

# HOWELL, MICHIGAN

## CODE OF ORDINANCES

Local legislation current through January 11, 2021

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## CERTIFICATION

We, Nickolas Proctor, Mayor, and Angela Guillen, City Clerk, hereby certify that the general and permanent legislation of the City of Howell, Michigan, as revised, arranged, compiled, numbered, codified and printed herewith in component codes, is correctly set forth and constitutes the Codified Ordinances of the City of Howell, Michigan, 1982, complete to January 11, 2021.

/s/ Nickolas Proctor

Mayor

/s/ Angela Guillen

City Clerk

## DIRECTORY OF OFFICIALS

(2021)

### COUNCIL

### COUNCIL

Nickolas Proctor, Mayor  
Steven L. Manor, Mayor Pro Tem  
Jeanette Ambrose  
Robert Ellis  
Jan Lobur  
Nikolas Hertrich  
Randy Greene

### APPOINTED OFFICIALS

### APPOINTED OFFICIALS

City Manager	Paul DeBuff
City Clerk	Angela Guillen
Finance Director/City Treasurer	Catherine M. Stanislawski
Deputy City Treasurer	Kelly Patterson
City Assessor	Ashley Winstead
City Attorney	Dennis L. Perkins, Esq.
Police Chief	Scott Mannor
Community Development Director	Tim Schmitt
Building Inspector	Craig Strong
Department of Public Works Superintendent	Matt Davis
Department of Public Works Operations Manager	Vacant
Wastewater Treatment Plant Operations Manager	Michael Spitler
Water Treatment Plant Operations Manager	Jim Webster
Technology Director	Mike Pitera

## COMPARATIVE SECTION TABLE

EDITOR'S NOTE: Source material for the 1982 Codified Ordinances of Howell was ordinances or resolutions enacted by Council or new matter ordained by the Adopting Ordinance. Sections and subsections of the 1982 Codified Ordinances without a history or with the words Adopting Ordinance at the end thereof are new matter ordained by the Adopting Ordinance. In the following table the disposition of all source material in the 1982 Howell Codified Ordinances is indicated.

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831	2-8-10	1240.01, Appendix A, 2.02, 10.02
Res. 10-05	2-22-10	1044.07, 1044.08
835	5-10-10	1043.03, 1043.06
836	5-24-10	1240.01, Appendix A, 4.04
837	6-28-10	400.01 - 400.04, 400.99
838	8-23-10	1240.01, Appendix A, 7.07
840	10-25-10	1043.03
841	12-20-10	430.05



844	5-9-11	430.05
Res. 11-13	6-27-11	1044.07, 1044.08
845	7-11-11	1210.01, 1210.03
849	11-7-11	1240.01, Appendix A, 4.01, 4.06, 6.07, 6.23
850	2-27-12	1613.04
851	3-12-12	1043.03
853	4-9-12	400.01, 400.99
854	4-9-12	604.05 to 604.07, 604.99, Repeals 604.05
855	4-9-12	656.02 to 656.04, 656.99A, 656.99B, Repeals 656.99
856	7-9-12	1043.03
857	7-9-12	1612.15, 1614.01, 1614.02, 1614.04, 1614.99
858	8-13-12	1614.03, 1614.04
859	9-10-12	1240.01, Appendix A, 2.02, 4.06, 6.22
860	10-22-12	1240.01, Appendix A, 2.02, 4.06, 5.14, 1460.02, 1470.02 (1470.02 repealed by Ord. 918, passed 10-8-18)
861	11-19-12	1064.02, 1064.03
862	2-11-13	1240.01, Appendix A, 2.02, 3.08, 4.06, 6.18, 6.19
863	2-11-13	1022.07
869	5-20-13	622.02
870	5-20-13	1410.06
871	5-20-13	1450.02
872	5-20-13	1460.09
873	5-20-13	1480.01 to 1480.08, 1480.99(1480.02, 1480.04, 1480.06, 1480.07 repealed by, 1480.05 and 1480.08 renumbered by Ord. 918, passed 10-8-18)
874	5-20-13	1250.01 to 1250.23
875	6-10-13	1022.07
Res. 13-07	6-24-13	1044.07, 1044.08
876	7-8-13	1022.07
878	8-26-13	1612.15, 1614.02, 1614.99
879	8-26-13	202.99
882	10-28-13	1240.01, Appendix A, 2.02, 4.06, 6.27
883	10-28-13	606.02, 606.08, 606.99
884	3-24-14	1240.01, Appendix A, 10.02
887	6-23-14	1410.01, 1410.05
Res. 14-15	6-23-14	1044.07, 1044.08
888	8-11-14	1240.01, Appendix A, Article 4A, 4A.01 to 4A.04
892	5-4-15	1610.01
893	5-4-15	1612.01, 1612.02, 1612.06 to 1612.16
Res. 15-13	7-27-15	1044.07, 1044.08
898	10-26-15	1240.01, Appendix A, 4.07
899	12-21-15	Repeals 803.29
901	6-27-16	209.01 to 209.13, 209.99
904	7-25-16	1240.01, Appendix A, 4A.03
Res. 16-17	7-25-16	1044.07, 1044.08
905	7-25-16	1450.01 to 1450.14, 1450.99
906	8-8-16	1060.01 to 1060.11, 1060.99
907	8-8-16	652.06
908	8-8-16	662.01
909	8-22-16	1210.01
910	11-21-16	1240.01, Appendix A, 2.02, 4.06
Res. 17-14	6-12-17	1044.07, 1044.08

913	4-9-18	1240.01 , Appendix A, 2.02 , 3.03 , 3.04 , 4.04 , 4.05 , 4.06 , 4.07 , 5.02 , 5.07 , 5.08 , 5.11 , 5.15 , 5.16 , 6.17 , 6.18 , 6.20 , 6.26 , 6.28 , 7.02 , 7.04 , 7.05 , 7.07 , 7.08 , 7.10 , 10.02 , 10.06
916	8-13-18	1044.02 , 1044.05 , 1044.07 , 1044.08
917	8-13-18	430.05
918	10-8-18	202.99 , 1450.02 , 1460.15 , 1480.02 to 1480.08 , Repeals Ch. 1420, 1470, 1460.11 , 1480.04 , 1480.06 , 1480.07
919	10-8-18	656.02 to 656.04 , 656.99A , 656.99B
920	12-3-18	612.05 , 612.06
921	1-28-19	1240.01, Appendix A, 2.02
924	5-20-19	1240.01, Appendix A, 2.02, 5.17
925	7-22-19	1610.01, 1610.02
926	7-22-19	1612.07, 1612.08, 1612.09, 1612.10, 1612.11, 1612.13, 1612.14, 1612.16
927	7-22-19	1614.01, 1614.02, 1614.99
Res. 19-18	7-8-19	1044.07, 1044.08
929	3-9-20	1240.01, Appendix A, 2.02, 4.06, 6.27, 6.29
931	2-10-20	1040.02
932	3-9-20	1460.01 to 1460.20, 1460.99
934	6-22-20	1614.02
Res. 20-24	12-21-20	1044.07, 1044.08
939	1-11-21	1240.01, Appendix A, 12.05

## TABLES OF SPECIAL ORDINANCES

### EXPLANATION OF TABLES OF SPECIAL ORDINANCES

EDITOR'S NOTE: Most actions of Council are accomplished by motion. Somewhat less are accomplished by ordinance. Resolutions are quite rare. Actions of Council that are the subjects of Tables of Special Ordinances (franchises, easements, etc.), but which were accomplished by motion, do not appear in the Tables inasmuch as the Tables reflect the record of formal actions of Council only, i.e. ordinances and resolutions.

- TABLE A - Franchises
- TABLE B - Easements
- TABLE C - Vacating of Streets and Alleys
- TABLE D - Dedication and Plat Approval
- TABLE E - Acquisition and Disposal of Real Property
- TABLE F - Lease of Real Property
- TABLE G - Street Grade Levels and Change of Street Name
- TABLE H - Annexation and Detachment of Territory
- TABLE I - Zoning Map Changes
- TABLE J - Obsolete Property Rehabilitative District
- TABLE K - Commercial Rehabilitation District

### TABLE A - FRANCHISES

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
Unno.	8-24-1885	To the Toledo, Ann Arbor and Northern Michigan Rwy. Co., to construct, operate and maintain a railroad.

25	8-18-1889	To George L. Beetle and J. H. Andrews, to erect, operate and maintain electric light works for 25 yrs.
30	4-11-1898	To the New State Telephone Co. of Michigan to construct, use, own and maintain a telephone system.
Unno.	8-14-01	To R. B. McPherson & Assoc., for telephone lines.
35	2-26-02	To the Ann Arbor Railroad Co. to construct, operate and maintain a single-track railroad upon North St.
42	4-29-05	To Charles Van Keusen and James Irvin Van Keusen to construct, maintain and operate a street railway for 30 yrs.
47	2-27-06	To D. Boyer and W.C. Cook to construct, operate and maintain a gas works for 30 yrs.
50	11-24-08	Amends an ordinance, passed Aug. 14, 1901, granting a franchise to R. B. McPherson & Assoc. for telephone lines.
51	12-8-08	Amends an ordinance, passed Aug. 14, 1901, granting a franchise to R. B. McPherson & Assoc. for telephone lines.
55	2-8-10	To the Detroit, Grand Rapids and Lansing Rwy. Corp. to construct, maintain and operate a railroad for 30 yrs.
60	12-10-18	To the Detroit Edison Co. for electric service for 30 yrs.
91	8-26-27	To Consumers Power Co. for gas service for 30 yrs.
126	12-14-48	To the Detroit Edison Co. for electric service for 30 yrs.
169	7-1-57	To Consumers Power Co. for gas service for 30 yrs.
361	8-15-77	To Six Star Cablevision of Howell, Inc., for C.A.T.V. service for 15 yrs.
386	9-24-79	To Detroit Edison Co. for electric service.
447	9-4-84	Amends Ord. 361.
452	11-26-84	Repeals Ord. 447.
453	12-26-84	Re-enacts Ord. 447.
498	6-6-88	To Consumers Power Co. for gas service for 30 yrs.
616	9-5-95	To Columbia Associates, L.P., for C.A.T.V. service for 15 yrs.
Res. 95-27	9-5-95	Approves transfer of franchise from Columbia Associates, L.P., to Columbia Cable of Michigan, Inc., and transfer of control of Columbia Cable of Michigan, Inc., to Continental Cablevision of Manchester, Inc.
Res. 99-27	9-27-99	Approves change of control of cable communications franchise from Media One Group, Inc., to AT & T.
707	6-5-00	To CMS Marketing Services & Trading Co., for electric service for 10 years.
708	6-5-00	To DTE Energy Marketing, Inc., for electric service for 10 years.
Res. 07-17	6-25-07	Uniform Video Services Local Franchise submitted and approved by AT&T.
914	4-23-18	To Consumers Energy Company for gas for 30 yrs.

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**TABLE B- EASEMENTS**

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
Res. Unno.	2-23-70	Easement agreement with the Detroit Edison Co. to construct service equipment across Sewage Treatment Plant property located at 1191 Pinckney Rd.
Res. 83-19	8-22-83	Granting an easement to the U. S. Postal Service to construct a driveway for a new post office across property at the corner of S. Michigan Ave. and Washington St.
Res. 85-22	9-3-85	Accepting deed of easement from Church of Jesus Christ of Latter Day Saints in connection with construction of new church building.
Res. 85-42	11-25-85	Granting an easement to Detroit Edison Co. for service at 204 W. Grand River.
86-47	10-13-86	Authorizing release of easements from Stanley B. and Kathryn M. Dickson.
86-49	10-13-86	Authorizing a temporary construction and permanent maintenance easement for State St. Bridge.
86-52	11-24-86	Authorizing release of easements from Stanley B. and Kathryn M. Dickson.
Res. 88-28	11-7-88	Accepting easement from Larkin, Inc.
Res. 90-23	5-7-90	Authorizing agreement with Livingston County whereby County grants and conveys perpetual easement to City.
Res. 91-33	11-18-91	Granting a 66-ft. wide private road easement in conjunction with property annexation described in Res. 91-33.
Res. 00-06	2-14-00	Abandoning the easement contained in the water line easement agreement with Catrell Associates entered into on January 12, 1994.
Res. 06-24	7-10-06	Abandoning the easement along Catrell Drive contained in the water line easement agreement dated January 12, 1994.

**TABLE C - VACATING OF STREETS AND ALLEYS**

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
Res. Unno.	6-16-1866	Vacation of a small three-cornered piece of street at the north end of Walnut St.
Res. Unno.	12-13-04	Vacating Fairground St. from Clinton St. to North St.
Res. Unno.	7-22-35	Vacation of parts of Park Ave. (North St.), Neil Ave., Washington Ave., Lake Ave., Fair Ave. and Mizner Ave.

Res. Unno.	8-26-35	Vacation of parts of Park Ave. (North St.), Neil Ave., Washington Ave., Lake Ave., Fair Ave., Mizner Ave., McPherson Ave., Lincoln Ave. and Hatton Ave.
Res. Unno.	1-4-55	Part of W. Sibley St.
Res. Unno.	2-27-56	Part of Oceola St.
Res. Unno.	4-16-62	Part of E. Washington St.
Res. Unno.	1-4-67	Part of an alley in the Crane and Brooks Plat.
Res. Unno.	5-6-68	Part of the southwest quarter of Sec. 36, Town 3 North, Range 4 East, in the vicinity of Livingston and Walnut Sts.
Res. Unno.	3-22-71	Part of Clark St.
Res. Unno.	6-28-71	Part of McCarthy St.
Res. Unno.	9-4-73	Part of Fair St.
Res. Unno.	10-1-73	Part of Braeview Dr.
Res. 83-16	8-8-83	Part of Pinckney Rd.
86-18	2-8-86	N. Court St. from E. Grand River Ave. to E. Clinton St.
Res. 88-9	6-6-88	Conditional vacation of Williams St. and alleys in H. L. Williams Subdivision.
Res. 91-7	4-22-91	Platted rights of way in the Condensed Milk Co. Addition
Res. 94-17	10-31-94	Conditional vacation of part of Griswold St.
Res. 96-07	4-29-96	Part of Lake Ave.
Res. 97-16	6-23-97	Conditional vacation of the west 105.3 ft. of Athletic St.
Res. 01-21	9-10-01	Vacating a portion of the public alley located in the Crane and Brooks Plat.
Res. 02-29	11-18-02	Vacating a portion of Wetmore Street.
Res. 18-05	3-12-18	Vacating the undeveloped portion of Roselane Drive and Lake Avenue.
Res. 20-16	8-10-20	Vacating the undeveloped portion of Athletic Street.

**TABLE D - DEDICATION AND PLAT APPROVAL**

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>
<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>
Res. Unno.	7-26-04	Approval of plat of the Michigan Condensed Milk Co.
Res. Unno.	1-4-05	Street opening from North St. to Knox St.
Res. Unno.	7-11-05	Extending and opening Fleming St. to connect with Emerson St.
Res. Unno.	2-27-06	Contract with Pere Marquette RR Co. for extension of Fleming St.
Res. Unno.	5-14-07	Opening a public street beginning at the NW corner of Sec. 36, Twp. 3N of Rng. 4 east Mich. thence on the section line between Secs. 25 and 36 of the Twp. of Howell to Division St.
Res. Unno.	6-4-07	Opening a public street beginning where the township line between the Twps. of Howell and Marion intersect the east line of Division St.

Res. Unno.	8-13-12	Opening of parts of Crane, Center, Gregory, Annis and Charles Sts.
Res. Unno.	10-26-27	Opening an alley to connect with another alley already open and in use in the vicinity of S. Walnut and Grand River Sts.
Res. Unno.	9-8-41	Opening a public alley connecting Walnut St. with Michigan Ave.
197	12-12-60	Adopts plat relating to the west shore of Thompson Lake and properties in immediate vicinity thereof.
Res. 83-3	2-7-83	Modification of boundaries of Lots 11 through 14 of Lee and Montague's Addition.
Res. 83-14	7-25-83	Modification of boundaries of part of Lot 77 of Crane and Brooks Addition.
Res. 83-18	8-22-83	Modification of boundaries of Lot 18 of Northcrest Addition.
Res. 85-9	4-1-85	Accepting a street in the vicinity of W. Grand River Ave., S. Highlander Way and the C & O R. R.
Res. 88-1	2-1-88	Approves lot split of part of Lot 83, all of Lot 84 and part of vacated Lincoln St. in Jewett's Second Addition.
Res. 88-17	8-15-88	Approves lot split of part of Lots 17 and 21 of Assessor's Plat No. 8, City of Howell.
Res. 88-29	11-7-88	Approves lot split of part of Lot 7 of Assessor's Plat No. 10, City of Howell.
Res. 88-33	12-5-88	Accepting quit claim deeds for alley between Michigan and Walnut, north of Grand River.
Res. 88-34	12-19-88	Approves lot split of Lot 1 of Eugene E. Howe's Addition, City of Howell.
Res. 89-16	5-8-89	Approves revision of plat of H.L. Williams Subdivision.
Res. 94-22	11-14-94	Accepting Griswold St.
Res. 95-24	7-24-95	Accepting Caledonia St.
Res. 95-25	7-24-95	Accepting Inverness St.
Res. 95-26	7-24-95	Accepting Galloway Ln.
Res. 96-01	2-19-96	Accepting streets in the Rolling Oaks Plat.
Res. 00-40	10-9-00	Accepting plat of street in Sec. 26, T3N, R4E, containing Lots 105 to 211.
00-41	10-9-00	Accepting plat of street located in part of Lots 5, 6, 7, 10, 11 and 12, and Griswold St. of the Winklehaus Subdivision.
Res. 07-03	1-22-07	Accepting Phase One of Briggs Street, Carlisle Street, Dorchester Drive and Welland Street within the Condominium Subdivision Plan No. 283.

## TABLE E - ACQUISITION AND DISPOSAL OF REAL PROPERTY

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>
<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>
Res. Unno.	?	Accepting and dedicating a public building for recreational activities from The Howell Parks Fndn.
Res. Unno.	5-24-1875	Purchase of property from William McPherson for an engine house.

Res. Unno.	8-12-02	Accepting deed for property from William McPherson, Jr., Martin J. McPherson, Edward G. McPherson and Alexander McPherson, to be used for park purposes.
Res. Unno.	1-4-05	Condemnation of private property for street opening from North St. to Knox St.
Res. Unno.	4-22-13	Authorizes sale of the Engine House.
Res. Unno.	6-24-13	Sale of the Engine House.
Res. Unno.	9-28-20	Agreement with Detroit Edison Co. for sale of the Municipal Electric Lighting Plant.
Res. Unno.	9-9-27	Accepting E. G. McPherson homestead for use as a hospital.
Res. Unno.	12-30-46	Authorizes conveyance of land to Vernon L. and Inez I. Kanouse in connection with the McPherson Memorial Hospital.
Res. Unno.	7-7-50	Authorizes conveyance of land to the State for Armory purposes.
Res. Unno.	2-15-56	Authorizes conveyance of 7.035 acres of the so-called Fair Grounds property.
Res. Unno.	8-27-56	Release of deed in escrow to Sutton Investment Co.
Res. Unno.	10-22-56	Taking of private property of Millsite Tackle Co. (construction right of way) for sewer purposes.
Res. Unno.	5-5-58	Purchase of a 10 ft. by 116.5 ft. strip of land along the north side of the Post Office Site G-Mich.-480.
Res. Unno.	5-6-68	Conveyance of part of property vacated by Res. of 5-6-68 to Diamond Chrome Plating, Inc., for \$100.00.
Res. Unno.	5-6-68	Conveyance of part of the southwest quarter of Sec. 36, Town 3 North, Range 4 East, in the vicinity of Walnut St. and Pinckney Rd., to Diamond Chrome Plating, Inc.
Res. Unno.	3-9-70	Agreement with Nicholas Herceg for an option to purchase 2 pieces of property in the Industrial Park.
Res. Unno.	11-16-70	Authorizes execution of deed to Ray Marsden for the south 1-1/2 acres of land on Catrell Dr.
Res. Unno.	9-7-82	Release of right of reverter retained in original conveyance of Lot 10 of Read's Addition.
Res. 83-12	6-27-83	Authorizes the purchase of the Michigan Ave. Middle School land and buildings, and the exchange of land between the U.S. Postal Service and the City.
Res. 84-2	1-9-84	Purchase of "The Norton Road Well Site."
Res. 84-4	2-20-84	Exchange of land between the U.S. Postal Service and the City.
Res. 84-25	9-17-84	Accepting quit-claim deeds for an alley between Michigan Ave. and State St.
Res. 85-6	3-4-85	Accepting quit-claim deed from Grand Plaza Apartments to a right-of-way located in the west 1/2 of the west 1/2 of the northwest 1/4 of Sec. 35, T3N, R4E, City of Howell.
Res. 85-33	10-14-85	Accepting warranty deed from Ogihara America Corp. for part of the southwest 1/4 and part of the northwest 1/4 of Sec. 35 and part of the northeast 1/4 of Sec. 34, T3N, R4E, Howell Twp.

86-44	9-15-86	Authorizing transfer to Chem-Trend, Inc., of land between W. McPherson Park Dr. and the western boundary of vacant land owned by Chem-Trend, Inc.
86-51	11-24-86	Authorizing purchase of approximately 31 acres from Children's Hospital Fndn. of Orange Cty., Calif.
86-54	12-8-86	Authorizing purchase of approximately 30 acres from Russell D. Smith Trust.
Res. 87-3	1-19-87	Authorizing contract for conditional transfer of property with Marion Twp.
90-35	10-22-90	Sale of Heather Heath No. 2 to Craftech Homes, Inc. and G. Cogo & Sons, Inc.
Res. 90-39	11-19-90	Amends Ord. 90-35.
Res. 91-36	12-30-91	Authorizing purchase of D & N Bank property to house City Municipal offices.
Res. 94-4	3-7-94	Approving Master Deed for the City Hall Office Condominium.
Res. 94-13	9-6-94	Authorizing sale of City Hall and police buildings to Robert Booth.
Res. 95-2	1-23-95	Authorizing purchase of 61.44 acres.
Res. 97-09	5-12-97	Authorizing installment purchase agreement for purchase of the Page Field property from the Howell Public Schools.
Res. 97-15	6-23-97	Authorizing purchase of Page Field from the Howell Public Schools.
Res. 97-21	8-4-97	Authorizing application to the Michigan Department of Natural Resources for conveyance of tax-reverted properties to the City for park and recreational use.
Res. 97-25	10-27-97	Dedication of the Bruce Products site as a publicly owned and operated park and recreational facility.
Res. 98-18	5-11-98	Authorizing installment purchase agreement for purchase of certain property from R. Slayton and L. Gordon.
Res. 98-25	7-20-98	Authorizing condemnation proceedings to acquire certain property for public purposes (expansion of City's wastewater treatment facilities).
Res. 98-26	7-20-98	Authorizing condemnation proceedings to acquire certain property for public purposes (expansion of City's wastewater treatment facilities).
Res. 99-28	10-11-99	Authorizing conveyance of property by land contract to DeMaria Building Co., pursuant to a purchase agreement entered into on October 27, 1997.
Res. 01-04	3-26-01	Authorizing a purchase agreement with the Chandler Corporation for the sale of property known as the Howell Theater.
Res. 06-34	11-20-06	Rescinding Res. No. 05-20 and Accepting from the Board of County Road Commissioners of the County of Livingston the 0.16 miles of Old Pinckney Road that rise north of I-96.
Res. 06-36	12-4-06	Accepting for transfer into the City of Howell the real property in the NE 1/4 of Section 1, T2N, R4E, Marion Township, commonly known as 380 South National.



