities of the grantor consistent with the obligations of grantee as set forth above.

The grantee shall be and remain subject to all ordinances, rules and regulations of the grantor now in effect, or which might subsequently be adopted for the regulations of land uses or for the protection of the health, safety and general welfare of the public; provided, however, that nothing herein shall be construed as a waiver by grantee of any of its existing or future rights under state or federal law.

(g) The grantor may remove or damage grantee's facilities as reasonably necessary in the case of fire, disaster or other emergencies as determined by the grantor's mayor, city manager [or his designee], police chief or fire chief. In such event, neither the grantor nor any agent, contractor, or employee thereof, acting at the direction of the grantor, shall be liable to the grantee for any damages caused to the grantee or its facilities. However, the grantor shall hold grantee harmless for any injuries to or damages incurred by any of the grantor's employees, agents, or contractors, arising out [of] the exercise of the grantor's right to remove or damage grantee's facilities in the case of fire, disaster or other emergencies.

(h) Grantee shall keep reasonably accurate, complete and current maps and records of its facilities. If the grantor or its contractors are working in the public ways in the vicinity of grantee's facilities, grantee agrees, if requested by the grantor, to furnish maps and/or records of the specific area requested. Nothing herein shall be construed to modify the requirements of or the parties obligations under the Miss Dig Act (MCL 460.701 et seq.) as it now exists or may hereafter be amended.

Sec. 4. Hold harmless.

The grantee and its contractors and subcontractors shall use due care at all times in exercising the privileges herein contained. The grantee shall hold harmless, defend and indemnify the grantor and its officers, agents, and employees from and against all costs, claims, damages, liabilities, expenses, judgments and proceedings of whatever nature including, without limitation, attorneys' fees, arising from the grantee's exercise of its rights pursuant to this ordinance (whether by the grantee or the grantee's contractors or subcontractors). Notwithstanding the foregoing, the grantee shall not be required to hold harmless, defined and indemnify the grantor and its officers, agents, and employees from and against any costs, claims, damages, liabilities, expenses, judgments and proceedings of whatever nature which arise out of the negligence of the grantor and its officers, agents, and employees.

Sec. 5. Insurance.

Grantee shall obtain and maintain in full force and effect the following insurance covering all insurable risks associated with its exercise of the rights granted by this ordinance: comprehensive general liability insurance, including completed operations liability, independent contractors liability, contractual liability coverage and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage, in an amount not less than $2,000,000.00.

Grantor shall be named as an additional insured in all applicable policies. All insurance policies shall provide that they shall not be canceled or modified unless 30 days prior written notice is given to grantor. Grantee shall provide grantor with a certificate of insurance evidencing such coverage and maintain on file with grantor a current certificate. All insurance shall be issued by insurance carriers licensed to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance and surplus line carriers shall be rated A+ or better by A.M. Best Company.

Sec. 6. Franchise not exclusive.

The rights, power and authority herein granted are not exclusive. The right to do electric business hereunder are several, and such rights may be separately exercised, owned and transferred.

Sec. 7. Extensions.

Said grantee shall from time to time extend its electric system to and within said contractor, and shall furnish electricity to applicants residing therein in accordance with applicable laws, rules and regulations.

Sec. 8. Rates.

The grantee shall be entitled to charge the inhabitants of said grantor for electricity furnished therein, the rates as approved by the Michigan Public Service Commission, to which commission or its successors authority and jurisdiction to fix and regulate electric rates and rules regulating such service in said grantor are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said grantor acting by its city council, or by said grantee.

Sec. 9. Revocation.

The franchise granted by this ordinance is subject to revocation at will and without cause upon 60 days written notioce by the party desiring such revocation.

Sec. 10. Michigan Public Service Commission jurisdiction.

Said grantee shall, as to all other conditions and elements of electrical service, not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service in said grantor.

Sec. 11. Effective date.

This ordinance shall take effect ten days after adoption and upon the publication thereof, provided, however, it shall cease and be of no effect after 30 days from its adoption unless within said period the grantee shall accept the same in writing filed with the grantor's city clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said grantor and said grantee.

CODE COMPARATIVE TABLE
1982 COMPILATION ORDINANCES

This table gives the location within this Code of those sections of the 1982 Compilation Ordinances, as updated through August 8, 1998 which are included herein. Sections of the 1982 Compilation Ordinances, 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.

1982 Compilation Section	Ord. No./Eff. Date	Section this Code
2.000.01	2.000, 6-1-1967	82-1
2.000.09	2.000, 6-1-1967	82-1
2.000.10	2.000, 6-1-1967; 12-18-1972; 1-7-1980; 6-1-1981; 6-3-1985; 6-16-1986; 4-93, 6-21-1993	82-71
2.000.11	2.000, 6-1-1967	82-72
2.000.12	2.000, 6-1-1967	82.73
2.000.13	2.000, 6-1-1967	82.74
2.000.14	2.000, 6-1-1967; 1.000, 12-6-1982	82-75

2.101.1.1	1-95, 4-2-1995	82-151
2.101.1.2	1-95, 4-2-1995	82-152
2.101.1.3	1-95, 4-2-1995	82-153
2.101.1.4	1-95, 4-2-1995	82-154
2.102.2.1	1-95, 4-2-1995	82-181
2.102.2.2	1-95, 4-2-1995	82-182
2.102.2.3	1-95, 4-2-1995	82-183
2.102.2.4	1-95, 4-2-1995	82-184
2.102.2.5	1-95, 4-2-1995	82-185
2.102.2.6	1-95, 4-2-1995	82-186
2.102.2.7	1-95, 4-2-1995	82-187
2.103.3.1	1-95, 4-2-1995	82-211
2.103.3.2	1-95, 4-2-1995	82-212
2.103.3.3	1-95, 4-2-1995	82-213
2.103.3.4	1-95, 4-2-1995	82-214
2.103.3.5	No history note	82-215
2.103.3.6	1-95, 4-2-1995	82-216
2.104.4.1	1-95, 4-2-1995	82-241
2.104.4.2	1-95, 4-2-1995	82-242
2.104.4.3	1-95, 4-2-1995	82-243
2.104.4.4	1-95, 4-2-1995	82-244
2.104.4.5	1-95, 4-2-1995	82-245
2.104.4.6	1-95, 4-2-1995	82-246
2.104.4.7	1-95, 4-2-1995	82-247
2.104.4.8	1-95, 4-2-1995	82-248
2.105.5.1	1-95, 4-2-1995	82-261
2.105.5.2	1-95, 4-2-1995	82.262
2.105.5.3	1-95, 4-2-1995	82.263
2.105.5.4	1-95, 4-2-1995	82.864
2.105.5.5	1-95, 4-2-1995	82.265
2.105.5.6	1-95, 4-2-1995	82.266
2.105.5.7	1-95, 4-2-1995	82.267
2.106.6.1	1-95, 4-2-1995	82-291
2.106.6.2	1-95, 4-2-1995	82-292
2.106.6.3	no history note	82-293
2.106.6.4	1-95, 4-2-1995	82-294
2.106.6.5	1-95, 4-2-1995	82-295
2.106.6.6	1-95, 4-2-1995	82-296
2.106.6.7	1-95, 4-2-1995	82-297
2.106.6.8	1-95, 4-2-1995	82-298
2.106.6.9	1-95, 4-2-1995	82-299
2.106.6.10	1-95, 4-2-1995	82-300
2.106.6.11	1-95, 4-2-1995	82-301
2.106.6.12	1-95, 4-2-1995	82-302
2.106.6.13	1-95, 4-2-1995	82-303