Res. 06-37	12-18-06	Accepting from the Board of County Road Commissioners of the County of Livingston the 0.16 miles of Old Pinckney Road north of I-96.
Res. 15-12	6-22-15	Authorizing the purchase of tax foreclosed property located at 219 N. Walnut, parcel number 4717-36-103-080, to expand public parking in downtown Howell.

### TABLE F - LEASE OF REAL PROPERTY

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<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
Res. 94-5	3-21-94	Approving ground lease and contract of lease with the Building Authority relative to the refinancing of City Hall.

### TABLE G - STREET GRADE LEVELS AND CHANGE OF STREET NAME

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<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
Res. 08-06	2-25-08	Pinckney Road to S. Michigan Avenue, south of Marion Street to the City limits.

### TABLE H - ANNEXATION AND DETACHMENT OF TERRITORY

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<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
Res. Unno.	7-27-56	Annexation of part of the west half of the southwest frl. quarter of Sec. 31, Twp. 3 North, Rg. 5 East.
Res. Unno.	5-18-59	Annexation of part of the northeast frl. quarter of Sec. 2, Twp. 2 North, Rg. 4 East, Marion Twp.
Res. Unno.	6-15-59	Annexation of the northeast frl. quarter of Sec. 2, Twp. 2 North, Rg. 4 East, Marion Twp.
Res. Unno.	12-19-66	Annexation of part of the northeast frl. quarter of Sec. 2, Town 2 North, Rg. 4 East. Petitioner: Howell Realty, Inc.
Res. Unno.	12-19-66	Accepting petition of James Ralph Parsons and Gussie Parsons for annexation of part of the northeast frl. quarter of Sec. 2, Town 2 North, Rg. 4 East.
Res. Unno.	2-27-67	Annexation of part of the north part of the northwest frl. quarter, Sec. 1, T2N, R4E, Marion Twp.
Res. Unno.	1-15-68	Annexation of Sewer Treatment Plant property, being part of the north part of the northwest frl. quarter of Sec. 1, Town 2 North, Rg. 4 East.

Res. Unno.	6-16-69	Accepting petition of Chevron Asphalt Co. and the Ann Arbor RR Co. for annexation of part of Oceola Twp.
Res. Unno.	7-14-69	Annexation of part of Oceola Twp. in the vicinity of the Howell Lake - Oak Grove Subdivision and the Ann Arbor RR.
Res. Unno.	8-25-69	Accepting petition of the County Bd. of Supervisors for annexation of part of the east half of the northeast quarter of Sec. 34, Town 3 North, Rg. 4 East.
Res. Unno.	3-20-72	Annexation of the southeast 1/4 of Sec. 27 and the northeast 1/4 of Sec. 34, T3N, R4E, Howell Twp.
Res. Unno.	1-17-77	Annexation of the northwest fractional 1/4 of Sec. 1, T2N, R4E, Marion Twp.
Res. Unno.	7-30-79	Annexation of part of the west half of the southwest 1/4 and part of the east half of the west half of the northwest 1/4 of Sec. 35, T3N, R4E.
Res. Unno.	5-3-82	Annexation of approximately 20 acres in Marion Twp.
Res. 83-15	7-25-83	Annexation of Lots 29, 30, 31, 32 and the north 3 ft. in width of Lot 33 of the First Marion Addition.
Res. 84-6	4-2-84	Annexation of property owned by Master Cast Co. in Marion Twp.
Res. 85-35	10-28-85	Annexation of part of the northwest 1/4 of Sec. 26, T3N, R4E, Howell Twp.
86-5	2-3-86	Annexation of two parts of the northwest 1/4 of Sec. 26, T3N, R4E, Howell Twp.
Res. 88-2	2-15-88	Annexation of part of the northeast 1/4 of the southeast 1/4 of Sec. 27, T3N, R4E, Howell Twp.
Res. 88-7	5-9-88	Annexation of part of the west 1/2 of the southeast 1/4 of Sec. 27, T3N, R4E, Howell Twp.
Res. 89-23	7-31-89	Annexation of part of the N.W. 1/4 and the N.E. 1/4 of Sec. 26, T3N, R4E, Howell Twp.
Res. 91-9	4-22-91	Annexation of part of the S.E. 1/4 of Sec. 27, T3N, R4E, Howell Twp.
Res. 91-20	7-15-91	Annexation of part of the S.W. 1/4 of the N.E. 1/4 of Sec. 26, T3N, R4E, Howell Twp.
Res. 91-33	11-18-91	Annexation of part of the N.W. 1/4 of Sec. 26 T3N, R4E, Howell Twp.
Res. 92-6	5-4-92	Detachment of part of the N.W. 1/4 and the N.E. 1/4 of Sec. 26, T3N, R4E, Howell Twp.
Res. 95-5	2-6-95	Annexation of 34.22 acres in Howell Twp.
Res. 95-6	2-6-95	Annexation of part of the N.E. 1/4 of Sec. 26, T3N, R4E, Howell Twp.
Res. 95-19	5-1-95	Annexation of parcel "B," part of the west 17 acres of the north 30 acres of the east 1/2 of the N.E. 1/4 of Sec. 26, T3N, R4E, Howell Twp.
Res. 96-11	7-8-96	Annexation of part of the N.E. 1/4 of Sec. 26, T3N, R4E, Howell Twp.
Res. 96-14	10-14-96	Annexation of parcel "B," part of the west 17 acres of the north 30 acres of the east 1/2 of the N.E. 1/4 of Sec. 26, T3N, R4E, Howell Twp. Amends Res. 95-19.

Res. 97-24	10-27-97	Annexation of part of the N.W. 1/4 of Sec. 1, T2N, R4E, Marion Twp.
Res. 98-1	1-5-98	Annexation of part of the N.W. 1/4 of Sec. 1, T2N, R4E, Marion Twp.
Res. 98-44	11-23-98	Annexation of part of the south 1/2 of the N.W. 1/4 of Sec. 25, T3N, R4E, Howell Twp.
Res. 03-16	8-11-03	Annexation of part of the N.E. 1/4 of Sec. 1, T2N, R4E, Marion Twp.
Res. 03-20	9-22-03	Annexation of part of the N.E. 1/4 of Sec. 1, T2N, R4E, Marion Twp. Amends Res. 03-16.
Res. 14-02	2-10-14	Accepting petition of Marion Meadows, LLC, for annexation of property commonly known as 340 S. National, Marion Twp.

### TABLE I - ZONING MAP CHANGES

<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>
<b>Ord. No.</b>	<b>Date</b>	<b>Description</b>
240	4-10-67	Classifies part of Lot 27 of Assessor's Plat No. 7 as R-M and part of the southeast quarter of the southeast quarter of Sec. 36, T3N, R4E, as B-2.
241	4-24-67	Classifies part of the north part of the northwest quarter of Sec. 1, T2N, R4E, as I-1, except a strip along Pinckney Rd. to be classified B-2, and part of the northeast quarter of Sec. 2, T2N, R4E, as B-2.
245	9-25-67	Classifies Lots 1 and 4, and the west 3 rods of Lots 2 and 3, of Wilcox's Addition as R-M, and the north 42 ft. of Lots 8 and 9 as CBD.
246	10-24-67	Classifies part of the southeast quarter of the southeast quarter of Sec. 36, T3N, R4E, as B-2.
247	1-2-68	Classifies Lots 9 through 14 of Read's Addition No. 2 and Lots 71 and 76 through 80 of Assessor's Plat No. 3, except any part thereof contained in Read's Addition No. 2 and the westerly 145.93 ft. of Lot 80, as R-M.
248	5-6-68	Classifies Lots 42 and 43 of Whipple's Addition, part of abandoned Elm St. and part of Sec. 36, T3N, R4E, as I-1.
249	5-6-68	Classifies Lots 13 and 14 of Block 8 of Mizner's Washington Heights Addition as P-1.
252	11-4-68	Classifies Lot 16, and the south half of Lot 15, of J. B. Skilbeck's Addition as R-T.
254	12-16-68	Classifies 32.7 acres in the vicinity of Mason Rd. as I-1.
256	12-16-68	Classifies 10 acres in the northeast quarter of Sec. 2, T2N, R4E, as B-1.
257	12-16-68	Classifies Lots 11, 12, 33 and 34 of Block 8 of Mizner's Washington Heights Addition as P-1.
260	3-10-69	Classifies Lot 4 of Assessor's Plat No. 3 as O-1.
266	6-16-69	Classifies Lot 3 and part of Lot 1 of Almon Whipple's Addition and Lot 62 and part of Lot 61 of Cowdry's Addition as B-2.
267	6-16-69	Classifies part of the north part of the northwest quarter of Sec. 1, T2N, R4E, as I-1.
268	7-14-69	Classifies land in the vicinity of the intersection of Mason Rd. with the west line of Walnut as R-M.
270	12-15-69	Classifies Lots 69 and 70, and part of Lot 81, of Assessor's Plat No. 3 as R-M.
271	1-12-70	Classifies part of Lot 57 of Assessor's Plat No. 8 as R-M.
272	2-9-70	Classifies Lots 21 and 22 of Assessor's Plat No. 1 as P-1.
274	3-9-70	Classifies approximately 1.97 acres in the southeast quarter of Sec. 26, T3N, R4E, as O-1.
275	8-10-70	Classifies part of Sec. 26, T3N, R4E, as O-1.
277	9-9-70	Classifies approximately 1.11 acres in the vicinity of Grand River Ave. as B-2.

280	2-8-71	Classifies part of the southeast quarter of Sec. 35, T3N, R4E, as R-M.
281	2-8-71	Classifies Lots 15 and 18, and part of the northerly 40 ft. of Lots 16 and 17, of Crane and Brooks Plat as CBD.
282	5-18-71	Classifies part of Lot 16 of Crane and Brooks Plat as CBD.
286	6-28-71	Classifies approximately 14 acres in part of the west half of the west half of the northwest quarter of Sec. 35, T3N, R4E, as R-M.
288	10-4-71	Classifies land in the vicinity of the southwest corner of Lot 269, Howell-Lake Oak Grove Subdivision as I-1 and approximately 3.85 acres in the vicinity of the southwest corner of Sec. 31, T3N, R5E, Osceola Twp. as I-2.
291	12-27-71	Classifies part of the west half of Sec. 35, T3N, R4E, as R-M.
292	1-24-72	Classifies part of the southeast corner of Sec. 26, T3N, R4E, as O-1.
294	3-6-72	Classifies part of Sec. 26, T3N, R4E, as O-1.
295	3-6-72	Classifies Lots 14 and 15 of Thompson's Addition as O-1.
296	3-6-72	Classifies parts of the northeast quarter of the southeast quarter of Sec. 26, T3N, R4E, as R-M.
303	6-26-72	Classifies part of the southeast quarter of Sec. 27, and northeast corner of Sec. 34, T3N, R4E, as R-M.
304	6-26-72	Classifies parts of Lots 61 and 73 of Whipple's Second Addition as P-1.
305	6-26-72	Classifies part of Thompson's Addition, in the vicinity of Lot 5, as P-1.
308	8-21-72	Classifies parts of Lots 290 and 291 as B-1.
309	9-5-72	Classifies Lot 59 of Cowdry's Addition as B-1.
310	9-5-72	Classifies the north half of Lots 41 and 42, and the south 48 ft. of Lot 38, of Crane and Brooks Plat as B-2.
312	10-16-72	Classifies the south half of Lot 60 of Cowdry's Addition as B-1.
314	3-5-73	Classifies part of Lot 13 of Cowdry's Addition as P-1.
315	3-5-73	Classifies Lots 150, 153, 154 and 157 of Crane and Brooks Addition as R-T.
316	4-2-73	Classifies Lots 22 and 23 of Thompson Addition as P-1.
317	4-30-73	Classifies Lot 23 of Assessor's Plat No. 1 as P-1.
321	8-6-73	Classifies Lots 270 and 271, and the south half of Lots 269 and 272, of Crane and Brooks' Plat as P-1.
322	8-6-73	Classifies parts of Lots 96 and 97 of Cowdry's Addition as R-T.
324	10-1-73	Classifies Lots 16 through 21 and Lot 29 of Cowdry's Addition, and Lot 2 of Crane and Brooks Addition, as B-1.
325	10-1-73	Classifies Lots 12 through 15 and Lot 30 of Cowdry's Addition as B-1.
327	12-10-73	Classifies approximately 10.9 acres in Sec. 2, T2N, R4E, as T-C.
330	2-4-74	Classifies Lot 10 of First Marion Addition as I-1.
331	3-4-74	Classifies Lots 1 through 4 and other property in Block 10 of T.W. Mizner's Washington Heights Addition as B-2.
333	5-28-74	Classifies part of the west half of the southeast quarter of Sec. 26, T3N, R4E, as R-M.
334	6-24-74	Classifies part of the southeast quarter of Sec. 26, T3N, R4E, as O-1.
335	9-30-74	Classifies part of the east half of the northwest quarter of Sec. 36, T3N, R4E, as B-1.
338	3-3-75	Classifies approximately 1.5 acres in the west half of the southeast quarter of Sec. 26, T3N, R4E, as O-1.
340	9-29-75	Classifies Lots 75 through 77 of J.B. Skilbeck's Addition as B-2.
341	10-27-75	Classifies parts of Lots 12 and 30 of Cowdry's Addition as B-2.
344	12-22-75	Classifies approximately 33.23 acres in the northwest quarter of the southwest quarter of Sec. 26, T3N, R4E, as I-1.
347	1-5-76	Classifies Lot 23 of Assessor's Plat No. 4 as R-T.
349	5-10-76	Classifies Lots 1 through 8 and Lots 13 through 27 of Holly Hills Estates as R-T.
351	8-30-76	Classifies parts of Lots 31 and 32 of Assessor's Plat No. 1 as O-1.
355	2-28-77	Classifies 13 acres in the northwest corner of Sec. 1, T2N, R4E, as I-1.

357	3-28-77	Classifies Lots 59, 60, 72 and 73 of Whipple's Second Addition, and parts of Lot 61 of Whipple's Second Addition and Lot 73 of Cowdry's Addition, as O-1.
358	4-25-77	Classifies Lot 16 of Wilcox's Addition as R-T.
360	8-1-77	Classifies parts of Lots 12 and 30 of Cowdry's Addition as B-2.
362	8-29-77	Classifies Lots 1 through 3 of Assessor's Plat No. 3 as P-1.
363	8-29-77	Classifies Lots 85, 86 and 88 of McPherson's Prospect Place Addition as O-1.
366	4-10-78	Classifies part of Lot 22 of Assessor's Plat No. 4 as R-T.
367	4-24-78	Classifies Lot 54 of Assessor's Plat No. 4 as R-1.
369	6-5-78	Classifies two parcels in the vicinity of the east quarter corner of Sec. 26, T3N, R4E, as O-1.
371	7-31-78	Classifies the north 12 ft. of Lots 4 through 8 of Block 18 of T.W. Mizner's Washington Heights Addition and a parcel adjacent thereto as R-1.
373	9-25-78	Classifies part of the east half of the west half of the northeast quarter of Sec. 35, T3N, R4E, as O-1.
387	10-8-79	Classifies part of the west half of the southwest quarter, and part of the west half of the northwest quarter, of Sec. 35, T3N, R4E, as I-1.
389	11-19-79	Classifies part of Sec. 26, T3N, R4E, as O-1.
396	5-5-80	Classifies Lot 26 of Assessor's Plat No. 7, Lot 95 of Cowdry's Addition and part of the northwest quarter of Sec. 1, T2N, R4E, as R-M.
398	7-28-80	Classifies Lot 98 of Cowdry's Addition as R-M.
404	11-3-80	Classifies part of the southeast quarter of Sec. 36, T3N, R4E, as B-2.
408	5-19-81	Classifies Lots 24 and 25 of Assessor's Plat No. 1 as P-1.
411	7-27-81	Classifies property on the west side of Michigan Ave., across from McPherson Bank and the southwest corner of Michigan Ave. and Wetmore St. as CBD;
419	3-22-82	Classifies Lots 4 and 5 and the south 30 ft. of Lot 3 of Assessor's Plat No. 10 as B-2.
422	7-14-82	Classifies Lot 10 and part of Lot 9 of Assessor's Plat No. 10 as B-2.
425	6-28-82	Classifies land in the vicinity of Mason Rd. and Peavy Rd. as TC.
427	9-7-82	Classifies part of Sec. 34 and part of Sec. 27, T3N, R4E, as B-2.
430	2-7-83	Establishes boundaries of R-P District.
433	5-17-83	Classifies part of the northeast, southeast and southwest quarters of Sec. 34, T3N, R4E, as I-1.
436	10-17-83	Classifies Lots 29 through 32 and the north 3 ft. in width of Lot 33 of the First Marion Addition.
442	8-6-84	Classifies the east 9 rods of Lot 3 and Lots 1 and 2, except the west 4 rods of each, as B-2.
443	8-6-84	Classifies approximately 14.12 acres in the northeast corner of Sec. 2, T2N, R4E, as I-1.
451	12-10-84	Classifies Lot 27 of Assessor's Plat No. 3 as P-1.
456	5-13-85	Classifies 237 N. National St. as I-1.
457	5-13-85	Classifies Lots 7 and 9 of Almon Whipple's Addition as O-1.
463	8-5-85	Classifies Lots 34, 35, 40 and 41 of Cowdry's Addition as CBD.
464	10-28-85	Classifies south 1/2 of Lots 6 and 8 of Almon Whipple's Addition as O-1.
465	10-28-85	Classifies north 44 ft. of Lots 4 and 5 and south 90 ft. of Lot 8 of Crane & Brooks Addition as CBD.
469	1-6-86	Classifies the south 90 ft. of Lot 9, the south 88 ft. of Lot 5 and the south 88 ft. of Lot 4, in Crane and Brooks Addition, as CBD.
471	2-3-86	Classifies Lot 26 of Assessor's Plat No. 3 as P-1.
478	10-13-86	Classifies part of Sec. 36, T3N, R4E (128 Wetmore St.), as B-2.
480	11-10-86	Classifies part of the east 1/2 of the west 1/2 of the southwest 1/4 of Sec. 35, and part of the west 1/2 of the east 1/2 of the southwest 1/4 of Sec. 35, Howell Twp., lying southwest of the I-96 right of way.
482	1-5-87	Classifies Lots 28, 29 and 30 of Assessor's Plat No. 3 (119 Byron Rd., 647 and 653 W. Clinton St.) as P-1.
483	1-5-87	Classifies three parcels along Grand River as R-M, R-1 and HL.

490	8-3-87	Classifies Lots 23, 24 and 25 in Block 9 of T. W. Mizner's Washington Heights Addition (196 N. National St.) as B-2.
492	9-28-87	Classifies Lots 11, 12 and 13 of First Marion Addition (934 S. Michigan Ave.) as B-2.
496	4-11-88	Lots 26, 27 and 28 in Block 9 of T. W. Mizner's Washington Heights Addition (118 N. National St.) as B-2.
499	6-6-88	Classifies property in vicinity of Cowdry's Addition, Ann Arbor R. R. and Thompson's Addition as R-M.
500	6-6-88	Classifies Lots 14 and 15 of First Marion Addition as B-2.
501	8-15-88	Classifies unplatted land beg. N. 1220.21 ft. from W 1/4 cor. Th. N O° O' E 204.30 ft., etc., as B-2.
502	8-15-88	Classifies Lots 30, 31, 32 and 33 in Thompson's Addition, and other land, as R-M.
503	10-24-88	Classifies Lots 11, 12, 13 and the west 32 ft. of Lot 10 of Victory Gardens as B-2.
505	2-13-89	Classifies S 1/2 of Lots 4 and 5 of Almon Whipples Addition as O-1 and N 1/2 of Lots 4,6 and 8 of Almon Whipples Addition as P-1 (609 E. Clinton; 610 E. Grand River; and 122 Almon.)
506	2-13-89	Classifies certain properties on W. Highland Rd., including Neal property, as R-M.
509	6-5-89	Classifies Lots 86 to 93, inclusive, Crane and Brooks Addition as CBD.
511	9-11-89	Classifies part of the S.E. 1/4 of Sec. 26 and the N.E. 1/4 of Sec. 35, T3N, R4E, as O-1.
516	12-18-89	Classifies 45.43 acres in T3N, R4E, Sec. 35, as R-2.
528	10-8-90	Classifies 521 E. Grand River as O-1.
529	10-22-90	Classifies S.E. 1/4 of S.E. 1/4 of Sec. 26, T3N, R4E (McPherson property), from R-1 to PUD.
535	2-11-91	Classifies N.E. 1/4 of S.E. 1/4 of Sec. 27, and the W. 1/2 of S.E. 1/4 of Sec. 27, T3N, R4E as O-1.
540	3-11-91	Classifies Lots 4 through 12 and Lot 13, except the south 20 ft. of said lot, of Winklehaus Subdivision, as PUD.
541	3-11-91	Classifies Lots 1 through 10 of Condensed Milk Co. Addition as PUD.
545	7-15-91	Classifies Lots 1 to 5 and the east 32 ft. of Lot 6 of T.W. Mizner's Washington Heights Addition and 416 N. National St. as R-M.
546	8-12-91	Classifies Sec. 36, Lots 158, 161, 162 and 165, except RR grounds, of Crane and Brooks Subdivision (313 Chestnut St.) as R-T.
551	3-31-92	Classifies parcels identified by Tax ID Nos. 17-01-100-001 (414 Henry St.), 17-01-100-003 (923 Jones St.), 17-01-100-005 and 17-01-100-096 as R-M.
552	3-31-92	Classifies various parcels on and near Byron Rd. as O-1.
553	6-15-92	Classifies parcels identified by Tax ID Nos. 17-01-100-097 (951 Jones St.), 17-01-102-064 and 17-01-100-105, as I-1.
554	6-15-92	Classifies Lot 181, north 64 ft. of Lot 182, east 26 ft. of Lot 184 and south 68 ft. of Lot 182 of Crane and Brooks Addition as O-1.
555	6-15-92	Classifies Lot 2 of Almon Whipples Addition (603 E. Clinton) as P- 1.
556	7-13-92	Classifies parcels identified by Tax ID Nos. 17-01-100-103 and 17- 01-100-104, in the vicinity of S. Pinckney Rd., as B-2.
561	9-21-92	Classifies Sec. 36, T3N, R4E, Crane and Brooks Addition, north 26 ft. of Lot 148 and all of Lot 149 (324 West St.) as R-T.
562	10-5-92	Classifies north 32 ft. of Lots 12 and 13 of Thompson's Addition (part of Jennie Ranney McPherson Park) as O-1.
567	12-14-92	Classifies parcels identified by Tax ID Nos. 17-26-400-056 and 17- 26-401-001 through 17-26-401-008 (Oakwood Knoll), as R-M.
569	1-25-93	Classifies Lots 1 through 8 and Lots 13 through 27 of Holly Hills Estates, as R-1.
575	2-22-93	Classifies east 1/4 corner of Sec. 26, T3N, R4E (Rolling Oaks), as PUD.
577	3-22-93	Classifies 2.42 acres in Sec. 25, T3N, R4E, as B-1, and 2.26 acres in Sec. 25, T3N, R4E, as O-1.
582	10-4-93	Classifies 3.45 acres west of 1211 W. Grand River (fire station) as PUD.
604	11-14-94	Classifies north 22 ft. of Lot 27 of Cowdry's Addition and Lot 1 of Crane & Brooks as B-1.

608	1-23-95	Classifies Lot 291 and the east 25.5 ft. of Lot 290 of F.J.B. Crane's Subdivision as CBD.
610	2-6-95	Classifies Sec. 36, T3N, R4E, of Crane & Brooks Plat, part of Lots 172, 173, 176, 177 and 180 and vacated McCarthy St., as O-1.
612	4-17-95	Classifies Lot 70 of McPherson & Browning Addition as PUD.
614	9-5-95	Classifies Sec. 36, T3N, R4E, Lots 16, 17 and parts of Lot 27 of Cowdry's Addition, and parts of Lots 1 and 2 of Crane & Brooks Plat, as P-1.
625	3-18-96	Classifies vacant property south of 910 S. Michigan Ave. (Pinckney Rd.), and vacant property north of 934 S. Michigan Ave. (Pinckney Rd.), as B-2.
642	3-17-97	Classifies property located at 207 N. National as B-2.
645	4-14-97	Classifies property located at 923 Jones St., 935 Hadden, 500 West St., and 419, 425 and 431 Henry St., as R-1; and property located at 733 and 757 S. Walnut, 140 Mason Rd., 217 N. Center, 214 N. Walnut, 704 S. Pinckway and 712, 822, 828, 904 and 910 S. Michigan, as B-2.
647	5-12-97	Classifies the parking area east of 502 E. Grand River, and the property located at 516, 521, 527, 602, 703 and 709 E. Grand River, as B-1; the property located at 410 N. National and vacated Lake Ave., as R-M; the property located at 846 E. Grand River, as B-2; and the property located at 303, 307, 309, 313 and 323 E. Grand River, 214 E. Sibley, 121 S. Court and the property north of 121 S. Court, as CBD.
650	6-9-97	Classifies the west 40 acres adjacent to the Shiawassee River as I-1.
654	8-18-97	Classifies 211, 215, 219, 231, 237, 247, 249, 303, 307, 315 and 317 N. National, and 1305 E. Grand River, as B-2.
667	2-17-98	Classifies property located at the northwest corner of I-96 and Mason Rd. as B-2.
687	12-21-98	Rezones vacant property located at the southwest corner of M59 and N. Michigan Ave. from R-1 to PUD.
694	8-30-99	Rezones 61.44 acres in the northeast quarter of Sec. 26, T3N-R4E, and vacant property north of M59 and east of the Ann Arbor RR (also known as the Reyhl property), from R-1 to PUD.
700	12-20-99	Classifies 1360 W. Grand River as O-1.
709	6-19-00	Classifies Sec. 36, T3N, R4E, Lot 63 of Cowdry's Addition as B-1.
712	8-14-00	Classifies vacant parcel located at the northwest corner of M-59 and Oak Grove Rd. As MXD.
713	8-14-00	Classifies vacant parcel at the northwest corner of N. Highlander Way and W. Grand River as B-1.
714	3-12-01	Classifies Sec. 36, T3N, R4E, Victory Gardens, Lot 14 as B-2.
715	3-12-01	Classifies a parcel commonly known as the vacant parcel owned by Singh IV Limited Partnership, located west of Oak Grove Road and east of the Tuscola Saginaw Bay Railroad on Highland Rd. as MXD.
717	6-4-01	Rezones Sec. 36, T3N, R4E, Thompson's Addition, Lots 3, 8, 9, 10 and 11 from CBD to PUD.
726	5-6-02	Classifies Sec. 2, T2N, R4E, The First Marion Addition, South ½ of Lot 15, and all of Lots 17 and 18; and T2N, R4E, The First Marion Addition, North ½ of Lot 16 as B-2.
727	5-20-02	Classifies Sec. 25, T3N, R4E, Assessor's Plat Number 9, part of Lot 24 as O-1.
734	11-4-02	Classifies part of the Southeast 1/4 of Sec. 36, T3N, R4E as B-2.
735	12-16-02	Classifies Sec. 36, T3N, R4E, Howell City Crane & Brooks Addition, Lot 129 as CBD.
737	2-10-03	Classifies Parcel ID Number 17-25-300-015 (1461 N. Michigan Ave.) as B-2.
742	7-14-03	Classifies the N 1/4 of Sec. 1, T2N, R4E as RM.
755	1-26-04	Classifies Sec. 1, T2N,R4E, unplatted parcel, as RM.
758	6-28-04	Classifies Sec. 36, T3N, R4E, Assessor's Plat Number 8, North 132 ft. of Lot 27 as R-1.
760	8-9-04	Classifies Sec. 1, T2N, R4E, J. B. Skilbeck's Addition North ½ of Lot 72 as B-1.
773	9-26-05	Classifies several parcels of land and premises in Sec. 35, T3N, R4E and Sec. 36, T3N, R4E as R-1.
775	10-10-05	Classifies several parcels of land and premises in Sec. 35, T3N, R4E and Sec. 36, T3N, R4E as R-1.

776	11-21-05	Classifies several parcels of land and premises in Sec. 36, T3N, R4E as R-1.
777	12-19-05	Classifies several parcels of land and premises in Sec. 36, T3N, R4E as R-1.
782	4-10-06	Classifies Sec. 36, T3N, R4E, commonly known as 915 N Michigan Avenue, as H-L.
784	6-26-06	Classifies Sec. 36, T3N, R4E, commonly known as 100 Lucy, as B-2.
791	12-4-06	Classifies Sec. 36, T3N, R4E, commonly known as 324 West Street, as R-M.
799	3-26-07	Classifies Sec. 34, T3N, R4E, commonly known as the property at the northwest corner of the intersection of N. Highlander Way and W. Grand River Avenue, as O-1.
807	4-7-08	Amending Ordinance No. 582, removing real property commonly known as West Grand River from the PUD.
808	4-7-08	Classifies Sec. 35, T3N, R4E, commonly known as West Grand River, from PUD to R-M.
809	5-5-08	Amending Ordinance No. 687 by amending part of the PUD known as Victoria Park Development. The site plan for the real property is hereby subject to the revised site plan approved by the Planning Commission on March 19, 2008.
842	3-14-11	Classifies 1100 S. Michigan Ave. from R-1 to B-2.
847	8-8-11	Classifies Parcel ID Number 4717-06-100-001 from R-1 to I-2.
864	3-11-13	Classifies 415 W. Grand River Ave., 421 W. Grand River Ave., 503 W. Grand River Ave., 509 W. Grand River Ave., 515 W. Grand River Ave., 521 W. Grand River Ave., 527 W. Grand River Ave., 603 W. Grand River Ave., 607 W. Grand River Ave., 611 W. Grand River Ave., 624 W. Grand River Ave., 616 W. Grand River Ave., 606 W. Grand River Ave., 528 W. Grand River Ave., 522 W. Grand River Ave., 516 W. Grand River Ave., 510 W. Grand River Ave., Parcel ID Number 4717-35-203-012, 408 W. Grand River Ave., 402 W. Grand River Ave., and 915 N. Michigan Ave. from HL to HL-1.
865	3-11-13	Classifies 803 W. Grand River Ave., 819 W. Grand River Ave., 903 W. Grand River Ave., 703 W. Grand River Ave., 713 W. Grand River Ave., 719 W. Grand River Ave., 722 W. Grand River Ave., Parcel ID Number 4717-35-201-004, 708 W. Grand River Ave., 738 W. Grand River Ave., 824 W. Grand River Ave., 814 W. Grand River Ave., 940 W. Grand River Ave., Parcel ID Number 4717-35-201-082, 906 W. Grand River Ave., 1000 W. Grand River Ave., and 732 W. Grand River Ave. from HL to HL-2.
867	4-8-13	Classifies 423 N. National St. and 425 N. National St. from I-1 to R-1.
868	4-8-13	Classifies 945 Lucy Rd. and Parcel ID Number 4717-06-300-004 from R-1 to I-2.
877	7-22-13	Classifies 101 Lucy Rd. from R-1 to B-2; classifies 1303 Lucy Rd., Parcel ID Number 4717-06-101-007, 199 Lucy Rd., Parcel ID Number 4717-06-300-001, and 2135 Industrial Dr. from R-1 to I-1; classifies Parcel ID Number 4717-06-300-005, 2112 Industrial Dr., 2140 Industrial Dr., 645 Lucy Rd., and 2040 Industrial Dr. from R-1 to I-2.
881	10-14-13	Classifies Parcel ID Numbers 4717-01-102-001, 4717-01-102-011, and 4717-01-102-012 from R-1 to B-1.
889	8-11-14	Classifies parcels with Tax ID Numbers 17-01-100-098, 17-01-100-102, 17-01-100-106, 17-01-100-114, 17-01-100-116, 17-01-100-121, 17-01-100-124, 17-01-100-125, 17-01-100-126, 17-01-100-130, 17-01-101-002, 17-01-101-003, 17-01-101-004, 17-01-101-005, 17-01-101-006, 17-01-101-007, 17-01-101-008, 17-01-101-009, 17-01-101-010, 17-01-101-017, 17-01-101-018, 17-01-101-020, 17-01-102-002, 17-01-102-003, 17-01-102-004, 17-01-102-005, 17-01-102-006, 17-01-102-007, 17-01-102-013, 17-01-102-014, 17-01-102-015, 17-01-102-016, 17-01-102-017, 17-01-102-018, 17-01-102-019, 17-01-102-027, 17-01-102-028, 17-01-102-044, 17-01-102-045, 17-01-102-046, 17-01-102-047, 17-01-102-068, 17-01-102-069, 17-01-102-102, 17-01-200-004, 17-01-200-005, 17-01-200-009, 17-01-200-012, 17-01-200-013, 17-01-200-014, 17-01-201-002, 17-01-202-001, and 17-01-202-002 from their current zoning to South Michigan Avenue District.
894	5-18-15	Classifies Parcel 4717-36-402-029 on North National Street and Parcel 4717-36-402-030, 237 North National Street, from B-2 to R-1.
897	9-28-15	Classifies Parcel 4717-35-202-036, 415 West Grand River Avenue, from HL-1 to B-2.
912	10-9-17	Classifies Parcel 4717-01-102-046, 117 Pulford, from R-1 to SMD.
923	5-20-19	Classifies Parcel 4717-36-402-047, 904 East Clinton, from B-2 to PUD.



928	8-12-19	Classifies Parcel 4717-36-308-038, 316 East Grand River Avenue, from P-1 to CBD.
938	10-12-20	Classifies 415 West Grand River Avenue from B-2 to HL-1.

**TABLE J - OBSOLETE PROPERTY REHABILITATIVE DISTRICT**

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
Res. 12-06	4-9-12	Property located at 118-122 W. Grand River Avenue.
Res. 16-27	12-5-16	Property located at 110, 111, 113, 115, 116, 117, 119, 120 and 121 N. Michigan Avenue; 112, 114, 116, 118, 120, 122 and 124 State; 101, 102, 104, 106, 107, 108, 109, 110, 112, 114, 116, 111, 113, 117, 119, 120, 123, 124, 201, 203, 204, 205, 208, 209, 210, 212, 214, 216, 218, 219 and 223 W. Grand River; 112 S. Walnut; 101, 102, 105, 106, 107, 108, 109, 110, 111, 112, 113, 115, 117, 119, 201, 207, 209, 211, 213, 215, 217, 303, 307, 309, 315 and 323 E. Grand River; 124, 128 and 214 E. Sibley; 105, 109, 115, 117 and 119 W. Clinton; 111 N. Walnut; 121 S. Walnut; 101 S. Michigan Avenue; 121 S. Court; 121 N. Center.
		Unaddressed parcels by tax codes: 4717-36-308-023, 4717-36-307-021, 4717-36-307-022, 4717-36-307-061, 4717-36-307-062, 4717-36-307-065, 4717-36-308-021, 4717-36-308-088
Res. 16-29	12-19-16	Property located at 219 W. Grand River Avenue.
Res. 17-04	2-27-17	Correcting the address and extending the exemption term for the property located at 219 W. Grand River Avenue.

**TABLE K - COMMERCIAL REHABILITATION DISTRICT**

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
Res. 17-01	1-9-17	Establishing the South Michigan Avenue Commercial Rehabilitation District, including:  Property located at: 124 and 125 Holiday Lane; 251 Mason; 934, 938, 1004, 1009, 1022, 1062, 1066, 1140, 1175, 1195, and 1196 S. Michigan Ave.; and 147 Morgan Dr.; and  Unaddressed parcels by i.d. number: 4717-01-101-009, 4717-01-101-010, 4717-01-102-045, and 4717-02-200-014.

**CHARTER**

EDITOR'S NOTE: The Charter of the City of Howell, Michigan, was adopted at a special election held on November 8, 1955. Dates appearing in parentheses following a chapter or section heading indicate that the chapter or section was enacted or

amended on the date given. Because of changes in law since the adoption of the Charter, some sections of the Charter may be superceded. Where possible, editor notes shall be supplied informing the reader of notable changes to the Charter.

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## PREAMBLE

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We, the People of the City of Howell, in order to secure the benefits of efficient self government and otherwise to promote our common welfare, do ordain and establish this Charter for the government of our City, pursuant to authority granted by the Constitution and laws of the State of Michigan.

## CHAPTER 1

### BOUNDARIES AND SUBDIVISIONS OF THE CITY

---

#### Section 1.1 Name.

The City shall be a body corporate under the name, "City of Howell."

#### Section 1.2 Boundaries.

The City shall embrace the territory constituting the City of Howell, on the effective date of this Charter, together with such annexations thereto and less any detachments therefrom that may be made from time to time. Upon annexation or detachment of territory, the boundaries shall be deemed thereby to be changed without amendment of this section. The Clerk shall maintain and keep available in his office for public inspection and distribution an official description of the current boundaries of the City.

#### Section 1.3 Wards.

The City shall consist of one ward.

#### Section 1.4 Election Precincts.

The City shall be divided into election precincts in the manner required by law.

## CHAPTER 2

### DEFINITIONS AND INTERPRETATION

---

#### Section 2.1 Definitions.

Except as otherwise specifically provided or indicated by the context of this Charter:

- (1) "Charter" means this Charter, as amended from time to time;
- (2) "City" means the City of Howell;
- (3) "Assessor, Attorney, Clerk, and Treasurer" mean the persons occupying, holding the offices, or performing the duties of City Assessor, City Attorney, City Clerk, and City Treasurer, respectively, as the same are required or contemplated by law;
- (4) "Council" means the City Council of the City of Howell and includes any term employed in any State or Federal law

referring to or denoting governing bodies of cities;

(5) "Law" means this Charter, the Constitution and statutes of Michigan, and applicable common law;

(6) "Person" includes corporations, both public and private, partnerships, and associations, as well as individuals;

(7) "Printed" and "printing" include reproductions by printing, engraving, stencil duplication, lithographing, or any similar method;

(8) "Publication" means publication by posting in five (5) public places in the City, including the office of the Clerk of the City, or by publishing in a legal newspaper having a general weekly circulation within the County, or both, provided that if publication is made by posting in five (5) public places in the City, including the office of the Clerk, notice of such postings shall be printed in a newspaper having general circulation within the County. (Amended in 1966)

(9) "Written" and "in writing" include hand written script, printing, typewriting, and teletype or telegraphic communications;

(10) The singular number includes the plural, the plural number includes the singular and the masculine gender includes the feminine gender and the neuter;

(11) All words 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 in this Charter.

## CHAPTER 3

### GENERAL MUNICIPAL POWERS

---

#### Section 3.1 Powers of the City.

Unless otherwise provided or limited in this Charter, the City of Howell and its officers shall be vested with any and all powers, privileges, and immunities, expressed and 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 laws of the State of Michigan, and of the United States of America, including all the powers, privileges, and immunities which cities are permitted to or may provide in their charters by Act No. 279 of the Public Acts of 1909, 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 in this Charter 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 government, whether such powers be expressly enumerated 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 law.

#### Section 3.2 Specific Powers of the City.

Without limiting the general grant of powers contained in Section 3.1., the City shall have power to manage and control the finances, rights, interests, buildings, and property belonging to the City, to enter into contracts, and to protect the public peace, morals, health, safety, and general welfare. In the exercise of the City's powers, the Council may enact ordinances, rules, and regulations, and take such other action as may be required, not inconsistent with law, to:

(1) Declare as a hazard or nuisance any act or condition which is or may be dangerous to the health, safety, morals, or welfare of the inhabitants of the City; to provide for the abatement thereof; and to provide that the costs of such abatement shall be charged as a special assessment against the real property on which the hazard or nuisance is located;

(2) Provide for the public welfare by:

(a) Regulating trades, occupations, and amusements within the City, and prohibiting trades, occupations, and amusements which are detrimental to the safety, health, morals, or welfare of its inhabitants;

(b) Regulating the preparation, storage, transportation and sale of foods, drugs, and beverages for human consumption;

(c) Collecting and disposing of garbage and rubbish;

(d) Licensing, regulating, and limiting the number and locations of oil and gasoline stations;

(e) Licensing, regulating, and limiting the number of vehicles which carry persons or property for hire, fixing the rates of fare and charges, and determining the location of stands for such vehicles;

(f) Licensing, regulating, and limiting the number and locations of billboards and advertising signs;

(g) Directing and regulating the construction, erection, alteration, equipment, repair, moving, removal, demolition, occupancy, and maintenance of buildings and structures and their appurtenances and service equipment;

(h) Establishing zones within the City and regulating therein the use and occupancy of lands or structures; the height,

area, size, and location of buildings; the required open spaces for light and ventilation of buildings; and the density of population;

(i) Regulating, limiting, and prohibiting the construction and use of buildings and lands in order to promote the public safety and to prevent and suppress fires;

(j) Regulating and controlling the use of streams, waters, and watercourses within the City;

(3) Establish and control streets, alleys, bridges, and public places, and the space above and beneath them, and the use thereof by:

(a) Creating and vacating the same and acquiring and disposing of the land, or any interest in land, required therefor;

(b) Providing a plan of streets and alleys within the City and for a distance of not more than three miles beyond its limits;

(c) Requiring the owners of real property to build and maintain public sidewalks abutting upon such property, and upon the failure of any owner to do so, constructing and maintaining such sidewalks and assessing the cost thereof, or such part of such cost as the Council shall establish by ordinance, against such property as a special assessment;

(d) Compelling all persons to care for the space between street curbs and the sidewalks which abut upon premises owned, controlled, or occupied by them, and to keep the same free from weeds and from objects which are offensive or hazardous to public health and safety;

(e) Compelling persons to keep sidewalks which abut upon premises owned, controlled, or occupied by them, free from snow, ice, dirt, wood, or any other object which obstructs such sidewalks, or which makes the same offensive or hazardous to the public health or safety;

(f) Providing for the grade of streets and requiring public utility users of the streets to conform thereto with respect to their tracks or facilities located on, above, or under the streets; requiring railroads or street railroads to keep their tracks and the street surface between, and for a distance of one foot on each side of them and other utility facilities in the streets, in reasonable repair at all times; and requiring railroads to give warning by person or automatic signal of the approach of trains upon or across the streets and to light all such crossings at night;

(g) Regulating the speed of vehicles, trains, and locomotives upon or across the streets within the provisions and limitations of law, and the stopping and parking of the same upon the streets and at street crossings;

(h) Providing for and regulating the lighting of streets and alleys;

(i) Preventing and abating the encumbering of streets and alleys or any part thereof;

(j) Providing for and regulating the numbering of buildings upon property abutting the streets and alleys and compelling the owners and occupants thereof to affix numbers thereto;

(k) Providing for the use by others than the owner thereof of any property located on, or under, or above streets, alleys, and other public property, which is devoted to public utility purposes, upon the payment of a reasonable compensation therefor to the owner;

(4) Undertake any public work or make any public improvement or any repair or replacement thereof either directly or by contract with private persons; and to participate in any public work or public improvement under any lawful plan by which the whole or partial support of such work or improvement is provided by another governmental unit or agency;

(5) Construct, provide, maintain, extend, operate, regulate, and improve:

(a) Within the City; a City Hall; community buildings; police stations, fire stations; a civic auditorium; and polling places; and,

(b) Either within or without the corporate limits of the City or of Livingston County; public parks; recreation grounds and stadiums; Municipal camps; public grounds; zoological gardens; museums; airports and landing fields; cemeteries; public wharves and landing upon navigable waters; levees and embankments for flood control and other purposes related to the public health, safety, and welfare; electric light and power plants and systems; gas plants and systems; public heating plants and systems; waterworks and

water treatment plants and systems; sewage disposal plants and systems; storm sewers; garbage disposal facilities; refuse and rubbish disposal facilities; market houses and market places; facilities for the storage and parking of vehicles; hospitals; facilities for the docking of pleasure crafts and hydroplanes; and any other structure or facility devoted to or intended for public purposes within the scope of the powers of the City.