2.106.6.14	1-95, 4-2-1995	82-304
2.107.7.1	1-95, 4-2-1995	82-321
2.107.7.2	1-95, 4-2-1995	82-322
2.108.00	1-95, 4-2-1995	82-341
2.109.00	1-95, 4-2-1995	82-361
2.110.10.1	1-95, 4-2-1995	82-391
2.110.11.2	1-95, 4-2-1995	82-392
2.110.11.3	1-95, 4-2-1995	82-393
2.110.00.4	1-95, 4-2-1995	82-394
2.110.00.5	1-95, 4-2-1995	82-395
2.110.00.6	1-95, 4-2-1995	82-396
2.110.00.7	1-95, 4-2-1995	82-397
2.110.10.8	1-95, 4-2-1995	82-398
2.111.11.1	1-95, 4-2-1995	82-411
2.111.11.2	1-95, 4-2-1995	82-412
2.111.11.3	1-95, 4-2-1995	82-413
2.111.11.4	1-95, 4-2-1995	82-414
2.112.12.1	1-95, 4-2-1995	82-431
2.112.12.2	1-95, 4-2-1995	82-432
2.112.12.3	1-95, 4-2-1995	82-433
2.112.12.4	1-95, 4-2-1995	82-434
2.112.12.5	1-95, 4-2-1995	82-435
2.113.13.1	1-95, 4-2-1995	82-451
2.113.13.2	1-95, 4-2-1995	82-452
2.113.13.3	1-95, 4-2-1995	82-453
2.114.14.1	1-95, 4-2-1995	82-461
2.200.01	2.200, 2-19-1974	82-31
2.200.02	2.200, 2-19-1974	82-32
2.200.03	2.200, 2-19-1974	82-33
2.200.04	2.200, 2-19-1974	82-34
2.200.05	2.200, 2-19-1974	82-35
2.200.06	2.200, 2-19-1974	82-36
2.200.07	2.200, 2-19-1974	82-37
2.201.00	code, 6-1-1967	82-111
2.202.00	code, 6-1-1967	82-112
2.203.00	code, 6-1-1967	82-113
2.204.00	code, 6-1-1967	82-114
2.205.00	code, 6-1-1967	82-115
2.206.00	code, 6-1-1967	82-116
2.207.00	code, 6-1-1967	82-117
2.208.00	code, 6-1-1967	82-118
2.209.00	code, 6-1-1967	82-119
3.211a.00	code, 6-1-1967	78-112
3.301a.00	code, 6-1-1967	50-162
3.302.00	code, 6-1-1967	50-31

3.303.00	code, 6-1-1967	50-191
3.304.00	code, 6-1-1967	50-81
3.305.00	code, 6-1-1967	50-2
		78-111
3.306.00	code, 6-1-1967	50-161
3.307.00	code, 6-1-1967	50-241
3.308.00	code, 6-1-1967	50-242
3.309.00	code, 6-1-1967; 5-5-1969; 11-18-1974; 5-2-1977; 3-6-1978; 9-94, 1-3-1995	50-1
3.310.00	code, 7-1-1967; 8-94, 1-3-1995	50-343
3.310.00(1)	code, 7-1-1967	50-341
3.310.00(1)(a)—(c)	code, 7-1-1967	50-342
3.311.01	3.311.00, 1-19-1987	50-391
3.311.02	3.311.00, 1-19-1987	50-392
3.311.03	3.311.00, 1-19-1987	50-393, 50-395
3.312.01	9-96, 7-1-1996	
50-261		
3.312.02	9-96, 7-1-1996	50-262
3.312.03	9-96, 7-1-1996	50-263
3.312.04	9-96, 7-1-1996	50-264
3.312.05	9-96, 7-1-1996	50-265
3.312.06	9-96, 7-1-1996	50-266
3.312.07	9-96, 7-1-1996	50-267
3.400.00	3.400, 11-15-1982	78-71, 78-72
3.401.00	code, 6-1-1967	78-73(9.3)
3.402.00	code, 6-1-1967	78-113
3.403.00	code, 6-1-1967	78-114
3.403.01	code, 6-1-1967; 3.403.1, 8-2-1982	78-115
3.404.00	code, 6-1-1967; 8-1-1979; 5-88, 8-3-1988	78-73(9.3)
3.405.00	3.405, 7-10-1972	78-1
3.405.02	3.405, 7-10-1972	78-2
3.405.03.1	3.405.03, 4-18-1983	78-73(9.3)
3.405.03.3	3.405.03, 4-18-1983	78-73(9.3)
3.500a.00	code, 6-1-1967	50-421
3.502.00	code, 6-1-1967	50-423
3.504.00	code, 6-1-1967	50-424
3.600a.00	12-1-1969	50-82
3.601.00	12-1-1968	50-83
3.602.00	12-1-1969	50-84
3.603.00	12-1-1969	50-85
3.604.00	12-1-1969	50-86
3.810.01	3.810, 8-16-1982	6-31
3.810.02	3.810, 8-16-1982	6-32

3.810.03	3.810, 8-16-1982	6-51
3.810.04	3.810, 8-16-1982	6-52
3.810.05	3.810, 8-16-1982	6-53
3.810.06	3.810, 8-16-1982	6-54
3.810.07	3.810, 8-16-1982	6-55
3.810.08	3.810, 8-16-1982	6-56
3.810.09	3.810, 8-16-1982	6-33
3.900a.00	code, 6-1-1967; 8-4-1969, 4-19-1971	10-31—10-34
3.901.00	code, 6-1-1967; 4-19-1971	10-35
3.902.00	code, 6-1-1967; 4-19-1971	10-36
3.903.00	code, 6-1-1967; 4-19-1971	10-37
3.904.00	code, 6-1-1967; 4-19-1971	10-61
3.905.00	code, 6-1-1967; 4-19-1971	10-62
3.906.00	code, 6-1-1967, 4-19-1971	10-38
3.907.00	code, 6-1-1967; 4-19-1971	10-39
3.908.00	code, 6-1-1967; 4-19-1971	10-40
3.950a.00	code, 6-1-1967	90-31
3.973.01	3.973, 10-3-1983	30-51
3.973.05	3.973, 10-3-1983	30-52
3.973.03	3.973, 10-3-1983	30-53
3.973.04	3.973, 10-3-1983	30-71
3.973.05	3.973, 10-3-1983	30-91
3.973.06	3.973, 10-3-1983	30-31
3.974a.00	code, 6-1-1967; 5-3-1971; 8-1-1983	18-51, 18-52
3.975.00	code, 6-1-1967; 5-3-1971; 8-1-1983	18-53,
3.977.00	code, 6-1-1967; 5-3-1971; 8-1-1983	18-91
3.978.00	code, 6-1-1967; 5-3-1971	18-31
3.979.00	code, 6-1-1967; 5-3-1971	18-32
3.980a.00	code, 6-1-1967	50-243
3.981a.00	code, 6-1-1967	50-291
3.982.01	3.982, 6-7-1976	58-32
3.982.02	3.982, 6-7-1976	58-51
3.982.03	3.982, 6-7-1976	58-52
3.982.04	3.982, 6-7-1976	58-53
3.982.05	3.982, 6-7-1976	58-54
3.982.06	3.982, 6-7-1976	58-55
3.982.07	3.982, 6-7-1976	58-33
3.982.08	3.982, 6-7-1976	58-31
3.983.01	3.983, 3-15-1982	18-161
3.983.02	3.983, 3-15-1982	18-181
3.983.03	3.983, 3-15-1982	18-182
3.983.04	3.983, 3-15-1982	18-183
3.983.05	3.983, 3-15-1982	18-184
3.983.06	3.983, 3-15-1982	18-185

3.983.07	3.983, 3-15-1982	18-186
3.984.01	3.984, 7-21-1986	18-121
3.984.02	3.984, 7-21-1986	98-93
		98-333
		98-413
3.984.03	3.984, 7-21-1986	18-122
3.984.04	3.984, 7-21-1986	18-123
3.984.05	3.984, 7-21-1986	18-124
3.984.06	3.984, 7-21-1986	18-125
3.984.07	3.984, 7-21-1986	18-126
3.984.08	3.984, 7-21-1986	18-127
3.984.09	3.984, 7-21-1986	18-128 18-129
3.991.01	3.991, 10-15-1973	94-1
3.997A.01	3.997A, 12-3-1979	54-1
3.997A.02	3.997A, 12-3-1979; 10-96, 10-21-1996	54-2
3.997A.03	3.997A, 12-3-1979; 10-96, 10-21-1996	54-3
3.997A.04	3.997A, 12-3-1979	54-4
3.997A.05	3.997A, 12-3-1979	54-5
3.997A.06	3.997A, 12-3-1979	54-6
3.997A.07	3.997A, 12-3-1979	54-7
3.997A.08	3.997A, 12-3-1979	54-8
3.997A.09	3.997A, 12-3-1979	54-9
3.997A.10	3.997A, 12-3-1979	54-10
3.998.01	3.998, 1-9-1972	50-461
3.998.02	3.998, 1-9-1972	50-462
3.998.03	3.998, 1-9-1972	50-463
3.998.04	3.998, 1-9-1972	50-464
3.998.05	3.998, 1-9-1972	50-465
3.998.06	1-9-1972	50-466
3.999.01	3.999, 2-27-1972	78-151
3.999.02	3.999, 2-27-1972	78-152
3.999.03	3.999, 2-27-1972	78-153
3.999.04	3.999, 2-27-1972	78-154
3.999.05	3.999, 2-27-1972	78-155
3.999.06	3.999, 2-27-1972	78-156
4.000.00	7-93, 9-30-1993	78-71
4.000.01	7-93, 9-30-1993	74-31
4.000.02	7-93, 9-30-1993	74-32
4.000.03	7-93, 9-30-1993	74-33
4.000.04	7-93, 9-30-1993	74-34
4.000.05	7-93, 9-30-1993	74-35
4.000.06	7-93, 9-30-1993	74-36