(6) Acquire by purchase, gift, condemnation, construction, lease, or otherwise, property, and interests in property, either within or without the corporate limits of the City or of Livingston County, for any public use or purpose within the scope of its powers, including, but not by the way of limitation, the uses and purposes set forth in clause (5) of this section, including the necessary lands therefor;

(7) Join with any municipal corporation or with any other unit of government, or with any number or combination thereof, by contract, or otherwise, as may be permitted by law, in the ownership, operation, or performance, jointly, or by one or more on behalf of all, of any property, facility, or service which each would have the power to own, operate, or



perform separately;

- (8) Provide for the public peace and health and for the safety of persons and property.

### **Section 3.3 Exercise of Powers.**

Where no procedure is set forth in this Charter for the exercise of any power granted to or possessed by the City and its officers, resort may be had to any procedure set forth in any statute of the State of Michigan which was passed for the government of cities or townships, or in any other statute of the State of Michigan. If alternate procedures are to be found in different statutes, then the Council shall select that procedure which it deems to be most expeditious and to the best advantage of the City and its inhabitants. Where no procedure for the exercise of any power of the City is set forth, either in this Charter or in any statute of the State of Michigan, the Council may prescribe by ordinance a reasonable procedure for the exercise thereof.

### **Section 3.4 Continuation of Rights and Liabilities.**

The adoption of this Charter shall not be regarded as discharging, impairing, or limiting any right vested in or liability incurred by the City of Howell at the time of the adoption of this Charter.

## **CHAPTER 4**

### **GENERAL PROVISIONS AFFECTING OFFICERS OF THE CITY**

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#### **Section 4.1 Officers to be Elected.**

The elective officers of the City shall be a Mayor, six Councilmen, three members of the Board of Review, and one Municipal Judge, each of whom shall be elected from the City at large.

**[Editor's Note] The provision for a Municipal Court still remains a part of this Charter but has been superseded by Michigan State Legislative Action.**

#### **Section 4.2 The Administrative Officers.**

The administrative officers of the City shall be the City Manager, Assessor, Attorney, Chief of Police, Clerk, Fire Chief, Health Officer, and Treasurer. The Council may, by resolution, upon the recommendation of the City Manager, create such additional administrative offices, or combine any administrative offices, in any manner not inconsistent with State law, and prescribe the duties thereof as it may deem necessary for the proper operation of the City government. No creation of any administrative office, or combination thereof one with another, shall abolish the office of City Manager nor diminish any of the duties or responsibilities of that office as set forth in this Charter.

#### **Section 4.3 Terms of Elective Officers.**

The terms of office of Councilmen shall be for four years. The term of office of the Mayor shall be for two years. The term of office of the Municipal Judge shall be for six years. The terms of office of all elected officers of the City except the Municipal Judge, shall commence on and date from the Monday following the regular City election at which they are elected. The term of office of the Municipal Judge shall commence on and date from the first of January next following his election.

**[Editor's Note] The provision for a Municipal Court still remains a part of this Charter but has been superseded by Michigan State Legislative Action.**

#### **Section 4.4 Administrative Officers; Appointment, Terms, and Remuneration.**

(a) The City Manager, Assessor, Attorney, Clerk, Treasurer and Health Officer shall hold office by virtue of appointment by the Council which body shall also set their salaries. They shall hold office at the pleasure of the Council.

(b) All administrative officers of the City except the City Manager, Assessor, Attorney, Clerk, Treasurer and Health Officer shall be appointed or selected by the City Manager, subject to the confirmation of each appointment by the Council, and shall serve at the pleasure of the City Manager who shall set their salaries and wages in accordance with budget appropriations.

(c) All personnel employed by the City who are not elected officers or members of a board created by this Charter or declared to be administrative officers by or under authority of this section shall be deemed to be employees of the City.

#### **Section 4.5 Eligibility for Office in City.**

No person shall be elected or appointed to any office who is in default to the city. The election or appointment of any such defaulter shall be void. No person shall be eligible to any office of the city, other than that of City Manager, unless he shall be a registered elector of and a taxpayer to the city, and shall have been a resident of the city or of any territory comprising the city for at least one year for elective office immediately prior to the date of the election at which he is a candidate for office, or two years immediately prior the date of his appointment to office.

(Amended in 1988)

#### **Section 4.6 Vacancies in Office.**

Every City office shall become vacant upon the happening of any of the following events before the expiration of the term of such office:

1. The death of the incumbent;
2. His resignation;
3. His removal from office;
4. His conviction of any infamous crime or of any offense involving a violation of his oath of office;
5. His conviction of a violation of this Charter;
6. The decision of any competent tribunal, declaring his election or appointment to be void;
7. If the officer of the City shall absent himself continuously from the City for more than sixty days without the permission of the Council;
8. In the case of the Mayor and members of the Council, where such officer shall miss four consecutive regular meetings of the Council or twenty-five per cent of such meetings in a fiscal year of the City, unless such absence shall be excused by the Council at the time of the absence and the reason therefor entered in the proceedings of the Council;
9. If the officer shall be convicted of any act constituting misconduct in office under the provisions of this Charter.

(Amended in 1966)

#### **Section 4.7 Resignations.**

Resignations of elective officers and of the City Manager, Assessor, Attorney, Clerk, and Treasurer shall be made in writing and filed with the Clerk or Mayor, and shall be acted upon by the Council at its next regular meeting following receipt thereof by the Clerk or Mayor, as the case may be. Resignations of appointive officers, other than the City Manager, Assessor, Attorney, Clerk, and Treasurer, shall be made in writing to the City Manager, and shall be immediately acted upon by him.

#### **Section 4.8 Filling Vacancies.**

(a) If a vacancy occurs in any elective office or in the office of Assessor, Attorney, Clerk, or Treasurer, the Council shall, within thirty days after such vacancy occurs, appoint a person who possesses the qualifications required of holders of the office in which the vacancy exists to fill such vacancy for the balance of the term of the person whose office is so filled. A vacancy in the office of City Manager shall be filled within ninety days.

(b) If a vacancy occurs in any appointive office, other than that of City Manager, Attorney, Assessor, Clerk, or Treasurer, the Council shall, within thirty days thereafter, appoint a qualified person to fill such vacancy in the manner required for making the original appointment.

#### **Section 4.9 Term of Office Cannot Be Shortened or Extended.**

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

#### **Section 4.10 Increase or Decrease of Compensation.**

The Council shall not grant or authorize extra compensation to any City officer, elective or appointive, or to any employee, agent, or contractor, after the service has been rendered or the contract entered into. Nor shall the salary of any officer, elective or appointive, be increased or decreased after his election or appointment to a fixed term of office.

#### **Section 4.11 Oath and Bond of Office.**

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 which he may be required by this Charter or by the Council to give. The oath and bond of the Clerk shall be filed with and kept by the Treasurer. 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.

#### **Section 4.12 Surety and Fidelity Bonds.**

Except as otherwise provided in this Charter, the Council may require any officer or employee to give a bond, to be approved by the Council, conditioned upon the faithful and proper performance of the duties of his office or employment, in

such sum as the Council shall determine. All such officers or employees receiving, disbursing, or responsible for the City funds shall be bonded. The resignation or removal of any bonded officer or employee shall not, nor shall the appointment of another to the office or employment, exonerate such officer or employee or his sureties from any liability incurred by him or them. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the City, except as otherwise provided in this Charter. No bond required by this section shall be renewed upon its expiration or in the event of the reappointment of any officer or employee to a position for which a bond is required, but a new bond shall be furnished. No bond, except that of the Municipal Judge, shall be issued for a term exceeding two years. The requirements of this section may be met by the purchase by the City of one or more blanket corporate surety bonds covering all or any group or groups of the officers and employees of the City.

#### **Section 4.13 Delivery of Office and Its Effects by Officer to His Successor.**

Whenever any officer or employee shall resign, be removed from office or employment, or the term for which any officer has been elected or appointed has expired, he shall, 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, and which in any way appertain to his office or employment. Every person violating this provision shall be deemed guilty of a violation of this Charter, and may be proceeded against in the same manner as public officers generally for a like offense under the general laws of the State, now or hereafter in force and applicable thereto. Every officer and employee of the City shall be deemed an officer within the meaning and provisions of such general laws of the State for the purposes of this section.

## **CHAPTER 5**

### **THE CITY COUNCIL**

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#### **Section 5.1 City Governing Body.**

All powers of the City shall be vested in and all matters of policy of the City shall be exercised and determined by a Council of seven members composed of the Mayor and six Councilmen.

#### **Section 5.2 Council to Judge Qualification of Its Members.**

The Council shall be the judge of the eligibility and qualifications of its own members.

#### **Section 5.3 Salaries of Members of the Council.**

The Mayor shall receive as remuneration for his services to the City the sum of \$500 per year and each Councilperson shall receive the sum of \$10 per Council meeting attended for a sum not to exceed \$400 per year. Such remuneration shall be payable semiannually, and, except as otherwise provided in this Charter, shall constitute the only salary or remuneration which may be paid for services performed by the Mayor or any Councilperson for the discharge of any official duty for or on behalf of the City during their term of office. Upon authorization of the City Council, reasonable expenses may be allowed when actually incurred on behalf of the City.

(Amended in 1966)

**[Editor's Note] The provision for salaries has been superseded by Michigan State Legislative Action.**

#### **Section 5.4 Duties of Mayor.**

(a) Insofar as required by law, and for all ceremonial purposes, the Mayor shall be recognized as the executive head of the City. He shall have an equal voice and vote in the proceedings of the Council, but shall have no veto power.

(b) He shall be a conservator of the peace, and may exercise within the City the powers conferred upon sheriffs to suppress disorder, and shall have the power 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 disorderly conduct.

(c) He shall authenticate by his signature such instruments as the Council, this Charter, or the laws of the State of Michigan or of the United States shall require.

#### **Section 5.5 Mayor Pro Tem.**

The Council shall, at its first regular meeting following each regular biennial City election, select one of its members to serve as Mayor Pro Tem. The Mayor Pro Tem shall perform the duties of the Mayor when, on account of absence from the City, disability or otherwise, the Mayor is temporarily unable to perform the duties of his office, and, in case of vacancy in the office of Mayor, until such vacancy is filled by the Council. In the event of a vacancy occurring in the office of Mayor Pro Tem, the Council shall appoint from its membership to fill such vacancy and, in the time of emergency, members of the Council may act as Mayor Pro Tem in the order of the number of votes received by them at their election, until a Mayor Pro Tem is so appointed.

#### **Section 5.6 Meetings of the Council.**

(a) The Council shall provide by resolution for the time and place of its regular meetings and shall hold at least two regular meetings in each month. If any time set for the holding of a regular meeting of the Council shall fall on a holiday, then such regular meeting shall be held at the same time and place on the next secular day which is not a holiday.

(b) Special meetings of the Council may be called by the Clerk on the written request of the Mayor or of any two members of the Council, on at least six hours written notice to each member of the Council, designating the time, place, and purpose of any such meeting and served personally or left at his usual place of residence by the Clerk or someone designated by him. Notwithstanding the foregoing requirements for the calling of special meetings, any special meeting of the Council at which all members of the Council are present or have, in writing, waived the requirement that notice be given at least six hours prior to the time specified for the holding of such meeting and at which a quorum of the Council is present, shall be a legal meeting.

(c) 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 notice of the special meeting is duly given and if all the members of the Council are present at any special meeting of the Council, then any business which might lawfully come before a regular meeting of the Council may be transacted at such special meeting.

(d) All regular and special meetings of the Council shall be open to the public and the rules of order of the Council shall provide that citizens shall have a reasonable opportunity to be heard.

(e) Four members of the Council shall be a quorum for the transaction of business at all meetings of the Council, but, in the absence of a quorum, two members or more may adjourn any regular or special meeting to a later date.

(f) The Council shall determine its own rules and order of business and shall keep a journal in the English language of all of its proceedings, which shall be signed by the Mayor and the Clerk. The vote upon the passage of all ordinances, and upon the adoption of all resolutions, shall be taken by "Yes" and "No" votes and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state. Any citizen or taxpayer of the City shall have access to the minutes and records of all regular and special meetings of the Council at all reasonable times.

(g) The Council may, by a vote of not less than two of its members, compel the attendance of its members and other officers of the City at its regular and special meetings and enforce orderly conduct therein; and any member of the Council or other officer of the City who refuses to attend such meetings or conduct himself in an orderly manner thereat shall be deemed guilty of misconduct in office. The Chief of Police or, in his absence, his assistant in command of the City police shall serve as the Sergeant-at-arms of the Council in the enforcement of the provisions of this section.

#### **Section 5.7 Health.**

The Council, together with the City Manager, shall constitute the Board of Health of the City. The Board of Health shall adopt rules and regulations for their own government and shall possess all powers, privileges, and immunities granted to boards of health by State law. The Board of Health shall have supervision of all matters relating to the sanitary condition of the City and the preservation of life and health of its inhabitants. The Mayor shall be President and the Health Officer shall be the executive officer of the Board of Health. The City Clerk shall be the Secretary of the Board of Health.

#### **Section 5.8 Restriction on Powers of the Council.**

(a) 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 subordinate of the City Manager either publicly or privately. Any violation of the provisions of this section by a Councilman shall constitute misconduct in office.

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

(c) The Council shall not have the power to make any contract with or give any official position to any person who is in default to the City. Further, the Council shall not have the power to sell any park, cemetery, or any part thereof, except where such park is not required under an official master plan of the City, or engage in any business enterprise requiring an investment of money in excess of ten cents per capita, unless approved by three-fifths of the electors voting thereon at any general or special election. Except as otherwise provided in this Charter, no ordinance or resolution shall be adopted or passed except by the affirmative vote of at least four members of the Council.

#### **Section 5.9 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 of the City and to make investigations as to Municipal affairs, and for that purpose may require the appearance of witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure on the part of any person to appear as so required or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute a violation of this Charter and shall be subject to such punishment or other procedures as are permitted by law.

#### **Section 5.10 Publication of Council Proceedings.**

The proceedings of the Council shall be published at least once within fifteen days after each meeting of the Council. The publication of a synopsis of such proceedings, prepared by the Clerk and approved by the Mayor, showing the substance of each separate proceeding of the Council shall be a sufficient compliance with the requirements of this section.

## CHAPTER 6

### CITY LEGISLATION

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#### Section 6.1 Prior City Ordinances and Regulations.

All by-laws, ordinances, resolutions, rules, and regulations of the City of Howell which are not inconsistent with the provisions of this Charter, in force and effect at the time of the adoption of this Charter, shall continue in full force as by-laws, ordinances, resolutions, rules, and regulations of the City of Howell, until repealed or amended by action of the proper authorities.

#### Section 6.2 Ordinance Enactment.

All legislation of the City of Howell shall be by ordinance or by resolution. The word "resolution" as used in this Charter shall be the official action of the Council in the form of a motion, and such action shall be limited to matters required or permitted to be done by resolution by this Charter or by State or Federal law and to matters pertaining to the internal affairs or concerns of the City government. All other acts of the Council, and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances passed by the Council shall be, "The City of Howell Ordains:." Except in the case of ordinances which are declared to be emergency ordinances, no ordinance shall be finally passed by the Council at the same meeting at which it is introduced. No ordinance shall be revised, or amended by reference to its title only, but the section or sections of the ordinance revised, or amended shall be re-enacted and published at length, and all ordinances, when enacted, shall be immediately 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 record by their official signatures thereon.

#### Section 6.3 Penalties.

The Council shall provide in each ordinance for the punishment of those who violate its provisions. No punishment for the violation of any City ordinance or for the commission by any officer of the City of any act declared by this Charter to constitute misconduct in office shall exceed a fine of five hundred dollars or imprisonment for ninety days, or both, in the discretion of the court, except that any officer of the City found guilty of any act declared by this Charter to constitute misconduct in office, shall, in addition to such fine or imprisonment, or both, forfeit his office.

#### Section 6.4 Publication of Ordinances.

Each ordinance passed by the Council shall be published at least once, within fifteen days after its adoption by the Council. All ordinances of the City shall become effective immediately upon the publication thereof, unless a date upon which an ordinance shall become effective, which is subsequent to the date of its publication, is specifically provided in the ordinance itself. The publication of any ordinance in full, after its final passage, as a part of the published proceedings of the Council shall constitute publication of such ordinance as required herein. An ordinance which is declared by the Council to be an emergency ordinance may be published by the posting thereof as provided in Section 2.1(8) of this Charter, provided a notice of such publication by posting be published in a newspaper meeting the requirements of such section within ten days after such posting.

(Amended Nov. 8, 1966)

#### Section 6.5 Technical Codes.

The Council may adopt any provision of State law or any code permitted by law as a City ordinance or code by reference thereto in an adopting ordinance and without publishing such code in full, provided that such code is clearly identified in the ordinance adopting the same, and the purpose of the code shall be published with the adopting ordinance and printed copies thereof be kept in the office of the Clerk, available for inspection by and distribution to the public at all times, and notice to that effect be published with the publication of the adopting ordinance.

#### Section 6.6 Franchises and Contracts.

Every ordinance or resolution granting any irrevocable franchise or right to occupy or use the streets, highways, bridges, or public places in the City for any purpose shall be complete in the form in which it is finally passed, and remain on file with the Clerk for public inspection for at least two weeks before the final passage or adoption thereof.

#### Section 6.7 Compilation or Codification.

(a) Copies of all ordinances enacted after the effective date of this Charter, and all amendments to this Charter, shall be available at the office of the Clerk.

(b) At least once in every ten years the Council shall direct the compilation or codification and the publication of the Charter and of all ordinances of the City, then in force, in loose-leaf or pamphlet form, and may provide for a reasonable charge for copies thereof. No further publication of any such compilation or codification shall be required for the validity thereof. In case the compilation or codification of the ordinances of the City shall have been maintained current and up-to-

date during any ten year period, no re-compilation or re-codification of the ordinances of the City shall be required during or at the end of such period.

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

#### **Section 6.8 Initiative and Referendum.**

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

#### **Section 6.9 Petitions.**

An initiatory or a referendary petition shall be signed by not less than fifteen percent of the registered electors of the City who have signed said petition within ninety days before the date of filing the petition with the Clerk. No such petition need be on one paper, but may be aggregate of two or more petition papers. Each signer of a petition shall sign his name in ink or indelible pencil, and shall place thereon, after his name, the date and his place of residence by street and number. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers thereto 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 ten days, canvass the signatures thereon to determine the sufficiency thereof. Any signatures obtained more than ninety days before the filing of such petition with the Clerk shall not be counted. If found to contain an insufficient number of signatures of registered electors of the City, or to be improper as to form or compliance with the provisions of this section, the Clerk shall notify forthwith the person filing such petition, and ten days from such notification shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the Clerk shall present the petition to the Council at its next regular meeting.

#### **Section 6.10 Council Procedure.**

Upon receiving an initiatory or referendary petition from the Clerk, the Council shall, within thirty days, either:

(a) If it be an initiatory petition, adopt the ordinance as submitted in the petition or determine to submit the proposal to the electors of the City;

(b) If it be a referendary petition, repeal the ordinance to which the petition refers or determine to submit the proposal to the electors of the City.

#### **Section 6.11 Submission 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 purpose, or, in the discretion of the Council, at a special election. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by the Constitution or laws of the State of Michigan.

#### **Section 6.12 Ordinance Suspended.**

The certification by the Clerk of the sufficiency of a referendary petition within thirty days after the passage of the ordinance to which such petition refers shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors as the case may be.

#### **Section 6.13 Amendment of Ordinance Adopted by Initiative Procedure.**

An ordinance adopted by the electorate through initiatory proceedings shall not be amended or repealed by the Council for a period of two years after the date of the election at which it was adopted. Should two or more ordinances, adopted at the same election, have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

## **CHAPTER 7**

### **THE ADMINISTRATIVE SERVICE**

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#### **Section 7.1 City Manager.**

(a) The City Manager shall be the administrative agent of the Council, shall perform the duties of his office under its authority, and shall be accountable to the Council for the performance of his duties. He shall be chosen on the basis of his executive and administrative qualifications.

(b) It shall be the duty of the City Manager to:

(1) Supervise, and coordinate the work of the Clerk, except insofar as his work relates to that of Clerk of the Council; the Treasurer; the Assessor; the Police Department; the Fire Department; the Department of Public Works; the Water Department; and such additional administrative offices and departments as the Council may, from time to time create;

(2) Assemble the budgets prepared by the several administrative officers and departments of the City and present the same to the Council, with his recommendations;

(3) Establish and maintain a central purchasing service for the City;

(4) Maintain a City employment and central personnel service for City offices and departments;

(5) Maintain an inventory of City-owned property;

(6) Keep informed and report to the Council concerning the work of the several offices and departments of the City and, to that end, he may secure from the officers and heads of all administrative departments such information and periodical or special reports as he or the Council may deem necessary;

(7) In case of conflict of authority between officers and administrative departments, or in case of absence of administrative authority occasioned by inadequacy of Charter or ordinance provisions, resolve the conflict or supply the necessary authority, so far as may be consistent with law, this Charter, and the ordinances of the City, and direct the necessary action to be taken in conformance therewith; making a full report immediately, to the Council of the problem and his action thereon, with his recommendation for corrective action by the Council;

(8) Attend all meetings of the Council, with the right to take part in all discussions, but without the right to vote;

(9) Recommend to the Council, from time to time, such measures as he deems necessary or appropriate for the improvement of the City or its services;

(10) Furnish the Council with information concerning City affairs and prepare and submit such reports as may be required, including an annual report, which shall consolidate the reports of the several departments;

(11) Possess such further powers and perform such additional duties as may be granted to or required of him, from time to time, by the Council, so far as may be consistent with State law and this Charter; and

(12) Do everything necessary and proper to execute the foregoing powers.

## **Section 7.2 City Clerk.**

(a) The Clerk shall be Clerk of the Council. He shall attend all meetings of the Council and shall keep a permanent journal of its proceedings in the English language. He shall keep a record of all ordinances, resolutions, and actions of the Council;

(b) He shall have power to administer all oaths required by State law, this Charter and the ordinances of the City;

(c) He shall be custodian of the City seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. He shall also be custodian of all papers, documents, and records pertaining to the City of Howell, the custody of which is not otherwise provided for by this Charter. All records of the City shall be public and the Clerk and other officers entrusted with such records shall so maintain and keep the same that they may be available to the public at all reasonable times. He shall give to the proper officials of the City ample notice of the expiration or termination of any official bonds, franchises, contracts, or agreements to which the City is a party;

(d) He shall certify by his signature all ordinances and resolutions enacted or passed by the Council and perform any other duties required by him by State or Federal law, this Charter, or by the Council and ordinances of the City;

(e) He shall be the general accountant of the City, shall keep the books of account of the assets, receipts, and expenditures of the City, and shall keep the Council and the City Manager informed as to the financial affairs of the City. The system of accounts of the City shall conform to such uniform systems as may be required by law;

(f) He shall examine and audit all accounts and claims against the City. No withdrawal shall be made from any City fund which, after deducting all withdrawals therefrom, has not a sufficient amount therein to pay such proposed withdrawal;

(g) He shall, at least quarterly, and at any time upon direction of the City Manager, examine and audit all books of account kept by any official, board, or department of the City. He shall examine and audit all books of account of the Treasurer at least once each month;

(h) He shall balance all the books of account of the City at the end of each calendar month, and shall make a report thereon to the City Manager;

(i) He shall perform such other duties in connection with his office as may be required of him by State or Federal law, this Charter, the resolutions or ordinances of the Council, or by the Council.

## **Section 7.3 City Attorney.**

(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 the City Manager concerning legal problems affecting the administration of the City government and the Clerk, Treasurer, and Assessor concerning their statutory and Charter duties, when so requested, and shall file with the Clerk a copy of all written opinions given by him.

(b) He shall prosecute ordinance violations and shall represent the City in cases before courts and other tribunals. He shall file with the Clerk copies of such records and files relating thereto as the Council may direct.

(c) He shall prepare or review all ordinances, regulations, contracts, bonds, and such other instruments as may be

required by this Charter or by the Council, and shall promptly give his opinion as to the legality thereof.

(d) He shall attend all meetings of the Council.

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

(f) Upon the Attorney's recommendation, 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.

#### **Section 7.4 City Treasurer.**

(a) The Treasurer shall have the custody of all moneys of the City, the Clerk's bond, and all evidences of value belonging to the City or held in trust by the City;

(b) He shall receive all moneys belonging to and receivable by the City, including license fees, taxes, assessments, and all other charges belonging to and payable to the City and shall, in all cases, give a receipt therefor;

(c) He shall keep and deposit all moneys or funds in such manner and only in such places as the Council may determine. He shall report the same in detail to the Clerk;

(d) He shall have such powers, duties, and prerogatives in regard to the collection and custody of State, County, school district, and City taxes and moneys as are conferred by law to enforce the collection of State, County, Township, and school district taxes upon real and personal property.

(e) He shall perform such other duties as may be prescribed for him by State or Federal law, this Charter, or by the Council.

#### **Section 7.5 Deputy Clerk or Treasurer.**

The Clerk and the Treasurer may appoint their own deputies, subject to the written confirmation of the Council. The Clerk and the Treasurer may terminate the status of their respective deputies at pleasure, upon the filing of a statement of such termination with the Mayor. Each deputy shall possess all the powers and authorities of his superior officer except as the same may be from time to time limited by his superior or by the Council.

#### **Section 7.6 Assessor.**

(a) The Assessor shall possess all the powers vested in and shall be charged with all the duties imposed upon assessing officers by the general laws of the State.

(b) He shall make and prepare all regular and special assessment rolls in the manner prescribed by this Charter and the general laws of the State.

(c) He shall perform such other duties as may be prescribed for him in this Charter or by the Council.

#### **Section 7.7 Police Department.**

(a) The Police Department shall be in the immediate charge of the Chief of Police, who shall be responsible directly to the City Manager.

(b) Police officers shall have all the powers, immunities, and privileges granted to peace officers by law for the making of arrests, the preservation of order, and the safety of persons and property in the City. Any person arrested shall be taken before the proper magistrate or court for examination or trial, without unnecessary delay. Police officers shall make and sign complaints to or before the proper officers and magistrates against any person known to be, or, upon complaint or information, believed to be guilty of any violation of this Charter or ordinances of the City, or of the penal laws of the State or of the United States. For the purposes of this section, violations of the Charter or of ordinances, for which a penalty is provided, shall be deemed to be misdemeanors.

#### **Section 7.8 Fire Department.**

(a) The Fire Department shall be in the immediate charge of the Fire Chief, who shall be responsible directly to the City Manager.

(b) The Fire Department shall be responsible for the prevention and extinguishment of fires and the protection of persons and property against damage and accident resulting therefrom. The Fire Chief shall be responsible for the use, care, and management of the City's fire fighting apparatus and property. He shall conduct supervisory and educational programs to diminish the risk of fires within the City. He, or any of his authorized subordinates, may command any person present at a fire to aid in the extinguishment thereof and to assist in the protection of life or property. If any person willfully disobeys any such lawful requirement, he shall be deemed guilty of a violation of this Charter.

(c) The Fire Chief or any of his authorized subordinates, with the concurrence of the Mayor, or of the City Manager, or of any two Councilmen, may cause any building to be pulled down or destroyed, when deemed necessary in order to arrest the progress of a fire. In such case no action shall be maintained against the City or any person therefor. If any person having an interest in such a building shall apply to the Council, within three months after the fire, for damages or compensation for such building, the Council may pay him such compensation as it may deem just. The Council may ascertain the amount of such damage or compensation by agreement with the owner of the property or by the appraisal of a jury selected in the



same manner as in the case of juries selected to appraise damages for the taking of property for public use. No compensation shall be paid on account of any loss which would probably have occurred to a building, if it had not been pulled down or destroyed under authority of this section.

### **Section 7.9 Nepotism.**

Except and unless relatives by blood or marriage of the Mayor, any Councilman, or the City Manager, within the second degree of consanguinity or affinity, are bona fide appointive officers or employees of the City at the time of election of such officers or appointment of such City Manager, such relatives shall be disqualified from holding any appointive office or from being employed by the City, during the term for which such Mayor or Councilman was elected, or during the tenure of office of such City Manager. If the status of relationship between any employee of the City and any officer of the City changes to a relationship prohibited hereby following the employment of such person or election or appointment of such officer, the provisions of this section shall not apply.

### **Section 7.10 Civil Service.**

The Council may provide, by ordinance, for a merit system of personnel management for employees in the service of the City.

### **Section 7.11 Pension Plan.**

The City may participate in any Statewide or Federal pension plan available to Municipal employees.

### **Section 7.12 Employee Welfare Benefits.**

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

## **CHAPTER 8**

### **MUNICIPAL COURT**

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#### **Section 8.1 Municipal Court.**

**[Editor's Note] The provision for a Municipal Court still remains a part of this Charter but is omitted due to being superseded by Michigan State Legislative Action. Copies of that portion of the Charter are available in the City Clerk's office, including a Charter Amendment in 1960.**

## **CHAPTER 9**

### **SUPERVISORS**

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#### **Section 9.1 Supervisors.**

**[Editor's Note] The provision for Supervisors still remains a part of this Charter but is omitted due to being superseded by Michigan State Legislative Action. Copies of that portion of the Charter are available in the City Clerk's office.**

## **CHAPTER 10**

### **ELECTIONS**

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#### **Section 10.1 Qualifications of Electors.**

Each person who has the constitutional qualifications of an elector in the State of Michigan, or who will have such qualifications at the next ensuing regular or special City election, shall be entitled to register as an elector of the City of Howell in the voting district in which he resides.

#### **Section 10.2 Election Procedure.**

The general election laws of the State shall apply to and control, as near as may be, all procedures relating to registration

and City elections, except as such general laws relate to political parties or partisan procedure, or require more than one publication of notice, and except as otherwise provided by this Charter.

### **Section 10.3 Primary Election.**

A non-partisan City primary election shall be held on the date prescribed by State law for the holding of general spring primary elections. If, upon the expiration of the time for filing nomination petitions for the officers of the City with respect to which elections are to be held at the next regular City election, it appears that petitions have been filed for no more than twice the number of candidates for such office, then no primary election shall be held and the Clerk shall publish notice of such fact. It is the intent of this section that if a primary is required for any office, it shall be held for all offices which are to be filled at the next regular City election. The candidates for nomination for each City office to be filled at the next City election, in number equal to twice the number of persons to be elected to such City office, receiving the highest number of votes at any such City primary election shall be declared the nominees for election to the respective offices for which they are candidates for election and their names, or the names of persons filing petitions, or in whose behalf petitions have been filed, in cases where no primary election was held, shall be certified to the Election Commission to be placed upon the ballot for the next subsequent regular City election. No person whose name is not printed on the primary election ballot, but whose name is written on or appears on the ballot on a sticker pasted thereon by the voter at such election, shall be nominated for election to any office unless he shall receive at least twenty-five votes nominating him for such office. To the extent that voting machines are used in City elections, the provisions of law pertaining to voting on voting machines shall apply to and govern the conduct of such elections.

**[Editor's Note] The provision for a spring election has been superseded by Michigan State Legislative Action.**

### **Section 10.4 Regular City Elections.**

Except as otherwise provided in the Charter, a non-partisan regular City election shall be held on the first Tuesday following the first Monday in April in each odd numbered year.

**[Editor's Note] The provision for an April election has been superseded by Michigan State Legislative Action. Currently such elections are in November.**

### **Section 10.5 Special Elections.**

Special City elections shall be held when called by resolution of the Council at least forty-five days in advance of such election, or when required by this Charter or the general laws of the State. Any resolution calling a special election shall set forth the purpose of such election. No more than two special City elections shall be held in any one calendar year.

**[Editor's Note] The provision for the time for notice for special City elections has been superseded by Michigan State Legislative Action.**

### **Section 10.6 Election Commission.**

An Election Commission is hereby created, consisting of the Clerk, Treasurer, and City Attorney. The Clerk shall be Chairman. The Commission shall have charge of all activities and duties required of it by State law and this Charter relating to the conduct of elections in the City. The compensation of election personnel shall be determined in advance by the Council. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.

### **Section 10.7 Notice of Election.**

Notice of the time and place of holding any City primary or election and of the officers to be elected and the questions to be voted upon, shall be given by the Clerk by publication at least once in some newspaper published or of general circulation in the City and, if deemed advisable by the Council, by posting in five or more conspicuous places in the City not less than ten days prior to such election. Notice of all other elections in the City shall be given in the same manner and at the same times as provided in the State election laws for the giving of notices in State elections.

### **Section 10.8 Voting Hours.**

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

### **Section 10.9 Nomination Petition.**

Persons desiring to qualify as candidates for any elective office under this Charter shall file a petition therefor with the Clerk, signed by not less than twenty-five nor more than fifty registered electors of the City, accompanied by the sworn affidavit of the circulator thereof as to the genuineness of the signatures thereon, not later than 5:00 o'clock p. m., on the seventh Friday prior to the date of the regular City primary. Official blank petitions in substantially the same form as required by State law for State and County officers, except for references to party, shall be prepared and furnished by the Clerk. Before the Clerk shall furnish any nomination petitions to any person, he shall place his initials thereon and enter thereon in ink or typewriter the name of the person in whose behalf the petition is to be circulated, and the name of the office for which he is to be a candidate. The Clerk shall keep a record of all petitions issued from his office. Nomination petitions for the purpose of filling a vacancy shall so state in connection with the name of the office for which the petition is to be circulated.

The Clerk shall publish notice of the last day and time for filing nomination petitions at least one week before, and not more than three weeks before that date. No person shall sign his name to a greater number of petitions for any one office than there will be persons elected to said office. Where any name appears on more petitions than there are candidates to be elected to said office, such name shall not be counted upon any petition for that office.

**[Editor's Note] The provision for the time for filing the Nominating Petition and the date for filing Nominating Petition has been superseded by Michigan State Legislative Action.**

#### **Section 10.10 Approval of Petitions.**

The Clerk shall accept for filing only nomination petitions on official blanks which were initialed by him at the time of issuance from his office and which contain the required number of signatures for candidates having those qualifications required for elective City officers by this Charter. When petitions are filed by persons other than the person whose name appears thereon as a candidate, they may be accepted for filing only when accompanied by the written consent of the person in whose behalf the petition or petitions were circulated. The Clerk shall, within five days after receipt thereof, determine the sufficiency of the signatures on each petition filed, and if he finds that any petition does not contain the required number of legal signatures of registered electors, he shall immediately notify the candidate in writing of the insufficiency of his petition.

#### **Section 10.11 Public Inspection of Petitions.**

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

#### **Section 10.12 Form of Ballots.**

The form of the ballot used in any City primary or election shall conform as nearly as may be to that prescribed by the general laws of the State, except that no party designation or emblem shall appear upon any City ballot. In all other respects, the printing and numbering of ballots shall conform to the general laws of the State relating to elections.

#### **Section 10.13 Canvass of Votes.**

The Election Commission shall be the board of canvassers to canvass the votes cast at all primaries and elections under this charter. The Election Commission shall meet at 7:30 o'clock p.m., in the city hall on the day next following each city primary and election and publicly canvass the returns of such election, and shall determine the vote upon all questions and propositions and declare whether the same have been adopted or rejected and what persons have been nominated for election or elected at such primary or election. The candidate, or candidates, where more than one are to be elected to the same office, who shall receive the greatest number of votes, shall be declared to be nominated or elected, as the case may be.

**[Editor's Note] This section was eliminated per Public Act 65 of 1968.**

#### **Section 10.14 Tie Vote.**

If, at any City primary or 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 time and place for the appearance of such persons for the purpose of determining the nomination or election of such candidate by lot as provided by State law. Such determination shall be final.

#### **Section 10.15 Recount.**

A recount of the votes cast at any City primary or election for any office, or upon any proposition, may be had in accordance with the general election laws of the State.

#### **Section 10.16 Recall.**

Any elective official may be removed from office by the electors of the City in the manner provided by the general laws of the State. A vacancy created by the recall of any elective official shall be filled in the manner prescribed by law.

## **CHAPTER 11**

### **GENERAL FINANCE; BUDGET PROCEDURE**

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#### **Section 11.1 Fiscal Year.**

The fiscal year of the City shall begin on the first day of July and end on the 30th day of June of the following year. Such year shall constitute the budget year of the City government.

#### **Section 11.2 Budget Procedure.**

On or before the second Monday in February, each City officer shall submit to the City Manager an itemized estimate of

the expenditures for the next fiscal year, for the department or activities under his control. The City Manager shall prepare a complete itemized budget for the next fiscal year and shall submit it to the Council on or before the second Monday in April.

### **Section 11.3 Budget Document.**

The budget document shall present a complete financial plan for the ensuing fiscal year. It shall include at least the following information:

- (a) Detailed estimates of all proposed expenditures for each department and office of the City, showing the expenditures for corresponding items for the current and last preceding fiscal years, with reasons for increases and decreases recommended, as compared with appropriations for the current year;
- (b) Statements of the bonded and other indebtedness of the City, 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 income of the City from sources other than taxes and borrowing, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal years;
- (d) A statement of the estimated balance or deficit, as the case may be, 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 income from other sources, will be necessary to meet the proposed expenditures;
- (f) Such other supporting schedules as the Council may deem necessary.

### **Section 11.4 Adoption of Budget; Tax Limit.**

Not later than the third Monday in May, the Council shall, by resolution, adopt the budget for the next fiscal year and shall, in such resolution appropriate the money required for such budget and provide for a levy of the amount necessary to be raised by taxes upon real and personal property for Municipal purposes, which levy shall not exceed two per cent of the assessed valuation of all real and personal property subject to taxation in the City.

### **Section 11.5 Transfer of Appropriations.**

After the budget has been adopted, no money shall be drawn from the treasury of the City nor shall any obligation for the expenditure of money be incurred, except pursuant to the budget appropriation. The Council may transfer any unencumbered appropriation balance, or any portion thereof, from one department fund, or agency to another. The balance in any appropriation, which has not been encumbered, at the end of the fiscal year shall revert to the General Fund and be reappropriated during the next fiscal year.

### **Section 11.6 Budget Control.**

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 income and expenses to date, and if it shall appear that the income is 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 cash income.

### **Section 11.7 Depository.**

The Council shall designate the depository or 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 the general laws of the State, except that personal surety bonds shall not be deemed proper security.

### **Section 11.8 Contractual Claims Against City.**

- (a) All contractual claims against the City shall be filed with the Clerk, who shall transmit them to the Council.
- (b) The Clerk shall verify the correctness of each claim and, subject to further procedures established by the Council for auditing and approving claims, he shall approve for payment each claim so verified, if a sufficient appropriation is available for the purpose, and, upon the approval of the payment thereof by the Council, shall draw and sign a check therefor. Each such check shall be countersigned by the Treasurer, who shall make a proper entry thereof in his books of accounts. Any officer who signs or countersigns a check on any funds of the City, except as herein provided, shall be deemed guilty of a violation of this Charter.

### **Section 11.9 Notice to City of Claims for Injuries.**

The City shall not be liable in damages for injury to persons or property by reason of negligence of the City, its officers, or employees, or by reason of any defective highway, public work, public service improvement, or facility of the City, or by reason of any obstruction, ice, snow, or other encumbrance thereon, unless, within sixty days after such injury occurred, the person damaged or his representative causes to be served upon the Clerk a written notice, stating that such person intends to hold the City liable for such damages. Such notice shall set forth substantially the time and place of the injury, the manner in which it occurred, the nature of the act or defect complained of, the extent of the injury so far as known, and the names and addresses of witnesses known to the claimant. No person shall bring action against the City for damages to person or

property arising out of any of the reasons or circumstances aforesaid, unless brought within the period prescribed by law, nor unless he has first presented to the Clerk a claim in writing and under oath, setting forth specifically the nature and extent of the injury and the amount of damages claimed. Such claim shall be presented to the Council for action. It shall be a sufficient bar to any such claim that the notice of injury and the verified proof of claim required by this section were not filed within the time and in the manner herein provided.

#### **Section 11.10 Independent Audit.**

The Council shall provide for an independent audit of all the City government at least annually and more frequently if deemed necessary by the Council. Such audit shall be made by auditors experienced in municipal accounting. The results of such audit shall be made public in such a manner as the Council may determine. An annual report of the City's business shall be made available to the public by the City Manager, either in pamphlet form or by publication in a newspaper, setting forth pertinent facts concerning the activities and finances of the City government, as determined by the Council.

## **CHAPTER 12**

### **TAXATION**

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#### **Section 12.1 Power to Tax.**

In order to carry out its purposes, powers, and duties of the City government established by this Charter, the City may assess, levy, and collect ad valorem taxes, rents, tolls, and specific or excise taxes.

#### **Section 12.2 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.

#### **Section 12.3 Tax Procedure.**

Except as otherwise provided by this Charter, City taxes shall be levied, collected, and returned in the manner provided by law. In the event of failure of any tax through the defective procedure of any assessment, collection, or sale, the Council may provide for its reassessment upon the property chargeable therewith in the first instance.

#### **Section 12.4 Exemptions.**

The power of taxation shall not be surrendered or suspended by any grant or contract to which the City shall be a party. No exemptions from ad valorem taxation shall be allowed, except such as are expressly required or permitted by law.

#### **Section 12.5 Personal Property; Jeopardy Assessment.**

If the Treasurer finds that any person, who is or may be, liable for taxes upon personal property, the taxable situs of which was in the City on tax day, intends to depart from the City or to remove therefrom personal property, which is, or may be, liable for taxation, or intends to conceal himself or his property, or intends to do any other act tending to prejudice, or to render wholly or partly ineffectual, the proceedings to collect the tax, unless proceedings therefor cannot be brought without delay, he shall cause notice of his finding to be given such person, together with a demand for the immediate payment of the tax. Thereupon, the tax shall become immediately due and payable and the Treasurer shall have and exercise all the powers granted by law to township and city treasurers for the collection thereof. If the exact amount of any such tax has not, at the time of such finding, been determined because the same has not been spread upon the tax roll, the Treasurer shall estimate the amount of the tax upon such personal property and the estimate shall be presumed to be the amount of tax upon such property which, together with other taxes which have accrued thereon, shall become payable as hereinabove provided. The tax so estimated by the Treasurer shall, upon the giving of the notice herein provided, become a lien upon the property liable for the tax. The lien shall be of the same type and legal effect as the lien upon personal property provided in Section 12.18 of this chapter. If the estimate of the Treasurer is in excess of the amount of tax spread against such property upon the tax roll, he shall refund the excess upon the demand of the person from whom it was collected or his legal representative. If such person furnishes evidence, satisfactory to the Treasurer, by bond or otherwise, that he will duly pay the tax or taxes to which the Treasurer's finding relates, then such tax or taxes shall not be payable prior to the time otherwise fixed for payment thereof.

#### **Section 12.6 Assessment.**

The Assessor shall, annually, prepare an assessment roll of all property in the City and shall place a value, in accordance with law, upon all taxable property, both real and personal, in the City. The value shall be determined by the Assessor in accordance with established assessment rules, techniques, and procedures. The value shall be determined according to the facts existing of the date fixed by law as tax day, for the assessment of property throughout the State, for the year for which the roll is made, and no change of the status or of the location of any such property, after that day, shall be considered by the Assessor or the Board of Review.

#### **Section 12.7 Assessment Procedure.**

The process of assessment of property within the City for the purpose of taxation shall be continuous, but all assessments, as the same shall appear on the annual assessment and tax rolls of the City, shall be corrected by the Assessor to and shall stand as of the tax day of the year to which they apply.

#### **Section 12.8 Time for Making Assessment Rolls.**

On or before the first day of the meeting of the Board of Review in each year, the Assessor shall complete and certify an assessment roll in the manner and form required by law. In making such assessment roll, the Assessor shall possess all the powers and immunities vested in, and shall be charged with all the duties imposed upon, assessing officers by law. On the date and at the time of convening of the Board of Review in each year the Assessor shall deliver the completed assessment roll to the Board of Review. Such roll may be divided into two or more volumes, which shall be identified by the Assessor, for the purpose of convenience. The attachment of any certificate or warrant, required by this chapter, to any volume of the roll, either as an assessment roll or as a tax roll, shall constitute the attachment thereof to the entire roll, provided the several volumes thereof are identified in such certificate or warrant.

#### **Section 12.9 Notice of Change of Assessments.**

The Assessor shall give notice by first class mail to each owner of property which has been added to the assessment roll or the value of which has been increased or decreased on such roll. The notice shall be addressed to the owner according to the records of the Assessor's office and mailed not less than ten days before the date of the convening of the Board of Review. Neither the failure of the Assessor to give notice nor the failure of a person to receive notice shall invalidate any assessment roll or any assessment thereon.

#### **Section 12.10 Board of Review.**

(a) The Board of Review shall be composed of three members as provided for in Section 4.1 of this Charter. The terms of office of each member of the Board of Review shall be for four years. At each City election held in a year following a presidential election year, two members of the Board of Review shall be elected. At each other regular City election, one member of the Board of Review shall be elected. The Council shall fix the compensation of the members of the Board of Review.