4.000.07	7-93, 9-30-1993	74-37
4.000.08	7-93, 9-30-1993	74-38
4.000.09	7-93, 9-30-1993	74-39
4.000.10	7-93, 9-30-1993	74-40
4.000.11	7-93, 9-30-1993	74-41
4.000.12	7-93, 9-30-1993	74-42
4.000.13	7-93, 9-30-1993	74-43
4.000.14	7-93, 9-30-1993	74-44
4.000.15	7-93, 9-30-1993	74-45
4.000.16	7-93, 9-30-1993	74-46
4.000.17	7-93, 9-3-1993	74-47
4.520a.00	3-94, 4-4-1994	10-1
4.521.00	3-94, 4-4-1994	50-131— 50-133
4.522.00	3-94, 4-4-1994	50-111— 50-113
4.523.00	7-94, 11-7-1994	10-2
4.822.00	4.821, 10-21-1984	62-1
4.823.00	4.821, 10-21-1984	62-31
4.824.00	4.821, 10-21-1984; 3-95, 10-2-1995	62-51
4.825.00	4.821, 10-21-1984	62-52
4.826.00	4.821, 10-21-1984	62-53
4.827.00	4.821, 10-21-1984	62-71
4.828.00	4.821, 10-21-1984; 6-92, 3-30-1992	38-31
4.829.00	4.821, 10-21-1984	62-2
4.831.00	4.821, 10-21-1984	62-3
4.950a.00	code, 6-1-1967	70-31
4.951.00	code, 6-1-1967	70-32
4.952.00	code, 6-1-1967; 12-16-1974	70-51
4.953.00	code, 6-1-1967; 12-16-1974; 8-1-1983	70-52
4.958.00	code, 6-1-1967; 12-16-1974	70-53
4.959.00	code, 6-1-1967; 12-16-1974	70-54
4.960.00	code, 6-1-1967; 12-16-1974	70-55
4.961.00	code, 6-1-1967; 12-16-1974	70-33
4.980a.00	code, 6-1-1967; 12-15-1980; 2-20-1984	86-31
4.981.00	code, 6-1-1967; 2-20-1984	86-32
4.982.00	code, 6-1-1967; 2-20-1984	86-33
4.983.00	code, 6-1-1967; 2-20-1984; 3-90, 6-16-1990	86-34
4.984.00	code, 6-1-1967; 2-20-1984	86-35
5.000a.00	code, 6-1-1967	38-61
5.001.00	code, 6-1-1967	38-62
5.002.00	code, 6-1-1967	38-63

5.003.00	code, 6-1-1967	38-61
5.004.00	code, 6-1-1967	38-64
5.005.00	code, 6-1-1967	38-65
5.006.00	code, 6-1-1967	38-66
5.100a.00	code, 6-1-1967	38-1
5.102.00	code, 6-1-1967	38-2
5.103.00	code, 6-1-1967	38-32
5.207.01	5.207, 4-2-1984	14-91
5.301.000	1-94, 2-22-1994	30-141
5.302.000	1-94, 2-22-1994	30-142
5.303.000	1-94, 2-22-1994	30-143
5.304.000	1-94, 2-22-1994	30-144
6.001.00	6.000, 12-9-1984	66-1
6.002.00	6.000, 12-9-1984	66-2
6.003.00	6.000, 12-9-1984	66-3
6.004.00	6.000, 12-9-1984	66-4
6.005.00	6.000, 12-9-1984	66-5
6.006.00	6.000, 12-9-1984	66-6
6.007.00	6.000, 12-9-1984	66-7
6.008.00	6.000, 12-9-1984; 5-90, 9-4-1990	66-8
6.009.00	6.000, 12-9-1984	66-9
6.010.00	6.000, 12-9-1984	66-10
6.011.00	6.000, 12-9-1984; 5-90, 9-4-1990	66-11
6.012.00	6.000, 12-9-1984; 8-92, 12-21-1992	66-12
6.013.00	6.000, 12-9-1984	66-13
6.014.00	6.000, 12-9-1984	66-14
6.015.00	6.000, 12-9-1984	66-15
6.016.00	6.000, 12-9-1984	66-16
6.017.00	6.000, 12-9-1984	66-17
6.018.00	6.000, 12-9-1984	66-18
6.101.00	6.100, 3-5-1985	2-381
6.102.00	6.100, 3-5-1985	2-382
6.103.00	6.100, 3-5-1985	2-383
6.104.00	6.100, 3-5-1985	2-384
6.105.00	6.100, 3-5-1985	2-385
6.106.00	6.100, 3-5-1985	2-386
7.000.100	2-91, 4-25-1991	98-1
7.000.200	2-91, 4-25-1991	98-2
7.000.300	2-91, 4-25-1991	98-3
7.000.401	2-91, 4-25-1991; 5-92, 6-15-1992; 9-92, 12-21-1992; 5-93, 7-16-1993; 10-94, 1-16-1995; 1-96, 2-5-1996; 8-97, 5-19-1997; 14-97, 10-6-1997; 2-98, 3-2-1998; 3-98, 3-2-1998; 7-98, 8-17-1998	98-4

7.000.501	2-91, 4-25-1991	98-52
7.000.502	2-91, 4-25-1991	98-53
7.000.503	2-91, 4-25-1991; 10-97, 6-2-1997	98-54
7.000.504	2-91, 4-25-1991	98-55
7.000.601	2-91, 4-25-1991	98-92
7.000.602	2-91, 4-25-1991; 2-94, 3-7-1994	98-93
7.000.603	2-91, 3-25-1991	98-94
7.000.604	2-91, 4-25-1991	98-95
7.000.701	2-91, 4-25-1991	98-132
7.000.702	2-91, 4-25-1991	98-133
7.000.703	2-91, 4-25-1991	98-134
7.000.704	2-91, 4-25-1991	98-135
7.000.801	2-91, 4-25-1991	98-172
7.000.802	2-91, 4-25-1991	98-173
7.000.803	2-91, 4-25-1991; 9-92, 12-21-1992; 2-94, 3-7-1994	98-174
7.000.804	2-91, 4-25-1991	98-175
7.000.901	2-91, 4-25-1991	98-212
7.000.902	2-91, 4-25-1991	98-213
7.000.903	2-91, 4-25-1991; 9-92, 12-21-1992	98-214
7.000.904	2-91, 4-25-1992	98-215
7.000.1001	2-91, 4-25-1991	98-252
7.000.1002	2-91, 4-25-1991	98-253
7.000.1003	2-91, 4-25-1991	98-254
7.000.1004	2-91, 4-25-1991	98-255
7.000.1005	2-91, 4-25-1991	98-256
7.000.1006	2-91, 4-25-1991	98-257
7.000.1007	2-91, 4-25-1991	98-258
7.000.1008	2-91, 4-25-1991	98-259
7.000.1009	2-91, 4-25-1991	98-260
7.000.1101	2-91, 4-25-1991	98-292
7.000.1102	2-91, 4-25-1991	98-293
7.000.1103	2-91, 4-25-1991	98-294
7.000.1201	2-91, 4-25-1991; 11-96, 12-16-1996	98-332
7.000.1202	2-91, 4-25-1991	98-333
7.000.1203	2-91, 4-25-1991	98-334
7.000.1204	2-91, 4-25-1991	98-335
7.000.1301	2-91, 4-25-1991; 2-94, 3-7-1994; 7-97, 5-19-1997	98-372
7.000.1302	2-91, 4-25-1991	98-373
7.000.1303	2-91, 4-25-1991	98-374
7.000.1304	2-91, 4-25-1991	98-375
7.000.1401	2-91, 4-25-1991	98-412
7.000.1402	2-91, 4-25-1991; 1-96, 2-5-1996	98-413
7.000.1403	2-91, 4-25-1991	98-414

7.000.1501	2-91, 4-25-1991; 8-97, 5-19-1997	98-452
7.000.1502	2-91, 4-25-1991; 5-92, 6-15-1992; 8-93, 11-15-1993; 1-96, 2-5-1996	98-453
7.000.1503	2-91, 4-25-1991	98-454
7.000.1601	2-91, 4-25-1991; 13-97, 8-4-1997	98-532
7.000.1602	2-91, 4-25-1991; 13-97, 8-4-1997	98-533
7.000.1603	2-91, 4-25-1991	98-534
7.000.1604	2-91, 4-25-1991	98-535
7.000.1701	2-91, 4-25-1991; 10-94, 1-16-1995; 1-96, 2-5-1996	98-492
7.000.1702	2-91, 4-25-1991; 1-96, 2-5-1996	98-493
7.000.1703	2-91, 4-25-1991	98-494
7.000.1704	2-91, 4-25-1991	98-495 98-574
7.000.1801	2-91, 4-25-1991	98-602
7.000.1802	2-91, 4-25-1991	98-603
7.000.1803	2-91, 4-25-1991	98-604
7.000.1804	2-91, 4-25-1991	98-605
7.000.1805	2-91, 4-25-1991	98-606
7.000.1806	2-91, 4-25-1991	98-607
7.000.1807	2-91, 4-25-1991	98-608
7.000.1808	2-91, 4-25-1991	98-609
7.000.1809	2-91, 4-25-1991	98-610
7.000.1901	2-91, 4-25-1991	98-642
7.000.1902	2-91, 4-25-1991; 2-94, 3-7-1994	98-643
7.000.1903	2-91, 4-25-1991	98-644
7.000.2001	2-91, 4-25-1991	98-6
7.000.2002	2-91, 4-25-1991	98-7
7.000.2003	2-91, 4-25-1991; 9-92, 12-21-1992; 8-93, 11-15-1993; 8-96, 7-1-1996; 15-97, 11-3-1997; 7-98, 8-17-1998	98-8
7.000.2004	2-91, 4-25-1991; 8-97, 5-19-1997	98-9
7.000.2005	2-91, 4-25-1991	98-10
7.000.2006	no history note	98-11
7.000.2007	2-91, 4-25-1991	98-12
7.000.2008	2-91, 4-25-1991	98-13
7.000.2009	2-91, 4-25-1991; 5-93, 7-16-1993; 8-93, 11-15-1993; 10-94, 1-16-1995; 1-96, 2-5-1996; 16-97, 11-3-1997; 3-98, 3-2-1998	98-14
7.000.2010	2-91, 4-25-1991; 5-92, 6-15-1992	98-15
7.000.2011	2-91, 4-25-1991; 5-92, 6-15-1992; 10-94, 1-16-1995	98-16
7.000.2012	2-91, 4-25-1991	98-17
7.000.2013	2-91, 4-25-1991	98-18

7.000.2014	2-91, 4-25-1991	98-19
7.000.2015	2-91, 4-25-1991	98-20
7.000.2016	2-91, 4-25-1991; 5-92, 6-15-1992; 2-94, 3-7-1994; 12-96, 1-6-1997	98-21
7.000.2017	no history note	98-22
7.000.2018	8-93, 11-15-1993; 2-98, 3-2-1998	98-23
7.000.2201	2-91, 4-25-1991; 9-92, 12-21-1992; 14-97, 10-6-1996; 6-98, 8-17-1998	98-682
7.000.2202	2-91, 4-25-1991	98-683
7.000.2203	2-91, 4-25-1991	98-684
7.000.2204	2-91, 4-25-1991	98-685
7.000.2205	2-91, 4-25-1991	98-686
7.000.2206	2-91, 4-25-1991	98-687
7.000.2207	2-91, 4-25-1991	98-688
7.000.2208	2-91, 4-25-1991	98-689
7.000.2209	2-91, 4-25-1991	98-690
7.000.2210	2-91, 4-25-1991	98-691
7.000.2211	2-91, 4-25-1991	98-692
7.000.2212	2-91, 4-25-1991	98-693
7.000.2213	2-91, 4-25-1991	98-694
7.000.2301	2-91, 4-25-1991	98-732
7.000.2302	2-91, 4-25-1991	98-733
7.000.2303	2-91, 4-25-1991	98-734
7.000.2304	2-91, 4-25-1991	98-735
7.000.2305	2-91, 4-25-1991	98-736
7.000.2306	2-91, 4-25-1991	98-737
7.000.2309	no history note	98-731
7.000.2400	2-91, 4-25-1991	98-738
7.000.2500	2-91, 4-25-1991	98-739
7.000.500a	2-91, 4-25-1991	98-51
7.000.600a	2-91, 4-25-1991	98-91
7.000.700a	2-91, 4-25-1991	98-131
7.000.800a	2-91, 4-25-1991	98-171
7.000.900a	2-91, 4-25-1991	98-211
7.000.1000a	2-91, 4-25-1991	98-251
7.000.1100a	2-91, 4-25-1991	98-291
7.000.1200a	2-91, 4-25-1991	98-331
7.000.1300a	2-91, 4-25-1991	98-371
7.000.1400a	2-91, 4-25-1991	98-411
7.000.1500a	2-91, 4-25-1991	98-451
7.000.1600a	2-91, 4-25-1991	98-531
7.000.1700a	2-91, 4-25-1991	98-491
	98-571	
7.000.1701A	9-97, 6-2-1997	98-572
7.000.1702A	9-97, 6-2-1997	98-573

7.000.1703A	9-97, 6-2-1997	98-574
7.000.1800a	2-91, 4-25-1991	98-601
7.000.1900a	2-91, 4-25-1991; 9-92, 12-21-1992; 2-94, 3-7-1994; 10-94, 1-16-1995; 11-97, 6-2-1997; 12-97, 8-4-1997	98-641
7.000.2000a	2-91, 4-25-1991	98-5
7.000.2100a	2-91, 4-25-1991; 9-92, 12-21-1992; 14-97, 10-6-1992; 14-97, 10-6-1997; 6-98, 8-17-1998	98-24
7.000.2200a	2-91, 4-25-1991	98-681
7.400.01	7.400, 5-5-1969	46-31
7.400.02	7.400, 5-5-1969	46-32
7.401.01	7.401.00, 4-2-1984	14-61
7.401.04a	7-89, 8-2-1989	14-31
7.402.00	7.402, 11-5-1979	14-1
7.403.01	6-94, 8-1-1994	14-181
7.403.02	6-94, 8-1-1994	14-182
7.403.03	6-94, 8-1-1994	14-183
7.403.04	6-94, 8-1-1994	14-184
7.405.01	5-94, 7-5-1994	2-51
7.405.02	5-94, 7-5-1994	2-52
7.405.03	5-94, 7-5-1994	2-53
7.405.04	5-94, 7-5-1994	2-54
7.405.05	5-94, 7-5-1994	2-55
7.405.06	5-94, 7-5-1994	2-56
7.405.07	5-94, 7-5-1994	2-57
7.405.08	5-94, 7-5-1994	2-58
7.405.09	5-94, 7-5-1994	2-59
7.405.10	5-94, 7-5-1994	2-60
7.405.11	5-94, 7-5-1994	2-61
7.405.12	5-94, 7-5-1994	2-62
7.405.13	5-94, 7-5-1994	2-63
7.405.14	5-94, 7-5-1994	
2-64		
7.406.01	7.406, 9-2-1975	34-31
7.406.02	7.406, 9-2-1975	34-32
7.406.03	7.406, 9-2-1975	34-33
7.406.04	7.406, 9-2-1975	34-34
7.406.05	7.406, 9-2-1975	34-35
7.406.06	7.406, 9-2-1975	34-36
7.406.07	7.406, 9-2-1975	34-37
7.407.101	4-91, 9-26-1991	46-62
7.407.301	4-91, 9-26-1991	46-92
7.407.302	4-91, 9-26-1991	46-93
7.407.303	4-91, 9-26-1991	46-94

7.407.304	4-91, 9-26-1991	46-95
7.407.305	4-91, 9-26-1991	46-96
7.407.306	4-91, 9-26-1991	46-97
7.407.307	4-91, 9-26-1991	46-98
7.407.308	4-91, 9-26-1991	46-99
7.407.309	4-91, 9-26-1991	46-100
7.407.400	4-91, 9-26-1991	46-121
7.407.401	4-91, 9-26-1991; 2-96, 2-19-1996	46-123 46-124
7.407.402	4-91, 9-26-1991; 2-96, 2-19-1996	46-125
7.407.403	4-91, 9-26-1991	46-126
7.407.404	4-91, 9-26-1991; 2-96, 1996	46-127
7.407.500	4-91, 9-26-1991	46-151
7.407.501	4-91, 9-26-1991	46-153
7.407.502	4-91, 9-26-1991	46-154
7.407.503	4-91, 9-26-1991	46-155
7.407.504	4-91, 9-26-1991	46-156
7.407.600	4-91, 9-26-1991	46-181
7.407.700	4-91, 9-26-1991	46-64
7.407.800	4-91, 9-26-1991	46-65
7.407.900	4-91, 9-26-1991	46-66
7.407.1000	4-91, 9-26-1991	46-67
7.407.100a	4-91, 9-26-1991	46-61
7.407.200a	4-91, 9-26-1991	46-63
7.407.300a	4-91, 9-26-1991	46-91
7.407.400a	4-91, 9-26-1991	46-122
7.407.500a	4-91, 9-26-1991	46-152
7.407.600a	4-91, 9-26-1991; 2-96, 2-19-1996	46-182
7.600.2600	7.000, 6-1980	42-31
7.600.2601	7.000, 6-1980	42-32
7.600.2602	7.000, 6-1980; 2-16-1987	42-62
7.600.2603	7.000, 6-1980	42-63
7.600.2604	7.000, 6-1980	42-91
7.600.2605	7.000, 6-1980; 4-4-1983; 2-16-1987; 5-1-1989	42-111
7.600.2606	7.000, 6-1980	42-64
7.600.2607	7.000, 6-1980	42-131
7.600.2608	7.000, 6-1980	42-132
7.600.2609	7.000, 6-1980	42-133
7.600.2610	7.000, 6-1980	42-151
7.600.2611	7.000, 6-1980	42-65
7.600.2612	7.000, 6-1980	42-66
7.600.2613	7.000, 6-1980	42-67
7.600.2614	7.000, 6-1980; 2-16-1987	42-33
7.600.2615	7.000, 6-1980	42-34