(b) The Board of Review shall convene at nine o'clock in the forenoon on the third Monday in March in each year at the Council Chambers and shall continue in session for six hours during that day and each of the following three days for the purpose of examining and reviewing the assessment roll of the City. The Council may, by appropriate action, extend this period. On the first day of its meeting in each year, the Board shall elect one of its members Chairman. The Board shall have all powers vested in and be charged with all duties imposed by law upon boards of review in townships.

#### **Section 12.11 Notice of Meetings of Board of Review.**

The Council shall provide for giving notice to the public of the time and place of the meeting of the Board of Review. Such notice shall be given not less than ten days before the convening of the Board and as often thereafter as the Council deems fit. If, for any reason, the meetings of the Board are not held, as in this chapter required, the Council shall give such further notice as time and circumstances warrant.

#### **Section 12.12 Notice of Assessment Changes.**

The Board of Review shall give notice, prior to adjournment, to each owner of property according to the records of the Assessor's office, whose property is added to the assessment roll by it, or the value of whose property is increased or decreased thereon by it. Neither the failure on the part of the Board of Review to so give notice in any particular case, nor the failure of a person to receive notice, shall invalidate the assessment roll or any assessment thereon.

#### **Section 12.13 Confirmation of Assessment Roll.**

The Board of Review shall hold a meeting on the Monday following the date of its first session, and, at that meeting, shall complete the review of the assessment roll submitted to it by the Assessor and shall endorse and approve the same as provided and required by law. The omission of such endorsement shall not affect the validity of such assessment roll. If, for any cause, a quorum of the Board of Review does not assemble, or in the event that the Board fails or refuses to act during the days set for the meeting thereof, the roll as prepared by the Assessor shall stand as if approved by the Board of Review, without further formality. After the review of the assessment roll has been completed and the roll endorsed and signed, as required by law, the Board of Review shall redeliver the roll to the Assessor.

#### **Section 12.14 Records of the Board of Review.**

The Assessor shall be the Secretary of the Board of Review, shall attend its meetings with the privilege of participating therein, but without the right to vote upon any decision made by the Board, shall give the Board information relating to matters under consideration by it, and shall keep a permanent record of all proceedings of the Board, which record shall be filed with the Clerk within thirty days after the adjournment of the Board.

#### **Section 12.15 Validity of Assessment Roll.**

Upon the completion of the roll and from and after midnight ending the last day of the meeting of the Board of Review, the same shall be the assessment roll of the City for County, school, and City taxes on real and personal property that may be

authorized by law, and shall be conclusively presumed by all courts and tribunals to be valid and shall not be set aside except for causes set forth in the general laws of the State.

#### **Section 12.16 Clerk to Certify 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 tax, together with such assessments and other lawful charges as the Council shall authorize to be spread against or charged to property and persons appearing upon the roll.

#### **Section 12.17 City Tax Roll.**

Upon receiving the certification of the amount to be raised, as provided in the preceding section, the Assessor shall proceed to spread the amounts of the general City tax upon the assessment roll according to and in proportion to the several valuations set forth therein. To avoid fractions in computation on any tax roll, the Assessor may add to the amount of the several taxes to be raised not more than the amount permitted by law, which added amount when collected shall be credited to the General Fund of the City. Assessments and other lawful charges authorized by the Council to be spread against or charged to property or persons upon the roll shall also be spread and charged thereon as directed by the Council.

#### **Section 12.18 Taxes Lien on Property.**

The City taxes thus assessed against personal property shall become at once 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 on the first day of July become a lien upon such real property, and the lien for such amounts and for all interest and other charges thereon shall continue until payment thereof. All personal taxes shall also be a first lien, prior, superior, and paramount, upon all personal property of the person so assessed from and after the first day of July in each year and shall so remain until paid. Such tax liens shall take precedence over all other claims, encumbrances, and liens upon the said personal property, whether created by chattel mortgage, execution, levy, judgment, or otherwise, and whether arising before or after the assessment of said personal property taxes, and no transfer of personal property assessed for taxes thereon shall operate to divest or destroy the lien, except where the personal property is actually sold in the regular course of retail trade.

#### **Section 12.19 Tax Roll Certified for Collection.**

(a) After extending the taxes aforesaid and not later than the second Monday in June in each year, the Assessor shall certify the tax roll, and shall annex his warrant thereto, directing and requiring the Treasurer to collect from the several persons named in the roll the several sums mentioned therein opposite their respective names as a tax, assessment, or charge, and granting to and vesting in him, for the purpose of collecting the taxes, assessments, and charges on the roll, all the power and immunities granted by law to township treasurers for the collection of taxes.

(b) The Assessor shall, at the same time, deliver to the Clerk a statement showing the amount of the taxes assessed upon the roll and the Clerk shall make an entry thereof in the books of his office and charge the gross amount thereof to the Treasurer.

#### **Section 12.20 Notification of Taxes Due.**

The Treasurer shall not be required to make personal demand for the payment of taxes, but, upon receipt of the City tax roll by him, he shall forthwith mail a tax statement to each person named in the tax roll and shall give at least six days' notice of the date upon which City taxes are due, by publication in a newspaper of the City, which notice shall be sufficient demand for the payment of all taxes assessed in the City tax roll. Neither the failure on the part of the Treasurer to give notice or to mail a tax statement, nor the failure of any person to receive the notice or the tax statement, shall invalidate the taxes on the tax roll or release any person or property assessed from the penalty provided in this chapter in case of nonpayment.

#### **Section 12.21 Tax Payment Schedule.**

The taxes, charges and assessments on each City tax roll shall be due and payable on the first day of July of the fiscal year in which levied. All such taxes, charges, and assessments which are paid on or before the thirty-first day of July of such year shall be collected by the Treasurer without the addition of any fee or charge for the collection thereof. There shall be added to all taxes, charges, and assessments on such tax roll which remain unpaid after the said thirty-first day of July a collection fee of one-half of one per cent during the month of August and an additional one-half of one per cent per month during each and every month or fraction of a month which shall elapse thereafter before the payment of such taxes, charges, or assessments is made, until the twentieth day of February next following the date that such taxes, charges or assessments became due and payable. All such collection charges, when paid, shall be paid into the City's treasury for the use and benefit of the City. Upon all City taxes, charges, and assessments returned to the County Treasurer upon any delinquent tax roll, a charge of three and one-half per cent shall be added and the same shall be collected by the County Treasurer in like manner as and together with the taxes, charges, and assessments so returned.

#### **Section 12.22 Procedure for Collecting Taxes on Personal Property.**

Respecting taxes levied against personal property, the Treasurer shall have power to levy upon and sell at public sale the personal property of a person refusing or neglecting to pay the tax, in the manner provided by law and shall have the same powers respecting the property assessed and the person who is the owner or custodian thereof as provided by law for the collection of such taxes.

### **Section 12.23 State, County, and School Taxes.**

For the purpose of assessing and collecting taxes in the City for State, County, and school purposes, the City shall be considered the same as a township, and all provisions of law relative to the collection of such taxes, the accounting therefor to the appropriate taxing units, and the returning of taxes to the County Treasurer for nonpayment thereof shall apply to the performance thereof by the Treasurer, who shall perform the duties and have the powers granted to a township treasurer by law. Collection fees charged and collected for the collection of such taxes shall be paid into the General Fund of the City.

### **Section 12.24 Lien for Taxes, Assessments, and Charges.**

All taxes, assessments, and charges spread on tax rolls shall, until paid, be a lien upon the property against which they were levied.

### **Section 12.25 Proportioning of Tax on Portion of Taxed Items.**

Any person owning an undivided share or other part of any parcel of real property, assessed as one description, may pay the taxes assessed against such description or may pay the share or part owed by him by paying an amount having the same relation to the whole tax as the value of the part on which payment is made bears to the value of the whole description. The receipt given and the record of the Treasurer shall show the payment and the interest with respect to which it was made.

### **Section 12.26 Protection of City Lien.**

Consistent with the provisions of law, the City shall have power to acquire any premises within the City, either by purchase at any tax or other public sale, or by purchase from the State or the fee owner, when the purchase of such property is necessary to protect the lien of the City for any City taxes, assessments, and charges. The City may hold, lease, or sell the property so acquired. Any such acquisition shall be deemed for a public purpose.

## **CHAPTER 13**

### **BORROWING POWER**

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#### **Section 13.1 General Borrowing.**

Subject to the applicable provisions of law, the Council, by proper ordinance or resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the City and the issuance of bonds of the City or other evidences of indebtedness therefor, and may pledge the full faith, credit, and resources of the City for the payment of the obligation created thereby; provided, that the net bonded indebtedness incurred for all public purposes shall not at any time exceed ten percentum of the assessed value, of all the real and personal property in the City. The provisions of this section shall include and be subject to the powers permitted and the limitations set forth in Sections 4(a), 4(b), 4(c), 4(d), and 5 of Act No. 279 of the Public Acts of 1909, as amended.

#### **Section 13.2 Special Assessment Bonds.**

The Council shall, subject to the applicable provisions of the general laws of the State, having authority to borrow money 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 and to issue bonds therefor. Such special assessment bonds may be an obligation of the special assessment district or districts or may be both an obligation of the special assessment district or districts and a general obligation of the City. All collections on each special assessment roll or combination of rolls, to the extent that the same are pledged for the payment of the principal of and interest on bonds issued in anticipation of the payment thereof, shall be set apart in a separate fund for the payment of such principal and interest and shall be used for no other purpose.

#### **Section 13.3 Mortgage Bonds.**

When the City is authorized to acquire, own, or operate any public utility, it may issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by law in accordance with the provisions of law pertaining thereto.

#### **Section 13.4 Other Bonds.**

The City shall have power to issue revenue or other types of bonds in the manner and for the purposes permitted by the Constitution and general laws of the State of Michigan.

#### **Section 13.5 Preparation and Record.**

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 except that whenever the proceeds of any bond issue, or any part thereof, shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may, by the affirmative vote of 5 members, authorize the use of



such unexpended and unencumbered funds for the retirement of such bond issue, or, if such bond issue shall have been fully retired or if any of such funds remain after such retirement, then for the retirement of other bonds or obligations of the City. All bonds and other evidences of indebtedness issued by the City shall be signed by the Mayor and countersigned by the Clerk under the seal of the City. Interest coupons may be executed with the facsimile signatures of the Treasurer. A complete and detailed record of all bonds and other evidences of indebtedness issued by the City shall be kept by the Clerk. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked "cancelled." Any officer who shall violate the provisions of this section shall be deemed guilty of misconduct in office.

### **Section 13.6 Unissued Bonds.**

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

## **CHAPTER 14**

### **SPECIAL ASSESSMENTS**

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#### **Section 14.1 General Powers Relative to Special Assessments.**

The Council may determine the necessity for any public improvement, and determine that the whole or any part of the cost thereof shall be defrayed by special assessment upon the property especially benefited. The Council may authorize public improvements other than those for which petitions have been filed, whether the cost thereof is to be defrayed from the General Fund of the City or by special assessments upon the property especially benefited.

#### **Section 14.2 Petitions for Public Improvements.**

Petitions for making public improvements, any part of the expense of which is to be borne by special assessments, shall be filed with the Clerk. All such petitions filed during any calendar year shall be considered by the Council not later than January 31st of the next calendar year.

#### **Section 14.3 Preliminary Resolution for Public Improvement.**

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

#### **Section 14.4 Assessments on Single Lots.**

When any expenditure is made on account of any separate or single lot, parcel of land, or lands, or premises, which, by the provisions of this Charter or by law, the City is authorized to charge and collect as a special assessment against the same, and which assessment is not of that class of special assessment required to be made pro rata upon lots or parcels of land in a special assessment district, a statement of the labor or services for which such expenditure was incurred, verified by the City Manager, with a description of the lot and the name of the owner or person chargeable therewith, if known, shall be reported to the Council in the manner prescribed by it. The Council shall determine the part of such expenditure that shall be charged, and the person against whom, if known, and the premises upon which the same shall be levied, as a special assessment. As often as the Council deems expedient, the Clerk shall give notice of the several amounts so determined and reported to the several persons chargeable therewith. Such notice shall be sent by first class mail to the last known addresses of such persons as shown on the assessment roll of the City, or by publication. Such notice shall state the basis of the assessment, and the amount thereof, and shall give a reasonable time, not less than thirty days, within which payment shall be made to the Treasurer. In all cases where payment is not made within the time set, the fact shall be reported by the Treasurer to the Assessor, who shall charge such amounts, together with a penalty of ten per cent of such amounts, against the persons or real property chargeable therewith, on the next tax roll.

#### **Section 14.5 Special Assessment Procedure by Ordinance.**

The Council shall, by general ordinance, prescribe a complete special assessment procedure.

#### **Section 14.6 Poverty Provisions.**

In any instance where, in the opinion of the Council, the owner of any property which is assessed to defray any part of the cost of making any public improvement benefiting such property is unable to contribute toward the cost thereof because of poverty, the City may take from the owner a trust deed or assignment of the property so assessed, in lieu of the payment of such assessments in cash. Such trust deed shall not deprive the owner of such property of full right to use and occupy such property so long as he shall live and shall contain a clause to the effect that such deed shall cease to be effective upon the payment of the assessments which have accrued and become payable upon the property.

#### **Section 14.7 Special Assessment Accounts.**

Except as otherwise provided in this Charter, moneys raised by special assessment to defray the cost of any public improvement shall be held in a special fund to pay only such cost and, to the extent required, to repay any money borrowed or advanced therefor and the accrued interest thereon.

#### **Section 14.8 Contested Assessments.**

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

#### **Section 14.9 Reassessment for Benefits.**

Whenever the Council deems any special assessment invalid or defective, or whenever a court adjudges an assessment to be illegal in whole or in part, the Council may cause a new assessment to be levied for the same purpose, whether or not the improvement or any part thereof has been completed, or any part of the special assessment collected. In reassessment proceedings hereunder, it shall not be necessary for the Council to redetermine the necessity of the improvement or to hold a hearing thereon. If any portion of the original special assessment is collected and not refunded, it shall be applied upon the reassessment, and the reassessment shall, to the extent, be deemed satisfied. If more than the amount reassessed is collected, the balance shall be refunded to the person making such payment.

## **CHAPTER 15**

### **CONTRACTS; FRANCHISES; PERMITS**

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#### **Section 15.1 City May Perform Public Work.**

The Council shall have power to do any public work or make any public improvement by the employment of the necessary labor and the purchase of the necessary supplies and materials, with separate accounting as to each improvement so made, or to do such work by contract duly let after competitive bidding. Where competitive bids are secured, the City, or any City department qualified to do the work, may, at the direction of the Council, enter a bid on an equal footing with other bidders. The Council, in its discretion, shall have the power to reject any or all bids. On all jobs where the plans thereof are required by law to be prepared by a professional engineer, or the total cost thereof exceeds \$2000.00, each contractor shall be required to file a performance bond, to be approved by the City Attorney, covering labor and material and for the proper completion of the work. Copies of all contracts shall be filed in the office of the Clerk. The Council shall also have power to do any public work or make any public improvement under any legally constituted plan under which the labor is furnished by any other governmental unit, department, or agency of the United States or the State of Michigan, or which is wholly or in part financed by them or either of them.

#### **Section 15.2 Plans and Specifications.**

Except as otherwise provided in this Charter, the responsibility for the preparation of plans and specifications, estimating of the cost, advertising for bids, supervision and approval of the work upon or for any public work or public improvement is vested in the City Manager.

#### **Section 15.3 Contracts.**

The letting and making of contracts is hereby vested in the Council. Whenever it becomes desirable for the City to enter into a contract with a second party for any purpose whatever, such instrument shall be drawn or approved as to form by the City Attorney and certified to by the Clerk as to sufficiency of funds appropriated for the purpose thereof.

#### **Section 15.4 Modifications in Contracts.**

When it becomes necessary in the prosecution of any work or improvement done under contract to make alterations or modifications in such contract, such alterations or modifications shall be made only upon resolution of the Council. No order for such alterations or modifications shall be effective until the price to be paid for the material and work, or both, under the altered or modified contract shall have been agreed upon in writing and signed by the contractor and the City Manager upon authority of the Council, and a copy thereof and of the proceedings authorizing such alteration or modification certified by the Clerk, and attached by him to the original contract on file in his office.

#### **Section 15.5 Franchises.**

No franchise, license, right, or privilege which is not revocable at the will of the Council shall be granted or become operative until the same has been referred to the people at a regular or special election and has received the approval of three-fifths of the electors voting thereon at such election. All irrevocable public utility franchises and all renewals, extensions, and amendments thereof shall be granted only by ordinance. No such ordinance shall be adopted before thirty

days after application therefor has been filed with the Council, nor until a full public hearing has been held thereon. No such ordinance shall be submitted to the electors at an election to be held less than thirty days after the grantee named therein has filed with the Clerk its unconditional acceptance of all of the terms of such franchise, and it shall not be submitted to a special election, unless the expense of holding the election, as determined by the Council, shall have been paid to the Treasurer by the grantee. No exclusive franchise, license, right, or privilege shall ever be granted and no franchise shall be granted for a longer term than thirty years.

#### **Section 15.6 Licenses and Franchises Remain in Effect.**

All franchises, licenses, rights, and privileges granted by the City of Howell and in force within the City on the effective date of this Charter shall remain in full force and effect until the expiration of the time for which they were respectively granted, has lapsed under conditions contained in the franchise, license, right, or privilege granted, or until the same may have been taken over by the City by purchase, condemnation, grant, revocation, or otherwise.

#### **Section 15.7 Right of Regulation.**

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 right of the City:

- (1) To repeal the same for misuse, non-use, or for failure to comply with the provisions thereof;
- (2) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;
- (3) To establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;
- (4) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;
- (5) To impose such other reasonable regulations as may be determined by the Council to be conducive to the safety, welfare, and accommodation of the public.

#### **Section 15.8 Regulation of Rates.**

All public utility franchises shall make provision therein for fixing rates, fares, and charges, and 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, good will, or prospective profits.

#### **Section 15.9 Revocable Permits.**

Temporary permits for public utilities, revocable at any time at the will of the Council, may be granted by the Council by ordinance on such terms and conditions as it shall determine.

#### **Section 15.10 Use of Streets by Utility.**

Every public utility franchise shall be subject to the right of the City to use, control, and regulate the use of its streets, alleys, bridges, and public places and the space above and beneath them. Every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and public places, as shall arise from its use thereof and shall protect and save the City harmless from all damages arising from said use; and may be required by the City to permit joint use of its property and appurtenances located in the streets, alleys, bridges, and public places of the City, by the City, and other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefor; provided, that, in the absence of agreement, 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, which award shall be final.

## **CHAPTER 16**

### **MUNICIPAL UTILITIES**

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#### **Section 16.1 General Powers Respecting Utilities.**

The City shall possess and hereby reserves to itself all the powers granted to cities by law to acquire, construct, own, operate, improve, enlarge, extend, repair, and maintain, either within or without its corporate limits, public utilities, including, but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, and 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 utilities and services, without its corporate limits to an amount not to exceed the limitations set by or under authority of law.

#### **Section 16.2 Rates.**

The Council shall have the power to fix, from time to time, such just and equitable rates as may be deemed advisable for supplying the inhabitants of the City and others with water, with electricity for light, heat, and power and with such other utility services as the City may provide.

### **Section 16.3 Utility Charges; Collection.**

The Council shall provide, by ordinance, for the collection of all public utility charges made by the City and, for such purpose, shall have all the power granted to cities by Act 178 of the Public Acts of 1939 or any other provision of law. When any person shall fail or refuse to pay to the City any sums due on utility bills, the utility service upon which such delinquency exists may be shut off or discontinued and suit may be instituted by the City for the collection of the same in any court of competent jurisdiction.

### **Section 16.4 Accounts.**

Separate accounts shall be kept for each public utility owned or operated by the City, distinct from other City accounts, and in such manner as to show the true and complete financial result of such City ownership or operation, or both, including all assets, liabilities, revenues, and expenses. They shall show, as nearly as possible, the value of any service furnished to or rendered by any such public utility by or to any other City department. The Council shall annually cause to be made a report showing the financial results of such City ownership or operation, or both, which report shall give for each utility, the information specified in this section, and such further information as the Council shall deem expedient. Such report shall be on file in the office of the Clerk for public inspection.

### **Section 16.5 Disposal of Plants.**

The City shall not sell, exchange, lease, or in any way alien or dispose of the property, easements, income or other equipment, privilege, or asset belonging to and appertaining to any utility which it may own or acquire, unless and except the proposition for such purpose shall first have been submitted to the electors of the City who are qualified to vote on questions involving the direct expenditure of money or the issuance of bonds, at an election held for the purpose in the manner provided in this Charter, and approved by them by a three-fifths majority vote of the electors voting thereon. All contracts, negotiations, licenses, grants, leases, or other forms of transfer in violation of this provision, shall be void and of no effect as against the City. The provisions of this section shall not, however, apply to the sale or exchange of any articles of equipment of any City-owned utility as are worn out or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment.

## **CHAPTER 17**

### **CITY LIBRARY**

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**[Editor's Note] The provision for a City Library still remains a part of this Charter but is omitted due to being superseded by the establishment of the Howell District Library by the voters on October 4, 1988. See Resolution 88-24, passed September 26, 1988, which established a Board of Trustees for such District Library. Copies of that portion of the Charter are available in the City Clerk's office, including a Charter Amendment in 1960.**

## **CHAPTER 18**

### **MISCELLANEOUS**

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#### **Section 18.1 Vested Rights and Liabilities Continued.**

After the effective date of this Charter, the City shall be vested with all property, moneys, contracts, rights, credits, effects, and the records, files, books, and papers belonging to it under and by virtue of its previous Charter. No right or liability, contract, lease, or franchise, either in favor of or against the City, and no suit or prosecution of any character, shall be affected in any manner by any change resulting from the adoption of this Charter, but the same shall stand or proceed, as if no change had been made. All debts and liabilities of the City shall continue to be its debts and liabilities, and all debts to it and fines and penalties, imposed and existing at the time of such change, shall be collected by the City. All trusts, established for any Municipal purpose, shall be continued in accordance with the terms thereof, subject to the cy pres doctrine.

#### **Section 18.2 City 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. No person shall dispose of, mutilate, or destroy any record of the City, except as provided by law, and any person who shall do so contrary to law shall be guilty of a violation of this Charter.

### **Section 18.3 Trusts.**

The Council may, in its discretion, receive and hold any money or property in trust for any Municipal purpose and shall apply the same to the execution of such trust and for no other purpose, except in cases where the cy pres doctrine applies.