8.031.00	code, 6-1-1967; 5-16-1977	54-41
8.032.00	code, 6-1-1967; 5-16-1977	54-42
8.033.00	code, 6-1-1967; 5-16-1977	54-43
8.034.00	code, 6-1-1967; 5-16-1977	54-44
8.035.00	code, 6-1-1967; 5-16-1977	54-45
8.036.00	code, 6-1-1967; 5-16-1977	54-46
8.037.00	code, 6-1-1967; 5-16-1977	54-47
8.038.00	code, 6-1-1967; 5-16-1977	54-48
8.100.01	7-1-1962	2-101
8.100.02	7-1-1962	2-102
8.100.03	7-1-1962; 2-93, 4-5-1993; 9-93, 12-30-1993	2-103
8.100.04	7-1-1962	2-121
8.100.05	7-1-1962	2-122
8.100.06	7-1-1962	2-123
8.100.07	7-1-1962	2-124
8.100.08	7-1-1962	2-125
8.100.09	7-1-1962	2-126
8.100.10	7-1-1962	2-151
8.100.11	7-1-1962	2-152
8.100.12	7-1-1962	2-171
8.100.13	7-1-1962; 2-93, 4-5-1993	2-172
8-100.14	7-1-1962	2-173
8.100.15	7-1-1962	2-174
8.100.16	7-1-1962; 2-93, 4-5-1993	2-201
8.100.18	7-1-1962; 6-18-1979; 10-18-1982; 2-93, 4-5-1993; 9-93, 12-30-1993	2-221
8.100.19	7-1-1962	2-226
8.100.20	7-1-1962; 1-2-1973; 5-3-1976; 2-93, 4-5-1993	2-202
8.100.21	7-1-1962	2-227
8.100.22	7-1-1962; 2-93, 4-5-1993	2-251
8.100.23	7-1-1962	2-252
8.100.24	7-1-1962; 2-93, 4-5-1993	2-253
8.100.25	7-1-1962; 2-93, 4-5-1993	2-228
8.100.26	7-1-1962; 6-18-1979; 2-93, 4-5-1993	2-301
8.100.27	7-1-1962	2-331
8.100.28	7-1-1962; 2-93, 4-5-1993	2-302
8.100.29	7-1-1962	2-304
8.100.30	7-1-1962	2-305
8.100.31	7-1-1962	2-306
8.100.32	7-1-1962; 2-93, 4-5-1993	2-307
8.100.33	7-1-1962	2-308
8.100.34	7-1-1962	2-175

8.100.35	7-1-1962	2-176
8.100.36	7-1-1962	2-177
8.100.37	7-1-1962	2-178
8.100.38	7-1-1962	2-179
8.100.39	7-1-1962	2-180
8.100.40	7-1-1962	2-229
8.100.18a	9-93, 12-30-1993	2-222
8.100.18b	9-93, 12-30-1993	2-223
8.100.18c	9-93, 12-30-1993	2-224
8.100.18d	9-93, 12-30-1993	2-225
8.100.25a	2-93, 4-5-1993	2-281
8.100.25b	2-93, 4-5-1993	2-282
8.100.28a	6-1-1962; 2-93, 4-5-1993	2-303
8.110.00	18-97, 1-5-1998	2-1
8.200.01	8.200, 8-17-1981	22-31
8.200.02	8.200, 8-17-1981	22-32
8.200.03	8.200, 8-17-1981	22-33
8.200.04	8.200, 8-17-1981	22-34
8.200.05	8.200, 8-17-1981; 3-91, 8-29-1991	22-35
8.200.06	8.200, 8-17-1981	22-36
8.200.07	8.200, 8-17-1981	22-37
8.200.08	8.200, 8-17-1981	22-38
8.200.09	8.200, 8-17-1981	22-39
8.200.10	8.200, 8-17-1981	22-40
8.202.01	8.202.00, 12-27-1984; 4-92, 5-14-1992	22-61
8.202.02	8.202.00, 12-27-1984; 4-92, 5-14-1992	22-62
8.202.03	8.202.00, 12-27-1984; 4-92, 5-14-1992	22-63
8.202.04	8.202.00, 12-27-1984; 4-92, 5-14-1992	22-64
8.202.05	8.202.00, 12-27-1984; 4-92, 5-14-1992	22-65
8.202.06	8.202.00, 12-27-1984; 4-92, 5-14-1992	22-66
8.202.07	8.202.00, 12-27-1984; 4-92, 5-14-1992	22-67
8.202.08	8.202.00, 12-27-1984; 4-92, 5-14-1992	22-68
8.202.09	8.202.00, 12-27-1984; 4-92, 5-14-1992	22-69
8.202.10	8.202.00, 12-27-1984; 4-92, 5-14-1992	22-70
11.010.01	11.010, 3-15-1982; 17-97, 12-22-1997	26-1

11.010.02	11.010, 3-15-1982; 12-20-1982; 17-97, 12-22-1997	26-2
11.010.03	11.010, 3-15-1982; 12-20-1982; 17-97, 12-22-1997	26-3
11.010.04	17-97, 12-22-1997	26-4
11.050.01	6-90, 11-5-1990	86-71
11.050.02	6-90, 11-5-1990	86-72
11.050.03	6-90, 11-5-1990	86-73
11.050.04	6-90, 11-5-1990	86-74
11.050.05	6-90, 11-5-1990	86-75
11.050.06	6-90, 11-5-1990	86-76
11.050.07	6-90, 11-5-1990	86-77
11.050.08	6-90, 11-5-1990	86-79
11.050.09	6-90, 11-5-1990	86-79
11.050.10	6-90, 11-5-1990	86-80
11.050.11	6-90, 11-5-1990	86-81
11.050.12	6-90, 11-5-1990	86-82
11.050.13	6-90, 11-5-1990	86-83
11.050.14	6-90, 11-5-1990	86-84
11.050.15	6-90, 11-5-1990	86-85

CODE COMPARATIVE TABLE
ORDINANCES

This table gives the location within this Code of those ordinances adopted since the 1982 Compilation of Ordinances, as updated through August 8, 1998, which are included herein. Ordinances adopted prior to such date were incorporated into the 1982 Compilation of Ordinances, as supplemented. This table contains some ordinances which precede August 8, 1998, but which were never included in the 1982 Compilation of Ordinances, as supplemented, for various reasons. Ordinances adopted since August 8, 1998 and not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

Ordinance Number	Date	Section	Section this Code	
9.000	7-16-1975		App. A, Art. I	
4-94	6-20-1994		App. A, Art. II	
6-96	4-15-1996		App. A, Art. II, Div. 1	
1-97	2-17-1997		App. A, Art. II, Div. 2	
17-97	12-22-1997	1—4	26-1—26-4	
2-99	3- 1-1999	1202	98-333	
		1601	98-532	
		1702	98-493	
4-99	9- 7-1999	1	14-151	

5-99	9-20-1999	1—3	74-81—74-83	
		4—14	74-111—74-121	
		15, 16	74-84, 74-85	
		app. A	74-141	
1-2000	2- 7-2000	8.100.03	2-103	
		8.100.12	2-171	
		8.100.18	2-221	
		8.100.40	2-229	
		8.100.18b	2-223	
02-2000	2-21-1999		App. A, Art. II, Div. 3	
3-00	4- 3-2000	1	14-121	
4-00	9- 5-2000		46-63	
5-00	9- 5-2000		98-492, 98-532	
6-00	10-16-2000	1	2-221	
7-00	10-16-2000	1	2-201, 2-301	
8-00	12- 4-2000		98-21	
1-01	2- 5-2001	1	2-221	
2-01	2- 5-2001	1	2-201, 2-301	
3-01	2-19-2001		Adopt. Ord., p. xi	
4-01	6- 4-2001	Added	50-163	
6-01	7- 2-2001	Added	98-333(6)	
7-01	8-20-2001	Added	2-401—2-405	
8-01	9-17-2001		98-24(6)c.	
9-01	9-17-2001		98-8	
10-01	11- 5-2001	Added	98-261—98-268	
11-01	11- 5-2001	Added	2-371—2-396	
3-02	9-16-2002	Rpld	34-31—34-37	
04-02	12- 2-2002	Added	74-122	
1-03	2-17-2003		78-71	
			78-73	
2-03	4- 7-2003		98-4	
		Added	98-21(h)(5)	
4-03	8-18-2003		2-229	
2-04	6-21-2004	Added	98-25	
3-04	8- 2-2004		86-33	
2-05	6-20-2005		App. A, Art. I	
5-05	9-19-2005		2-172	
			2-174	
			2-223	
			2-282	
		Added	2-283	
			2-331	
6-05	9-19-2005		2-371	
			2-376—2-381	

			2-285	
			2-397—2-399	
02-06	4-17-2006	Added	78-53	
04-06	5-15-2006	Rpld	50-131(1)	
		Added	98-8(14)	
7-06	7-17-2006		98-25	
			98-92	
			98-262	
			98-292	
			98-689—98-691	
			98-731—98-739	
1-07	2- 6-2006		98-14(17)e.	
2-07	2- 5-2007		2-1	
3-07	2-19-2007		54-42, 54-45	
4-07	3- 5-2007		58-54(b)	
5-07	5- 7-2007		86-34	
01-08	1-21-2008		98-14	
2-08	6- 2-2008	Dltd	18-31, 18-32	
		Dltd	18-51—18-53	
		Added	18-51—18-65	
1-09	3- 2-09	Amd	54-43	
		Added	54-49—54-51	
Ord. of	5-18-08	1.108 Rpld	98-1—98-25,	
			98-51—98-55,	
			98-91—98-95,	
			98-131—98-135,	
			98-171—98-175,	
			98-211—98-215,	
			98-251—98-260,	
			98-261—98-268,	
			98-291—98-294,	
			98-331—98-335,	
			98-371—98-375,	
			98-411—98-414,	
			98-451—98-454,	
			98-491—98-455,	
			98-531—98-535,	
			98-571—98-574,	
			98-601—98-610,	
			98-641—98-98-644,	
			98-681—98-694,	
			98-731—98-739	
		1.101—1.108 Added	98-1—98-8	
		1.201—1.105	98-21—98-25	
		1.301—1.308	98-31—98-38	

		1.401—1.405	98-51—98-55	
		2.101—2.104	98-71—98-74	
		2.201—2.212	98-81—98-92	
		2.301—2-304	98-101—98-104	
		2.401—2.409	98-111—98-119	
		3.101—3.110	98-141—98-150	
		4.101—4-107	98-171—98-177	
		4.201—4.204	98-191—98-194	
		4.301—4.312	98-201—98-212	
		4.401—4.440	98-221—98-260	
		5.101—5.111	98-221—98-291	
		5.201—5.210	98-301—98-310	
		5.301—5.308	98-321—98-328	
		5.401—5.404	98-341—98-356	
		5.501—5.504	98-351—98-355	
		5.601—5.605	98-371—98-375	
		5.701—5.713	98-381—98-393	
		6.101—6.106	98-401—98-406	
		Art. 6, Ch. 2	98-421	
		6.301—6.304	98-431—98-434	
		6.401—6.405	98-441—98-445	
		Art. 6, Ch. 5	98-451	
		7.101—7.107	98-471—98-477	
		8.101—8.109	98-491—98-499	
		8.201—8.205	98-511—98-515	
		8.301—8.305	98-521—98-525	
		8.401—8.406	98-531—98-536	
		8.501—8.503	98-551—98-503	
		8.601—8.610	98-561—98-570	
		9.107—9-110	98-591—98-600	
		10.101—10.109	98-631—98-639	
		10.201—10.206	98-651—98-656	
		10.301—10-307	98-671—98-677	
		10.401—10-410	98-691—98-700	
		11.101—11.103	98-721—98-723	
		11.201—11.206	98-731—98-736	
		11.301—11.309	98-751—98-759	
		12.101, 12.102	98-781, 98-782	
4-09	6- 1-2009	Rpld	18-91	
		Added	18-91—18-101	
5-09	12-21-2009		10-36	
1-10	1- 4-2010		98-537	
			98-782	
2-10	1- 4-2010		98-385, 98-392(a)	
			98-393(a)	

3-10	2-15-2010	1—21 Rpld	74-81—74-88,	
			74-111—74-122,	
			74-141, 74-161	
		Added	74-81—74-102	
4-10	2-15-2010	1.0—1.8	74-121	
		2.0	74-122	
		3.0—3.18	74-123	
		4.0, 4.1	74-124	
		5.0—5.3	74-125	
		6.0—6.16	74-126	
		7.0—7.3	74-127	
		8.0—8.6	74-128	
		9.0, 9.1	74-129	
		10.0—10.3	74-130	
		11.0—11.5	74-131	
		12.0	74-132	
		13.0	74-133	
5-10	6- 7-2010		2-332	
1-11	3- 7-2011	Rpld	2-101—2-103,	
			2-121—2-126,	
			2-151, 2-152,	
			2-171—2-180,	
			2-201, 2-202,	
			2-221—2-229,	
			2-251—2-253,	
			2-281—2-283,	
			2-301—3-308,	
			2-231, 2-232	
		Added	2-101—2-103,	
			2-121—2-126,	
			2-151, 2-152,	
			2-171—2-180,	
			2-201, 2-202,	
			2-221—2-229,	
			2-251—2-253,	
			2-281—2-283,	
			2-301—3-308,	
			2-231, 2-232	
2-11	3- 7-2011		2-278	
3-11	3- 7-2011		2-172	
4-11	6- 6-2011	1	82-120	
6-11	6-20-2011	Rpld	86-31—86-35	
		Added	86-31—86-39	
1-12	3-19-2012		98-146	
2-12	5-21-2012		2-101—2-103,	

			2-121—2-126,	
			2-151, 2-152,	
			2-171—2-180,	
			2-201—2-204,	
			2-221—2-230,	
			2-251—2-253,	
			2-281—2-283,	
			2-301—2-308,	
			2-331, 2-332	
4-12	6- 4-2012	Added	50-321	
			54-5(2)	
6-12	11-19-2012		38-31	
7-12	11-19-2012		2-377—2-379	
1-13	1-21-2013		98-194, 98-212(b)	
2-13	2-18-2013		86-31, 86-36,	
			86-38	
4-13	8- 5-2013		2-101—2-103	
			2-121—2-126	
		Added	2-127	
			2-151, 2-152,	
			2-171—2-180,	
			2-201—2-204,	
			2-221—2-230,	
			2-251—2-253,	
			2-281—2-283,	
			2-301—2-308,	
			2-331, 2-332	
		Added	2-361	
6-13	12- 2-2013		98-193, 98-209,	
			98-241, 98-782	
1-14	7-21-2014		50-321(b)	
2-14	9- 2-2014		82-1, 82-31,	
			82-71, 82-75,	
			82-111, 82-114,	
			82-116, 82-117,	
			82-120	
		Added	82-121,	
			82-611—82-614	
3-14	12-15-2014		2-230	
1-15	1- 5-2015		10-1	
01-16	10- 3-2016		98-431—98-434,	
			98-471—98-477,	
			98-511—98-515,	
			98-591—98-600	
		Added	98-601	

01-17	7- 3-2017		2-301	
02-17	9- 5-2017		2-301	
03-17	9- 5-2017		98-223, 98-597(b)	
04-17	9- 5-2017		98-229(a), 98-475(e),	
			98-536(e), 98-537(d)	
01-18	5- 7-2018		54-45	
02-18	7- 2-2018		2-301	
03-18	8-20-2018		2-227, 2-301	
04-18	12- 3-2018	1 Rnmd	Ch. 50, Art. VIII	
		2 Rnmd	Ch. 50, Art.VIII, Div. 2	
		3 Rnbd	Ch. 50, Art. VIII, Div. 3	
		as	Ch. 50, Art. IX	
		5 Added	50-398	
		6 Rnbd	Ch. 50, Art. IX	
		as	Ch. 50, Art. X	
01-19	2- 4-2019	1 Added	10-81, 10-82	
02-19	3-18-2019	Added	98-262—98-267	
			98-401—98-406,	
			98-421,	
			98-431—98-434,	
			98-441—98-445,	
			98-451	
03-19	5- 6-2019	1	14-61	
		Added	14-62,14-63	
04-19	6- 3-2019		98-212(c)(3)	
05-19	6- 3-2019		98-281, 98-282	
07-19	9-16-2019	1	2-389	
08-19	9-16-2019	1 Added	6-1	
		Rpld	6-31—6-33,	
			6-51—6-56	
01-20	2- 3-2020	1 Rpld	2-331(d)	
02-20	9- 8-2020	1 Added	2-333	
01-21	2- 1-2021	1	98-192, 98-193	
			98-210, 98-782	
03-21	4- 5-2021	1	98-194, 98-211,	
		Added	98-268	
			98-782	
04-21	5- 3-2021	1	98-194, 98-212	
05-21	5- 3-2021	1	98-194, 98-211	
06-21	5-17-2021	1	14-181—14-184	
07-21	5-17-2021	1	38-67—38-70	
08-21	8- 2-2021	1	54-2	
		2 Rpld	54-3	
09-21	9- 7-2021	1	58-51—58-54	
10-21	9- 7-2021	1	54-45	

		2	54-46	
11-21	10-18-2021	1	62-1, 62-2, 62-31,	
			62-51, 62-53	
13-21	11- 1-2021	1	26-1—26-4	
14-21	12- 6-2021	1	22-31—22-40,	
			22-61—22-69	

ORDINANCE DISPOSITION TABLE

This table includes ordinances adopted since August 8, 1998 which have been omitted from the code, having been repealed, superseded or not of a general and permanent nature.