### **Section 18.4 Quorum.**

Except as otherwise expressly provided in this Charter, a quorum of any board created by or under authority of this Charter shall consist of a majority of its members, and the concurring vote of a majority of the members of each such board shall be necessary for official action by it.

### **Section 18.5 Sundays and Holidays.**

Except as otherwise expressly provided in this Charter, whenever the date fixed by law or 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.

### **Section 18.6 Penalties for Violations of Charter.**

Any person found guilty of an act constituting misconduct in office or a violation of this Charter may be punished by a fine not exceeding five hundred dollars or by imprisonment for not to exceed ninety days, or both, in the discretion of the court. This section shall not operate to limit or prejudice the power to remove officers or discharge employees as provided in this Charter.

### **Section 18.7 Chapter and Section Headings.**

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

### **Section 18.8 Amendments.**

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

### **Section 18.9 Severability of Charter Provisions.**

If any provision, section, or clause of this Charter, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any remaining portion or application of the Charter, which can be given effect without the invalid portion or application, and, to this end, this Charter is declared to be severable.

## **SCHEDULE**

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### **Section 1. Election to Adopt Charter.**

This Charter shall be submitted to a vote of the qualified electors of the City of Howell at a special City election to be held on Tuesday, November 8, 1955. If this Charter is adopted at such election, it shall take effect and become the Charter of the City of Howell on Sunday, January 1, 1956, at 12:00 o'clock noon.

### **Section 2. Form of Ballot.**

The form of the ballot on submission of this Charter shall be as follows:

Instruction - 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 of the City of Howell, drafted by the Charter Commission which was elected on November 2, 1954, be adopted?"

Yes

No

### **Section 3. Officers of City Under Previous Charter.**

The Mayor and each Councilman who held office on the effective date of this Charter shall be the Mayor and Councilmen of the City under this Charter and shall perform their duties under and otherwise be subject to its provisions. Each such officer shall hold and continue in the office held by him, until he or his successor is re-elected or elected or appointed in the case of a vacancy, under the provisions of this Charter. At the City election held in April, 1957, a Municipal Judge shall be elected for a six year term under the provisions of this Charter. The Municipal Judge who held office on the effective date of this Charter shall continue in office and his term shall terminate on the 1st day of January, 1958, at which time the office

shall be filled by the person elected to that office at the April, 1957, regular City election. The terms of office specified in this section are for the purpose of bringing the transition from the schedule of terms of office in the former Charter of the City and those provided in this Charter.

#### **Section 4. Administrative and Other Officers.**

If this Charter is adopted at the election thereon, the terms of office of the City Clerk, City Treasurer, and City Assessor under the former Charter of the City, shall terminate on January 2, 1956, at 12:00 noon. The persons holding these offices under the former Charter of the City shall thereupon qualify for and assume the offices of Clerk, Treasurer, and Assessor, respectively, under this Charter and shall hold such offices on the same basis as though they had been appointed thereto in the manner provided in this Charter. All other administrative officers and employees of the City shall continue in the respective offices and employment held by them at the time this Charter becomes effective, and shall be subject to the provisions thereof.

#### **Section 5. Board of Review.**

A Board of Review shall be elected at the election on the adoption of this Charter. No primary shall be held in connection with these officers. Nomination petitions for such officers shall be filed with the City Clerk at or before 5:00 o'clock, p. m., on the 21st day of October 1955. Such nomination petitions shall conform to the requirements for the nomination of City officers contained in the Charter of the City which is in effect at the time of filing the petitions. The person receiving the highest number of votes for this office shall hold office from January 1, 1956, until the second Monday in April of 1959. The two persons elected to such office who do not receive the highest number of votes shall hold office from January 1, 1956, until the second Monday in April, 1957.

#### **Section 6. Status of Schedule Chapter.**

The purpose of this schedule chapter is to inaugurate the government of the City of Howell under this Charter and it shall constitute a part of this Charter to the extent and for the time required to accomplish that end.

#### **Section 7. Council Action.**

In all cases not covered by this Charter, the Council shall supply necessary details and procedures for the transition from the government of the City under the previous Charter to that under this Charter and may adopt such rules, resolutions, and ordinances as may be required therefor.

## **PART TWO - ADMINISTRATION CODE**

### TITLE TWO - General Provisions

- Chap. 202 Codified Ordinances.
- Chap. 204 Official Standards.
- Chap. 206 Wards and Boundaries.
- Chap. 208 Municipal Civil Infractions.
- Chap. 209 Anti-Discrimination.

### TITLE FOUR - Legislation

- Chap. 210 Council.
- Chap. 212 Mayor.
- Chap. 214 Ordinances and Resolutions.

### TITLE SIX - Administration

- Chap. 220 City Manager.
- Chap. 222 City Clerk.
- Chap. 224 City Attorney.
- Chap. 226 City Treasurer.
- Chap. 228 City Assessor.
- Chap. 230 Purchasing Agent.
- Chap. 232 Department of Public Safety.
- Chap. 234 Building Department.
- Chap. 236 Police Department.

- Chap. 238 Fire Department.
- Chap. 239 Department of Parks and Cemetery.
- Chap. 240 Department of Public Works.
- Chap. 242 Water Department.
- Chap. 243 Wastewater Treatment Department.
- Chap. 244 Economic Development Corporation.
- Chap. 246 Civil Defense.
- Chap. 248 Employees Generally.

TITLE EIGHT - Boards, Commissions and Authorities

- Chap. 260 Planning Commission.
- Chap. 262 Board of Zoning Appeals.
- Chap. 264 Board of Review.
- Chap. 266 Cemetery Commission. (Repealed)
- Chap. 268 Local Officers Compensation Commission.
- Chap. 272 Park and Recreation Commission.
- Chap. 274 Board of Health.
- Chap. 276 Library Board.
- Chap. 278 Thompson Lake Board.
- Chap. 280 Howell Historical Preservation Commission.
- Chap. 282 Election Commission.
- Chap. 283 Building Authority.
- Chap. 284 Board of Building Code Appeals.
- Chap. 285 Downtown Development Authority.
- Chap. 286 Tax Increment Finance Authority.
- Chap. 287 Local Development Finance Authority.
- Chap. 288 Cable Television Commission.
- Chap. 289 Brownfield Redevelopment Authority.

TITLE TEN - Judiciary

- Chap. 290 Municipal Court.

## **TITLE TWO - General Provisions**

### **CHAPTER 202**

#### **Codified Ordinances**

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- 202.01 Designation; citation; headings.
- 202.02 Amendments and supplements; numbering.
- 202.03 Definitions and interpretation.
- 202.04 Separability of provisions.
- 202.05 Sections and ordinances repealed.
- 202.06 Exemptions from repeal.
- 202.98 Fees.

202.99 General Code penalty; fines for Municipal civil infractions; equitable remedies.

## **CROSS REFERENCES**

Compilation or codification - see CHTR. Sec.6.7

Publication of codes of municipal ordinances - see M.C.L.A. Sec. 117.5b

Ordinances and resolutions - see ADM.Ch. 214

### **202.01 DESIGNATION; CITATION; HEADINGS.**

(a) This volume consists of all ordinances of a general and permanent nature of the Municipality, as revised, codified, arranged, numbered and consolidated into component codes, titles, chapters and sections, and as such shall be known and designated as the Codified Ordinances of Howell, Michigan, 1982, for which designation "Codified Ordinances" or "City Code" or "Howell City Code" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances.

(b) All references to codes, titles, chapters and sections are to such components of the Codified Ordinances unless otherwise specified. Any component code may be referred to and cited by its name, as the "Traffic Code." Sections may be referred to and cited by the designation "section" followed by the number, such as "Section 202.01."

### **202.02 AMENDMENTS AND SUPPLEMENTS; NUMBERING.**

(a) The Codified Ordinances of Howell may be amended or supplemented at any time and, when any amendment or supplement is adopted in such form as to indicate the intention of Council to make the same a part thereof, such amendment or supplement shall be incorporated in, and deemed a part of, the Codified Ordinances, so that a reference to the Codified Ordinances shall be understood and construed as including the Codified Ordinances of Howell and any and all such amendments and supplements.

(b) All amendments and supplements enacted as a part of the Codified Ordinances shall be integrated therewith by following the form of arrangement and plan set forth in the original Codified Ordinances as follows: each Code shall be subdivided into titles and/or chapters, and each chapter shall be subdivided into sections, which shall be numbered in accordance with the decimal numbering system. The numbering of all sections, except penalty sections, shall be consecutive within each chapter commencing with the first section of Chapter 202, which shall be numbered 202.01, the first "2" signifying Code 2, and the two figures "02" before the decimal signifying the chapter within the Code, and the two figures "01" after the decimal signifying the first section in Chapter 202 of the Code. Penalty sections shall be designated "99" and shall be the last section of a chapter.

### **202.03 DEFINITIONS AND INTERPRETATION.**

In the construction of these Codified Ordinances, or any provision thereof, the following rules and definitions shall control, except those which are inconsistent with the manifest intent of Council as disclosed in a particular provision, section or chapter:

(1) Adopting Ordinance. "Adopting Ordinance" means the ordinance of the Municipality adopting the Codified Ordinances of Howell in conformity with Section 6.7 of the City Charter and M.S.A. Section 5.2084(2).

(2) Authority. Whenever in the Codified Ordinances authority is given to an officer or an act is required to be performed, such authority may be exercised and such act may be performed, at the instance of such officer, by a deputy or subordinate, unless contrary to law or to the clear intent of any such particular provision.

(3) Calendar-Computation of Time. The terms "month" and "year" mean the calendar month or year. The time expressed in days within which an act is to be done or a period is to expire shall be computed by excluding the first and including the last day, unless the last day is a Sunday, in which case it shall be excluded. If time is expressed in hours, the whole of Sunday shall be excluded.

(4) City Council. "City Council" or "Council" means the legislative authority of the Municipality.

(5) Conjunctions. "And" includes "or" and "or" includes "and," if the sense so requires.

(6) County. "County" means the County of Livingston, Michigan.

(7) Gender. Words importing the masculine shall extend and be applied to the feminine and neuter genders.

(8) General Rule. Except as otherwise provided in this section, words and phrases shall be construed according to the common usage of the language, provided, however, that technical words and phrases and such others as may have acquired a special meaning in the law shall be construed according to such technical or special meaning.

(9) Joint Authority. Words giving authority to a board, commission, authority or to three or more officers or employees or other persons shall be construed as giving authority to a majority thereof, unless otherwise specifically provided.

(10) Keeper and Proprietor. "Keeper" and "proprietor" mean persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or as a servant, agent or employee.

(11) Land and Real Estate. "Land" and "real estate" include rights and easements of an incorporeal nature.



- (12) Law. "Law" means all applicable laws of the United States of America, the State of Michigan and the City of Howell.
- (13) Manager. "Manager" means the City Manager of the Municipality.
- (14) Municipality or City. "Municipality" or "City" means the City of Howell, Michigan.
- (15) Number. Words in the plural include the singular and words in the singular include the plural number.
- (16) Oath. "Oath" includes affirmation. When an oath is required or authorized by law, an affirmation in lieu thereof may be taken by a person having conscientious scruples about taking an oath. An affirmation shall have the same force and effect as an oath.
- (17) Ordinance. "Ordinance" means and includes any ordinance of the Municipality, including any provision of these Codified Ordinances.
- (18) Owner. "Owner," when applied to property, includes a part owner, joint owner or tenant in common of the whole or any part of such property.
- (19) Person. "Person" includes any individual, copartnership, corporation, association, club, joint venture, estate, trust and any other group or combination acting as a unit, and the individuals constituting such group or unit.
- (20) Premises. "Premises," when used as applicable to property, extends to and includes land and buildings.
- (21) Property. "Property" includes real and personal property and any mixed and lesser estates or interests therein. "Personal property" includes every kind of property except real property; "real property" includes lands, tenements and hereditaments.
- (22) Public Place. "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.
- (23) Publish. "Publish" means to print in a newspaper of general circulation in the Municipality the entire document or a brief summary thereof with a listing of places where copies have been filed and times when they are available for inspection.
- (24) Reasonable Time. In all cases where provision is made for an act to be done or notice to be given within a reasonable time, it shall be deemed to mean such time only as may be necessary for the prompt performance of such act or the giving of such notice.
- (25) Residence. "Residence" means an abode in which a person permanently resides.
- (26) Shall and May. "Shall" is mandatory; "may" is permissive.
- (27) Sidewalk. "Sidewalk" means that portion of a street between the curb lines or lateral lines and the right-of-way lines, which is intended for the use of pedestrians.
- (28) State. "State" means the State of Michigan.
- (29) Street, Highway and Alley. "Street," "highway" and "alley" mean the entire width subject to an easement for public right of way, or owned in fee by the City, County or State, of every way or place, of whatever nature, whenever any part thereof is open to the use of the public as a matter of right for purposes of public travel. The word "alley" means any such way or place providing a secondary means of ingress and egress from a property.
- (30) Tenant and Occupant. "Tenant" and "occupant," as applied to buildings or land, shall extend and be applied to any person holding a written or oral lease of, or who occupies the whole or any part of, a building or land, alone or with others.
- (31) Tenses. The use of any verb in the present tense includes the future.
- (32) Time. Whenever any time established in the Codified Ordinances for the taking of any action expires on a Sunday or a legal holiday, such time shall not expire on such day but shall expire on the next week day.
- (33) Responsibility. Whenever any act is prohibited by a provision of these Codified Ordinances or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do such act.

#### **202.04 SEPARABILITY OF PROVISIONS.**

Each section and each part of each section of the Codified Ordinances is hereby declared to be an independent section or part of a section and notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any such section or part of a section, or any provision thereof, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or parts of sections and the application of such provision to any other person or circumstance, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the Codified Ordinances would have been adopted independently of such section or part of a section so held to be invalid.

#### **202.05 SECTIONS AND ORDINANCES REPEALED.**

All ordinances, resolutions, rules and regulations of the Municipality, and parts of the same, in conflict with any of the

provisions of these Codified Ordinances, are hereby repealed.

#### **202.06 EXEMPTIONS FROM REPEAL.**

The repeal provided for in Section 202.05 shall not affect:

- (a) Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the adoption of these Codified Ordinances;
- (b) Any ordinance or resolution promising or guaranteeing the payment of money by or to the Municipality, or authorizing the issuance of any bonds of the Municipality, or any evidence of the Municipality's indebtedness, or any contract or obligation assumed by the Municipality;
- (c) The administrative ordinances and resolutions of Council not in conflict or inconsistent with any provision of these Codified Ordinances;
- (d) Any right, license or franchise conferred by any ordinance or resolution of Council on any person;
- (e) Any ordinance or resolution establishing, naming, relocating or vacating any street or other public way;
- (f) Any ordinance or resolution or part thereof providing for the establishment of positions, for salaries or compensation;
- (g) Any prosecution, suit or other proceeding pending, or any judgment rendered, on or prior to the adoption of these Codified Ordinances;
- (h) Any ordinance or resolution levying or imposing taxes or assessments;
- (i) Any ordinance or resolution establishing or changing the boundaries of the Municipality; or
- (j) Any ordinance or resolution adopted by Council after the adoption of these Codified Ordinances.

#### **202.98 FEES.**

All present and future fees and charges imposed by the City of Howell shall be set from time to time by resolution of the Howell City Council.

(Ord. 663. Passed 10-27-97.)

#### **202.99 GENERAL CODE PENALTY; FINES FOR MUNICIPAL CIVIL INFRACTIONS; EQUITABLE REMEDIES.**

(a) Except in those cases where a violation of these Codified Ordinances is specifically designated as a Municipal civil infraction, and except in those cases where a different penalty is prescribed for a specific violation of a provision of these Codified Ordinances, whoever violates any provision of these Codified Ordinances is guilty of a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00), plus the costs of prosecution, or by imprisonment in the County jail for a period not to exceed ninety days, or both, for each offense.

(b) The sanctions for a violation of these Codified Ordinances designated as a Municipal civil infraction shall include all remedies authorized by Act 12 of the Public Acts of 1994, as amended, including, but not limited to, fines of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), plus all costs incurred by the City in enforcing the Municipal civil infraction, including actual attorneys' fees and all other damages and equitable remedies as ordered by the Court and authorized by Act 12 of the Public Acts of 1994, as amended. Civil fines may be increased for repeat violations of these Codified Ordinances, and each day during or on which a violation or noncompliance occurs or continues shall be deemed a separate offense. Specific fines for Municipal civil infractions shall be as provided in subsection (c) hereof.

(c) The following schedule of fines for Municipal civil infractions, payable at the Municipal Ordinance Violations Bureau as provided for in Chapter 208, for admissions of responsibility by persons served with Municipal civil infraction citations and/or violation notices, is hereby established as follows:

(1) Chapter 622	First offense	\$ 50.00
"Health, Safety	Any repeat offense	250.00
And Sanitation"		
(2) Chapter 652	First offense	\$ 50.00
"Nuisances"	Any repeat offense	250.00
(3) Chapter 872	First offense	\$ 50.00
"Street Vendor"	Any repeat offense	250.00
(4) Chapter 1020	First offense	\$ 50.00
"Streets and	Any repeat offense	250.00
Excavations"		

(5)	Chapter 1022	First offense	\$ 50.00
	"Sidewalks"	Any repeat offense	250.00
(6)	Chapter 1024	First offense	\$ 50.00
	"Trees"	Any repeat offense	250.00
(7)	Chapter 1040	First offense	\$ 50.00
	"Water"	Any repeat offense	250.00
(8)	Chapter 1042	First offense	\$ 50.00
	"Sewers"	Any repeat offense	250.00
(9)	Chapter 1043	First offense	\$ 1,000.00
	"Industrial Waste	Any repeat offense	1,000.00
	Water Pretreatment		
	Regulations"		
(10)	Chapter 1044	First offense	\$ 50.00
	"Water and	Any repeat offense	250.00
	Sewerage Rates		
	and Management"		
(11)	Chapter 1060	First offense	\$ 50.00
	"Garbage and	Any repeat offense	250.00
	Rubbish Collection		
	And Disposal"		
(12)	Chapter 1062	First offense	\$ 50.00
	"Parks and	Any repeat offense	250.00
	Recreational		
	Facilities"		
(13)	Chapter 1066	First offense	\$ 50.00
	"Fire and Burglar	Any repeat offense	250.00
	Alarm Systems"		
(14)	Chapter 1216	First offense	\$ 50.00
	"Land Divisions"	Any repeat offense	250.00
(15)	Chapter 1240.01	First offense	\$ 50.00
	"Appendix A	Any repeat offense	250.00
	Howell Zoning Code"		
(16)	Chapter 1410	First offense	\$50.00
	"State Construction	Any repeat offense	250.00
	Code"		
(17)	Chapter 1450	First offense	\$ 50.00
	"Fees for Permits,	Any repeat offense	250.00
	Certificates and		
	Inspections"		
(18)	Chapter 1460	First offense	\$50.00
	"Residential Rental	Any repeat offense	250.00
	Properties"		

(19) Chapter 1480	First offense	\$50.00
"Property Maintenance"	Any repeat offense	250.00
(20) Chapter 1614	First offense	\$500.00
"Fireworks Code"	Any repeat offense	500.00
(21) Chapter 1620	First offense	\$ 50.00
"Fire Lanes"	Any repeat offense	250.00
(22) Chapter 1630	First offense	\$ 50.00
"Life Safety Code"	Any repeat offense	250.00

(d) A repeat offense is one in which the same or a similar violation has been committed within one year of the first offense.

(e) Each day on which any violation of this Code or any ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(f) In addition to any remedies available at law, the City may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of these Codified Ordinances or any City ordinance.

(Ord. 663. Passed 10-27-97; Ord. 722. Passed 11-19-01; Ord. 753. Passed 1-12-04; Ord. 795. Passed 3-26-07; Ord. 879. Passed 8-26-13; Ord. 918. Passed 10-8-18.)

## **CHAPTER 204**

### **Official Standards**

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EDITOR'S NOTE: There are no sections in Chapter 204. This chapter has been established to provide a place for cross references and any future legislation.

#### ***CROSS REFERENCES***

State Seal - see Mich. Const. Art. 3, Sec. 3; M.C.L. Secs. 2.41 et seq.

Fiscal year - see CHTR. Sec. 11.1

Seal of municipal sewage disposal authority - see M.C.L. Sec. 124.284

Seal of municipal water supply authority - see M.C.L. Sec. 124.284

Weights and measures - see M.C.L. Secs. 290.601 et seq., 750.561 et seq.

## **CHAPTER 206**

### **Wards and Boundaries**

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EDITOR'S NOTE: There are no sections in Chapter 206. This chapter has been established to provide a place for cross references and any future legislation.

#### ***CROSS REFERENCES***

Boundaries of City - see CHTR. Sec. 1.2

Wards - see CHTR. Sec. 1.3

Equal representation - see M.C.L. Sec. 117.3

Incorporated city or village annexed to home rule city - see M.C.L. Sec. 117.13

Apportionment - see M.C.L. Sec. 117.27a

## **CHAPTER 208**

### **Municipal Civil Infractions**

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- 208.01 Short title.
- 208.02 Definitions.
- 208.03 Designation of authorized City officials.
- 208.04 Municipal civil infraction action; commencement.
- 208.05 Municipal civil infraction citations; issuance and service.
- 208.06 Municipal civil infraction citations; contents.
- 208.07 Municipal Ordinance Violations Bureau.
- 208.08 Failure to appear; penalty.
- 208.09 Severability.
- 208.10 Savings.

**CROSS REFERENCES**

Authority of Council re penalties - see CHTR. Sec.6.3

General Code penalty - see ADM.202.99(a)

Municipal civil infraction schedule of fines - see ADM.202.99(c)

Penalties for parking violations - see TRAF.430.05

Penalties for violations of Zoning Code - see P. & Z.Chapter 1240 (Zoning Code)

**208.01 SHORT TITLE.**

This chapter shall be known and may be cited as the "Municipal Civil Infraction Ordinance."

(Ord. 660. Passed 9-29-97.)

**208.02 DEFINITIONS.**

For the purpose of the provisions of this chapter, the following words and phrases shall be construed to have the meanings as set forth herein, unless it is apparent from the context that a different meaning is intended:

- (a) "Act" means Act No. 236 of the Public Acts of 1961, as amended.
- (b) "Authorized City official" means a police officer or other personnel of the City of Howell authorized by this chapter or any ordinance to issue Municipal civil infraction citations or Municipal civil infraction violation notices.
- (c) "Bureau" means the City of Howell Municipal Ordinance Violations Bureau as established in this chapter.
- (d) "Municipal civil infraction" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- (e) "Municipal civil infraction citation" means a written complaint or notice prepared by an authorized City official, directing a person to appear in court regarding the occurrence or existence of a Municipal civil infraction violation by the person cited.
- (f) "Municipal civil infraction violation notice" means a written notice prepared by an authorized City official, directing a person to appear at the City of Howell Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the City, as authorized under Sections 8396 and 8707(6) of the Act.