Ordinance Number	Date	Brief Description
1-99	2-15-1999	Failed—Rezoning
3-99	6- 7-1999	Rezoning
6-99	10-18-1999	Failed—Sale of vehicles and equipment in certain districts
7-99	10-18-1999	Failed—Collection and disposal of garbage
8-99	12- 6-1999	Failed—Collection and disposal of garbage
9-99	12- 6-1999	Sale of vehicles and equipment in certain districts
10-99	12-20-1999	Uniform Traffic Code
11-99	12-20-1999	Uniform Traffic Code
12-99	12-20-1999	Downtown Development Authority
1-00	2- 7-2000	Retirement system
2-00	2-20-2000	Electrical Franchise
5-01	6-18-2001	Rezoning
1-02	5-20-2002	Rezoning
2-02	8-19-2002	Rezoning
3-03	7-21-2003	Rezoning
1-04	6- 7-2004	Rezoning
1-05	4- 4-2005	Rezoning
3-05	8-15-2005	Rezoning
4-05	8-15-2005	Rezoning
1-06	2-20-2006	Rezoning
5-06	6- 5-2006	Rezoning
6-06	6- 5-2006	Rezoning
6-10	6- 7-2010	Rezoning
5-11	6- 6-2011	Rezoning
5-12	8-20-2012	Rezoning

3-13	3-18-2013	Rezoning (Lot 125 Assess Plat 2nd add to Sunset Meade City of Tecumseh)
5-13	10- 7-2013	Rezoning (Lot 2 and the North 22 feet of the west 233 feet of Lot 3, Assesor's Plat No. 5)
7-13	12- 2-2013	Rezoning (703 E. Chicago Boulevard Parcel # XTO-320-0570-00 (Lot 57 and Lot 58, Assessor's Plat No. 5))
06-19	8-19-2019	Rezoning (808 W. Chicago Boulevard (LOT) S 82,83,84 and 85 and 807) Sunset Street)
02-21	3-15-2021	Rezoning of Russel Road

STATE LAW REFERENCE TABLE
MICHIGAN COMPILED LAWS

This table shows the location within this Code, either in the text or notes following the text, of references to the Michigan Compiled Laws.

MCL	Section this Code
8.3 et seq.	1-2
8.3u	1-9
8.4	1-4
8.4b	1-3
8.5	1-8
14.301 et seq.	Ch. 18, Art. II, Div. 2
15.231 et seq.	Ch. 2
	22-36
	22-39
	74-84
	74-97
15.261 et seq.	Ch. 2
	2-404, 2-405
	22-36
	22-39
15.321 et seq.	Ch. 2, Art. IV, Div. 2
19.142	50-82
	86-78
24.201—24.328	78-71

28.421 et seq.	Ch. 50, Art. VII, Div. 2
28.451 et seq.	50-1
29.1 et seq.	Ch. 38
	98-568
29.41 et seq.	38-66
35.441 et seq.	Ch. 18, Art. II, Div. 2
	18-58
36.1 et seq.	98-572
117.1 et seq.	14-181
	14-184
117.3(k)	Ch. 78, Art. II
	78-51
117.5b	1-1
117.41	1-7
123.51 et seq.	Ch. 54
123.161 et seq.	Ch. 82
	82-71
125.584.g	98-22
123.721 et seq.	Ch. 2, Art. IV, Div. 2
123.1104	Ch. 50, Art. VII, Div. 2
	54-5
124.21 et seq.	App. A, Art. II, § 1
124.151 et seq.	Ch. 86, Art. II
	86-74
124.281 et seq.	Ch. 82
125.31 et seq.	Ch. 2, Art. II, Div. 2
	2-51
125.33	2-51, 2-52
125.34	2-53
125.35	2-55, 2-56
125.36	2-57
125.38	2-63
125.39	2-60
125.41	2-62
125.43 et seq.	46-124
125.1351	10-3
125.1501 et seq.	Ch. 14
	14-31
	14-61
	14-91

	14-121
	14-151
125.1509	14-61
	14-91
125.1514	14-31
125.1665	22-70
125.4201—4230	22-32
125.4202	22-34
125.4204	22-36
125.4205	22-38
125.4207	22-37
125.4212	22-37
125.4217 et seq.	22-61
125.4228	22-40
128.1 et seq.	Ch. 54, Art. II
128.31 et seq.	Ch. 54
131.1 et seq.	Ch. 2, Art. IV
139.2301 et seq.	98-572
141.121	Ch. 82
	82-71
141.321 et seq.	Ch. 54
141.421 et seq.	Ch. 2, Art. IV
168.1 et seq.	Ch. 26
168.321	Char. § 5.7
168.322	Char. § 5.7
168.635	Char. § 7.13
206.501	Char. § 9.16
206.532	Char. § 9.16
211.43b	Ch. 2, Art. IV
211.741	66-8
211.741 et seq.	Ch. 66
247.61 et seq.	Ch. 86, Art. II
247.171 et seq.	50-1
247.235	86-78
247.321 et seq.	70-51
257.1 et seq.	Ch. 78
	78-51
257.606(1)(a)	Ch. 78, Art. III
257.672	Ch. 78, Art. III
257.907	78-73(9.3)
257.951	Ch. 78, Art. II
	78-71
257.951 et seq.	78-71
257.953	Ch. 78, Art. II
257.961	78-1

257.962	78-53
286.101 et seq.	86-79
286.251 et seq.	86-79
287.261 et seq.	Ch. 10, Art. II
	10-32
	10-62
287.266 et seq.	10-32
287.270 et seq.	10-36
287.289c	10-38
287.290	Ch. 10
287.321 et seq.	Ch. 10
287.331 et seq.	10-61
323.151 et seq.	Ch. 82
324.4101 et seq.	Ch. 82
324.4301 et seq.	Ch. 82
324.8901 et seq.	54-5
	Ch. 62, Art. II, Div. 3
324.11501—324.11506	62-1
324.11522	38-31, 38-32
324.12101 et seq.	Ch. 82, Art. V
324.20101 et seq.	30-141
324.40101 et seq.	Ch. 10
324.51501 et seq.	38-31
324.80101 et seq.	Ch. 94
324.82119	Ch. 78, Art. IV
324.82124, 324.82125	Ch. 78, Art. IV
325.1001 et seq.	Ch. 82, Art. IV
328.8901 et seq.	Ch. 50, Art. III, Div. 3
333.7101 et seq.	50-261
	50-391
333.7410	50-395
333.7451 et seq.	Ch. 50, Art. VI, Div. 3
333.12721	Ch. 82, Art. IV
338.1051 et seq.	Ch. 30, Art. II
393.351	10-3
399.5	Ch. 42
399.171 et seq.	Ch. 42
399.201 et seq.	Ch. 42
	Ch. 42, Art. II
399.202	42-31
399.202 et seq.	42-62

399.204	42-61
400.223	18-52
400.271 et seq.	Ch. 18, Art. II
	18-52
400.701 et seq.	98-572
400.703	98-572
408.681 et seq.	Ch. 54
432.1 et seq.	Ch. 50, Art. VI, Div. 4
432.201 et seq.	Ch. 50, Art. VI, Div. 4
436.1 et seq.	50-394
436.1101 et seq.	50-391
436.1109	50-391
436.1701	50-393
436.1703	50-394
436.1801	50-393, 50-394
442.211	18-161
442.211 et seq.	Ch. 18, Art. IV
442.212	18-181
442.214	18-182
442.217	18-185
445.111 et seq.	Ch. 18, Art. II, Div. 2
445.371 et seq.	Ch. 18, Art. II, Div. 2
445.401 et seq.	Ch. 58
445.471 et seq.	Ch. 58
446.201 et seq.	Ch. 58
	App. A, Art. III, Div. 1, § 3
	App. A, Art. III, Div. 2, § 3
	App. A, Art. III, Div. 3, § 3
460.701 et seq.	74-126
484.2101 et seq.	Ch. 74
484.2102	74-83
484.2251	74-84
484.2361	74-126
484.3101	74-123
484.3106	74-125
484.3115	74-129
559.101 et seq.	Ch. 46, Art. III, Div. 2

	46-32
	46-63
	46-182
	98-344
	98-782
	98-374
560.126	98-374
599.107	98-782
599.166	98-572
599.171	98-572
600.101 et seq.	82-120
722.1 et seq.	50-394
722.115	98-572
722.751 et seq.	Ch. 50, Art. IX
750.22 et seq.	Ch. 50, Art. VII, Div. 2
750.49 et seq.	Ch. 10
750.50	10-39
750.81 et seq.	50-31
750.103	50-242
	50-463
750.145	Ch. 50, Art. VIII
750.167(1)	50-1
750.167(I)(f)	50-241
750.167(I)(l)	50-31
750.169, 750.170	50-162
750.170	50-462
750.183 et seq.	50-191
	54-8
750.241	38-1
750.243a et seq.	50-1
750.301 et seq.	Ch. 50, Art. VI, Div. 4
750.303	50-291
750.308 et seq.	50-291
750.335a	50-241
750.337	50-1
	50-242
	50-463
750.377 et seq.	50-81, 50-82
	50-461
	54-5
750.377c	50-82
750.382	86-78
750.383	54-5

750.387	54-48
750.394	50-1
750.479	50-1
	50-191
	54-8
	86-83
750.479a	50-191
	54-8
750.493a	54-5
750.546 et seq.	50-1
750.552	18-64
750.552a	Ch. 62, Art. II, Div. 3
752.61	10-3
752.361 et seq.	50-243
752.525	50-162
752.541—752.543	50-162
752.543	54-7

STATE LAW REFERENCE TABLE
MICHIGAN ANNOTATED STATUTES

This table shows the location within this Code, either in the text or notes following the text, of references to the Michigan Annotated Statutes.

Editor's note(s)—The Michigan Statutes Annotated are obsolete and will no longer be updated. References to MSA will be removed from the Code text as pages are supplemented.

MSA	Section this Code
2.212 et seq.	1-2
2.212(21)	1-9
2.213	1-4
2.215	1-3
2.216	1-8
3.447(121)	10-3
4.559(1) et seq.	Ch. 38
	98-22
4.559(41) et seq.	38-66
4.1700(51) et seq.	Ch. 2, Art. IV, Div. 2
4.1800(11) et seq.	Ch. 2
	2-404
	22-36

	22-39
4.1801(1) et seq.	22-36
	22-39
5.2071 et seq.	14-181
	14-184
5.2083(2)	1-7
5.2084(2)	1-1
5.2421 et seq.	Ch. 54
5.2440(1) et seq.	Ch. 54
5.2531(1) et seq.	Ch. 82
	82-71
5.2751	Ch. 82
	82-71
5.2769(51) et seq.	Ch. 82
5.2769(81) et seq.	Ch. 82
5.2949(1) et seq.	Ch. 14
	14-31
	14-61
	14-91
	14-121
	14-151
5.2949(9)	14-61
	14-91
5.2949(14)	14-31
5.2998	2-63
5.2999	2-60
5.3001	2-62
5.3003 et seq.	46-124
5.3010(1) et seq.	22-32
5.3010(1a) et seq.	Ch. 22, Art. II
5.3010(2)	22-34
5.3010(4)	22-36
5.3010(5)	22-38
5.3010(7)	22-37
5.3010(12)	22-37
5.3010(14) et seq.	Ch. 22, Art. II, Div. 2
5.3010(15)	22-70
5.3010(17) et seq.	22-61
5.3010(28)	22-40
5.3072 et seq.	Ch. 54
5.3165 et seq.	Ch. 54, Art. II
5.3188(1) et seq.	Ch. 2, Art. IV
5.3228(21) et seq.	Ch. 2, Art. IV
5.3395 et seq.	Ch. 42

5.3407(1) et seq.	Ch. 42
	Ch. 42, Art. II
	42-62
5.3407(2)	42-31
5.3407(11)	42-61
5.3415(4)	Ch. 50, Art. VII, Div. 2
	54-5
5.3461 et seq.	Ch. 2, Art. IV, Div. 2
5.3534(1)	66-8
5.3534(1) et seq.	Ch. 66
5.4087(21) et seq.	App. A, Art. II, § 1
6.1001 et seq.	Ch. 26
7.86	Ch. 2, Art. IV
9.140(21) et seq.	70-51
9.251 et seq.	50-1
9.263	74-81
9.1801 et seq.	Ch. 78
12.481(101) et seq.	10-61
12.511 et seq.	Ch. 10, Art. II
	10-32
12.516 et seq.	10-32
12.520 et seq.	10-36
12.540(3)	10-38
12.541	Ch. 10
12.545(21) et seq.	Ch. 10
13A.4101 et seq.	Ch. 82
13A.4301 et seq.	Ch. 82
13A.8901 et seq.	54-5
	Ch. 62, Art. II, Div. 3
13A.11522	38-31, 38-32
13A.12101 et seq.	Ch. 82, Art. V
13A.20101 et seq.	30-141
13A.40101 et seq.	Ch. 10
13A.80101 et seq.	Ch. 94
13A.82119	Ch. 78, Art. IV
13A.82124, 13A.82125	Ch. 78, Art. IV
14.15(7101) et seq.	50-261
	50-391
14.15(7410)	50-395
14.15(7451) et seq.	Ch. 50, Art. VI, Div. 3
14.15(12721)	Ch. 82, Art. IV

14.427(1) et seq.	Ch. 82, Art. IV
15.1805	Ch. 42
17.470(1) et seq.	Ch. 54
17.511 et seq.	10-62
17.581(1)	10-3
18.185(1) et seq.	Ch. 30, Art. II
18.969 et seq.	Ch. 50, Art. VI, Div. 4
18.969(1) et seq.	Ch. 50, Art. VI, Div. 4
18.971 et seq.	50-394
18.1175(101) et seq.	50-391
18.1175(109)	50-391
18.1175(701)	50-393
18.1175(703)	50-394
18.1175(801)	50-393, 50-394
19.581 et seq.	Ch. 58
19.711 et seq.	Ch. 58
19.740(1) et seq.	Ch. 58
22.190(1) et seq.	74-116
	App. A, Art. III, Div. 1, § 3
	App. A, Art. III, Div. 2, § 3
22.901(1) et seq.	App. A, Art. III, Div. 3, § 3
22.1469 (101) et seq.	74-83
22.1469(101) et seq.	Ch. 74
	74-81
25.244(1) et seq.	50-394
26.50(101) et seq.	Ch. 46, Art. III, Div. 2
	46-63
	98-4
26.50(107), 26.50(108)	98-4
26.50(166)	98-4
26.50(171)	98-4
26.430(101) et seq.	46-32
	46-182
	98-4
	98-257
	98-294
	98-642
26.450(101) et seq.	46-63

28.91 et seq.	Ch. 50, Art. VII, Div. 2
28.133	50-162
28.244 et seq.	Ch. 10
28.245	10-39
28.276 et seq.	50-31
28.298	50-242
	50-463
28.340	Ch. 50, Art. VIII
28.342(1) et seq.	Ch. 50, Art. VIII, Div. 3
28.364, (1)	50-1
28.364, (l)(f)	50-241
28.364, (l)(l)	50-31
28.366, 28.367	50-162
28.367	50-462
28.380 et seq.	50-191
	54-8
28.419 et seq.	Ch. 50, Art. VII, Div. 2
28.438	38-1
28.440(1) et seq.	50-1
28.533 et seq.	6-32
	Ch. 50, Art. VI, Div. 4
28.535	50-291
28.540 et seq.	50-291
28.567(1)	50-241
28.569	50-1
	50-242
	50-463
28.579(361) et seq.	50-243
28.609 et seq.	50-461
	54-5
28.615	54-5
28.626	50-1
28.643(101)	Ch. 6, Art. II
28.747	50-1
	50-191
	54-8
28.747(1)	50-191
	54-8
28.761(1)	50-1
	54-5
28.770(11)	10-3

28.790(1)—28.790(3)	50-162
28.790(3)	54-7
28.814 et seq.	50-1
28.820(1)	Ch. 62, Art. II, Div. 3