(Ord. 660. Passed 9-29-97.)

**208.03 DESIGNATION OF AUTHORIZED CITY OFFICIALS.**

The following personnel of the City of Howell have the authority to issue Municipal civil infraction citations and Municipal civil infraction violation notices pursuant to this chapter:

- (a) Police Officers
- (b) Fire Chief
- (c) Building/Zoning Inspector
- (d) Code Enforcement Officer
- (e) Assistant City Manager
- (f) Department of Public Service Director
- (g) City Manager

- (h) Deputy Chief of the Howell City Fire Department
- (i) City of Howell Fire Inspector
- (j) Department of Public Works Superintendent.
- (k) Wastewater Treatment Plant Superintendent.
- (l) Wastewater Treatment Plant Inspector.

(Ord. 669. Passed 3-2-98; Ord. 754. Passed 1-12-04.)

#### **208.04 MUNICIPAL CIVIL INFRACTION ACTION; COMMENCEMENT.**

A Municipal civil infraction action may be commenced upon the issuance by an authorized City official of:

- (a) A Municipal civil infraction citation directing the alleged violator to appear in court; or
- (b) A Municipal civil infraction violation notice directing the alleged violator to appear at the City of Howell Municipal Ordinance Violations Bureau.

(Ord. 660. Passed 9-29-97.)

#### **208.05 MUNICIPAL CIVIL INFRACTION CITATIONS; ISSUANCE AND SERVICE.**

Municipal civil infraction citations shall be issued and served by authorized City officials as follows:

- (a) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- (b) The place for appearance specified in a citation shall be the 53rd District Court.
- (c) Each citation shall be numbered consecutively and shall be in a form approved by the State court administrator. The original citation shall be retained by the City and issued to the alleged violator as provided by Section 8705 of the Act.
- (d) A citation for a Municipal civil infraction signed by an authorized City official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief."
- (e) An authorized City official who witnesses a person commit a Municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
- (f) An authorized City official may issue a citation to a person if:
  - (1) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a Municipal civil infraction; or
  - (2) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a Municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the City attorney approves in writing the issuance of the citation.

(g) Municipal civil infractions citations shall be served by an authorized City official as follows:

- (1) Except as provided by paragraph (g)(2) hereof, an authorized City official shall personally serve a copy of the citation upon the alleged violator.
- (2) If the Municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting the copy of the citation on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building or structure at the owner's last known address.

(Ord. 660. Passed 9-29-97.)

#### **208.06 MUNICIPAL CIVIL INFRACTION CITATIONS; CONTENTS.**

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

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

- (1) Admit responsibility for the Municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
- (2) Admit responsibility for the Municipal civil infraction "with explanation" by mail by the time specified for appearance, or in person or by representation.

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

- i. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the City.
- ii. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

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

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

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

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

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

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

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

(Ord. 660. Passed 9-29-97.)

#### **208.07 MUNICIPAL ORDINANCE VIOLATIONS BUREAU.**

(a) Bureau Established. The City hereby establishes a Municipal Ordinance Violations Bureau ("Bureau"), as authorized under Section 8396 of the Act, to accept admissions of responsibility for Municipal civil infractions in response to Municipal civil infraction violation notices issued and served by authorized City officials, and to collect and retain civil fines and costs as prescribed by this chapter or any other ordinance.

(b) Location; Supervision; Employees; Rules and Regulations. The Bureau shall be located at the City of Howell Police Department and shall be under the supervision and control of the City of Howell Chief of Police. The Chief of Police, subject to the approval of City Council, shall adopt rules and regulations for the operation of the Bureau.

(c) Disposition of Violations. The Bureau may dispose only of Municipal civil infraction violations for which a fine has been scheduled and for which a Municipal civil infraction violation notice (as compared with a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau. Nothing in this chapter shall prevent or restrict the City from issuing a Municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a Municipal civil infraction violation at the Bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection afforded by law.

(d) Bureau Limited to Accepting Admissions of Responsibility. The scope of the Bureau's authority shall be limited to accepting admissions of responsibility for Municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

(Ord. 660. Passed 9-29-97.)

(e) Municipal Civil Infraction Violation Notices. Municipal civil infraction violation notices shall be issued and served by authorized City officials under the same circumstances and upon the same persons as provided for citations in Section 208.05 and subsection (g) hereof. In addition to any other information required by this chapter or other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(Ord. 664. Passed 12-22-97.)

(f) Appearance; Payment of Fines and Costs. An alleged violator receiving a Municipal civil infraction violation notice shall appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the Municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

(g) Procedure Where Admission of Responsibility Not Made or Fine Not Paid If an authorized City official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if

any, prescribed by the schedule of fines for the violation are not paid at the Bureau, a Municipal civil infraction citation may be filed with the District Court and a copy of the citation may be served by first-class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by Sections 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the Municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

(Ord. 660. Passed 9-29-97.)

#### **208.08 FAILURE TO APPEAR; PENALTY.**

A person served with a Municipal civil infraction citation as provided in Section 208.05(g) who fails to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00). Failure to appear will also result in the entry of a default judgment on the Municipal civil infraction.

(Ord. 664. Passed 12-22-97.)

#### **208.09 SEVERABILITY.**

If any section, subsection, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this chapter and such holding shall not affect the validity of the remaining portions of this chapter. (Ord. 660. Passed 9-29-97.)

#### **208.10 SAVINGS.**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this chapter takes effect are saved and may be consummated according to the law in force when they are commenced.

(Ord. 660. Passed 9-29-97.)

## **CHAPTER 209**

### **Anti-Discrimination**

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- 209.01 Intent, purpose and construction.
- 209.02 Definitions.
- 209.03 Discriminatory housing practices.
- 209.04 Discriminatory public accommodation practices.
- 209.05 Discriminatory employment practices.
- 209.06 Other prohibited practices.
- 209.07 Nondiscrimination by City contractors.
- 209.08 Discriminatory effects.
- 209.09 Exceptions.
- 209.10 Information and investigation.
- 209.11 Conciliation agreements.
- 209.12 Injunctions.
- 209.13 Prosecution.
- 209.99 Penalty.

#### **CROSS REFERENCE**

Residential rental properties, see B. & H. Ch. 1460

#### **209.01 INTENT, PURPOSE AND CONSTRUCTION.**

As used in this chapter:

(a) It is the intent of the City that no person be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his or her civil rights or be discriminated against because of his or her actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or



gender identity.

(b) The prohibitions against discrimination as provided for in this chapter shall not be deemed preempted by Federal or State law, but are intended to supplement State and Federal civil rights law prohibiting discrimination in the areas of employment, public accommodations, and housing. Provided, however, this chapter shall be construed and applied in a manner consistent with First Amendment jurisprudence regarding the freedom of speech and exercise of religion.

(c) Nothing in this chapter shall require preferential treatment of any person or group on the basis of sexual orientation or gender identity.

(Ord. 901. Passed 6-27-16.)

## **209.02 DEFINITIONS.**

As used in this chapter, the following words and phrases have the following meanings:

(a) "Affected person" means a person who has filed a complaint pursuant to below Section 209.10(a) and who the City Manager, or his or her designee, has entered into a Conciliation Agreement pursuant to below Section 209.11 as a result of the affected person's complaint.

(b) "Age" means chronological age.

(c) "City Manager" means the City Manager of the City of Howell.

(d) "Contractor" means a person who by contract furnishes services, materials or supplies. "Contractor" does not include persons who are merely creditors or debtors of the City.

(e) "Discriminate" means to make a decision, offer to make a decision or refrain from making a decision based in whole or in part on the actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity of another person.

(1) Discrimination based on sex includes sexual harassment, which means unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

(A) Submission to such conduct or communication is made a term or condition, either explicitly or implicitly, to obtain employment, public accommodations, or housing.

(B) Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment, public accommodations or housing.

(C) Such conduct or communication has the purpose or effect of substantially interfering with individual's employment, public accommodations or housing, or creating an intimidating hostile, or offensive employment, public accommodations, or housing environment.

(2) Discrimination based on actual or perceived physical or mental limitation includes discrimination because of the use by an individual of adaptive devices or aids.

(f) "Employer" means any person employing one or more persons.

(g) "Employment agency" means a person who undertakes to procure employees for an employer or procures opportunities for individuals to be employed by an employer.

(h) "Family status" means the state of being in a family.

(i) "Family" includes either of the following:

(1) An individual who is pregnant; or

(2) Two or more individuals related by blood within three degrees of consanguinity, marriage, adoption, in a foster care relationship or legal custody relationship.

(j) "Gender identity" means a person's actual or perceived gender, including a person's self-image, appearance, expression, or behavior, whether or not that self-image, appearance, expression, or behavior is different from that traditionally associated with the person's biological sex as assigned at birth as being either female or male.

(k) "Housing facility" means any dwelling unit or facility used or intended or designed to be used as the home, domicile or residence of one or more persons, including, but not limited to, a house, apartment, rooming house, housing cooperative, hotel, motel, tourist home, retirement home or nursing home.

(l) "Labor organization" means an organization of any kind or structure in which employees participate or are members and which exist for the purpose, in whole or part, of dealing with employers concerning the terms and conditions of employment of its participants or members, whether or not such organization is subordinate to or affiliated with a national or international labor organization.

(m) "Marital status" means the state of being married, never married, divorced, or widowed.

(n) "Perceived" refers to the perception of the person who acts, and not to the perception of the person for or against whom the action is taken.

(o) "Person" includes an individual, association, partnership, agency, organization, or corporation, public or private, including all employees thereof as well as any natural person. The term, when applied to partnerships, associations, and corporations, includes members and officers.

(p) "Physical or mental disability" means a determinable physical or mental characteristic resulting from disease, injury, congenital condition of birth, or functional disorder and is unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion; or unrelated to one's ability to acquire, rent and maintain property; or unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges and accommodations of a place of public accommodation. "Physical or mental disability" does not include any condition caused by the current illegal use of a controlled substance or the use of alcoholic liquor by an individual.

(q) "Place of public accommodation" means an educational, governmental, health, entertainment, cultural, recreational, refreshment, transportation, financial institution, business or facility of any kind, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

(r) "Religious organization" means an organization, church, group, or body of communicants that is organized not for pecuniary profit that regularly gathers for worship and religious purposes, and includes a religious-based private school that is not organized for pecuniary profit.

(s) "Sexual orientation" means male or female homosexuality, heterosexuality or bisexuality, whether by orientation or practice. Sexual orientation does not include the physical or sexual attraction to a minor by an adult.

(Ord. 901. Passed 6-27-16.)

### **209.03 DISCRIMINATORY HOUSING PRACTICES.**

Except as otherwise provided in this chapter:

(a) No person shall discriminate in leasing, selling or otherwise making available any housing facilities.

(b) No person shall discriminate in the terms, conditions, maintenance or repair in providing any housing facility.

(c) No person shall refuse to lend money for the purchase or repair of any real property or insure any real property solely because of the location in the City of such real property.

(d) No person shall promote real estate transactions by representing that changes are occurring or will occur in an area with respect to race, religion or national origin.

(e) No person shall place a sign or other display on any real property which indicates that the property is for sale or has been sold when it is not for sale or has not recently been sold.

(Ord. 901. Passed 6-27-16.)

### **209.04 DISCRIMINATORY PUBLIC ACCOMMODATION PRACTICES.**

(a) Except as otherwise provided in this chapter, no person shall discriminate in making available full and equal access to all goods, services, activities, privileges, and accommodations of any place of public accommodation.

(b) Nothing in this chapter permits or requires access to any place of public accommodation for the purpose or intent of engaging in criminal conduct.

(c) Nothing in this chapter shall require the construction or provision of unisex, single-user restrooms, changing rooms, locker rooms or shower facilities.

(Ord. 901. Passed 6-27-16.)

### **209.05 DISCRIMINATORY EMPLOYMENT PRACTICES.**

Except as otherwise provided in this chapter:

(a) No employer shall discriminate in the employment, compensation, work classifications, conditions or terms, promotion or demotion, or termination of employment of any person.

(b) No labor organization shall discriminate in limiting membership, conditions of membership, or termination of membership of any person in any labor union or apprenticeship program.

(c) No employment agency shall discriminate in the procurement or recruitment of any person for possible employment with an employer.

(Ord. 901. Passed 6-27-16.)

### **209.06 OTHER PROHIBITED PRACTICES.**

(a) No person shall adopt, enforce or employ any policy or requirement, or publish, post or broadcast any advertisement, sign or notice which discriminates or indicates discrimination in providing housing, employment or public accommodations.

(b) No person shall discriminate in the publication or distribution of advertising material, information or solicitation

regarding housing, employment or public accommodations.

(c) No agent, broker, labor organization, employment agency or any other intermediary shall discriminate in making referrals, listings or providing information with regard to housing, employment or public accommodations. A report of the conviction of any such person for a violation of this chapter shall be made to the applicable licensing or regulatory agency for such person or business.

(d) No person shall coerce, threaten or retaliate against a person for making a complaint or assisting in the investigation regarding a violation or alleged violation of this chapter, nor require, request, conspire with, assist or coerce another person to retaliate against a person for making a complaint or assisting in an investigation.

(e) No person shall conspire with, assist, coerce or request another person to discriminate in any manner prohibited by this chapter.

(Ord. 901. Passed 6-27-16.)

#### **209.07 NONDISCRIMINATION BY CITY CONTRACTORS.**

(a) All contractors proposing to do business with the City of Howell shall satisfy the nondiscrimination administrative policy adopted by the City Manager in accordance with the

guidelines of this section. All contractors shall receive approval from the City Manager prior to entering into a contract with the City, unless specifically exempted by administrative policy.

(b) A contractor shall, as a condition of being deemed a responsible bidder, at the time of its submission to the City in responding to an invitation for bids or request for proposals, certify in writing that it is in compliance with the provisions of this chapter.

(c) All City contracts shall provide further that breach of the obligations not to discriminate shall be a material breach of the contract.

(d) In addition, the contractor shall be liable for any costs or expenses incurred by the City in obtaining from other sources the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under the contract.

(Ord. 901. Passed 6-27-16.)

#### **209.08 DISCRIMINATORY EFFECTS.**

No person shall adopt, enforce or employ any policy or requirement which has the effect of creating unequal opportunities according to actual or perceived race, color, religion, national origin, sex, age height, weight, family status, sexual orientation, marital status, physical or mental disability, or gender identity for a person to obtain housing, employment or public accommodation, except for a bona fide business necessity. Such a bona fide business necessity does not arise due to a mere inconvenience or because of suspected or actual objection to such a person by neighbors, customers, or other persons but shall require a demonstration that the policy or requirement is reasonably necessary to the normal operation of the person's business.

(Ord. 901. Passed 6-27-16.)

#### **209.09 EXCEPTIONS.**

Notwithstanding anything contained in this chapter, the following practices shall not be violations of this chapter:

(a) For a religious organization to restrict the occupancy of any of its housing facilities or accommodations which are operated as a direct part of religious activities to persons of the denomination involved or to restrict employment opportunities for officers, religious instructors and clergy to persons of that denomination. It is also permissible for a religious organization to restrict employment opportunities, educational facilities, housing facilities, and homeless shelters or dormitories that are operated as a direct part of its religious activities to persons who are members of or who conform to the moral tenets of that religious organization.

(b) For the owner of an owner-occupied, one-family or two-family dwelling, or a housing facility or public accommodation facility, respectively, devoted entirely to the housing and accommodation of individuals of one sex, to restrict occupancy and use on the basis of sex.

(c) To limit occupancy in a housing project or to provide public accommodations or employment privileges or assistance to persons of low income, persons over 55 years of age or disabled persons.

(d) To engage in a bona fide effort to establish an affirmative action program to improve opportunities in employment for minorities and women consistent with applicable State and Federal law.

(e) To discriminate based on a person's age when such discrimination is required by State, Federal or local law.

(f) To refuse to enter into a contract with an unemancipated minor.

(g) To refuse to admit to a place of public accommodation serving alcoholic beverages a person under the legal age for purchasing alcoholic beverages.

(h) To refuse to admit to a place less than 18 years of age to a business providing entertainment or selling literature which the operator of said business deems unsuitable for minors.

(i) For an educational institution to limit the use of its facilities to those affiliated with such institution.

(j) To provide discounts on products or service to students, or on the basis of age.

(k) To discriminate in any arrangement for the shared ownership, lease or residency of a dwelling unit.

(l) For a governmental institution to restrict any of its facilities or to restrict employment opportunities based on duly adopted institutional policies that conform to Federal and State laws and regulations.

(m) To restrict participation in an instructional program, athletic event or on an athletic team on the basis of age, sex, height, or weight.

(n) To restrict membership in a private club that is not open to the public except to the extent that private clubs which permit members to invite guest on the premises are not exempted as it concerns a member's guest.

(o) To the employment of an individual by one's family.

(p) To the use of marital status or family status limitations in a health or pension plan if such limitations conform to Federal and State laws and regulations.

(q) To the rental of housing facilities in a building which contains dwelling units for not more than two families living independently of each other if the owner of the building or a member of the owner's family resides in one of the dwelling units, or to the rental of a room or rooms in a single-family dwelling by an individual if the lessor or a member of the lessor's family resides in the dwelling.

(Ord. 901. Passed 6-27-16.)

#### **209.10 INFORMATION AND INVESTIGATION.**

(a) Any person claiming a violation of this chapter shall file a signed, written complaint with the City Manager, or his or her designee, setting forth the details, including the names, dates, witnesses and other factual matters relevant to the claim, within 180 days of the incident forming the basis of the complaint.

(b) No person shall provide false information to any authorized employee investigating a complaint regarding a violation of this chapter.

(c) In the course of the investigation, the City Manager, or his or her designee, may request a person to produce books, papers, records or other documents which may be relevant to a violation or alleged violation of this chapter. If said person does not comply with such request, the City Attorney may apply to the Livingston County Court for an order requiring production of said materials.

(d) Within 30 days of written complaint being filed, the City Manager, or his or her designee, shall undertake an investigation of any complaint filed, the City Manager, or his or her designee, shall undertake an investigation of any complaint filed in accordance with this section alleging a violation of this chapter not currently recognized or proscribed by Michigan or Federal anti-discrimination statutes, and cause all other complaints to be referred to an appropriate state or federal agency for review. After the completion of an investigation, the City Manager, or his or her designee, shall give written notice of the results of the investigation to the person who filed the complaint and the person accused of the violation. If the investigation establishes that a violation of this chapter occurred, the City Manager, or his or her designee, shall attempt to resolve the matter by conciliation and persuasion or refer the complaint to the City Attorney for prosecution in a court of competent jurisdiction.

(Ord. 901. Passed 6-27-16.)

#### **209.11 CONCILIATION AGREEMENTS.**

In cases involving alleged violations of this chapter, the City Manager, or his or her designee, may enter into agreements whereby persons agree to methods of terminating discrimination or to reverse the effects of past discrimination. Violations of such agreements shall be violations of this chapter.

(Ord. 901. Passed 6-27-16.)

#### **209.12 INJUNCTIONS.**

The City Attorney may commence a civil action to obtain injunctive relief to prevent discrimination prohibited by this chapter, to reverse the effects of such discrimination, or to enforce a conciliation agreement.

(Ord. 901. Passed 6-27-16.)

#### **209.13 PROSECUTION.**

(a) Prosecution for violation of this chapter may only be initiated by complaint of the affected person due to the alleged violation of a conciliation agreement made pursuant to above Section 209.11, or by the City Manager, or his or her designee, on the basis of an investigation undertaken by the City Manager, or his or her designee.

(b) Violation of this chapter shall be prosecuted by the City Attorney as a municipal civil infraction pursuant to the provisions of Chapter 202.99 of the Howell City Code.

(Ord. 901. Passed 6-27-16.)

#### **209.99 PENALTY.**

(a) A violation of any provision of this chapter is a municipal civil infraction punishable by a fine of not more than five hundred dollars (\$500.00), plus all costs of the action. The court may issue and enforce any judgment, writ, or order necessary to enforce this chapter. This may include reinstatement, payment of lost wages, hiring and promotion, sale, exchange, lease or sublease, of real property, admission to a place of public accommodation, and other relief deemed appropriate.

(b) Each day upon which a violation occurs shall constitute a separate and new violation.

(c) A violation proved to exist on a particular day shall be presumed to exist on each subsequent day unless it is proved that the violation no longer exists.

(d) Nothing contained in this chapter shall be construed to limit in any way the remedies, legal or equitable, which are available to the City or any person for the prevention or correction of discrimination.

(Ord. 901. Passed 6-27-16.)

## **TITLE FOUR - Legislation**

### **CHAPTER 210**

#### **Council**

210.01 Rules of Council.

210.02 Audio tape of Council meetings.

#### **CROSS REFERENCES**

Council - see CHTR. Ch. 5

Legislative body in home rule cities - see M.C.L. Sec. 117.3

Mayors in home rule cities - see M.C.L. Sec. 117.3

Administration and enforcement of Subdivision Regulations - see P. & Z.1222.01, 1222.03

#### **210.01 RULES OF COUNCIL.**

Rule 1. The Council shall provide by annual resolution for the time and place of its regular meetings and shall hold at least two regular meetings in each month. If any time set for the holding of a regular meeting of Council falls on a holiday, then such regular meeting shall be held at the same time and place on the next business day which is not a holiday.

Rule II. Special meetings of Council may be called by the City Clerk on the written request of the Mayor or any two members of Council. Public notice stating the date, time, place and purpose of the meeting shall be posted at least eighteen hours before the meeting. Such public notice shall contain the name, address and telephone number of the public body to which the notice applies and shall be posted at City Hall and any other location considered appropriate by the City. Notice of such meeting shall be personally served on each member of Council or left at his or her usual place of residence at least six hours prior to the meeting by the Clerk or someone designated by him or her. A Council member may waive the right to receive such six-hour personal notice either by filing a written waiver with the Clerk or by attending such special meeting.

Rule III. Four members of Council shall be a quorum for the transaction of business at all meetings of Council, but, in the absence of a quorum, two members or more may adjourn a regular or special meeting to a later date.

Council may, by a vote of not less than two of its members, compel the attendance of its members and other officers of the City at its regular and special meetings and enforce orderly conduct therein. A member of Council or an officer of the City who refuses to attend such meetings or conduct himself or herself in an orderly manner thereat shall be deemed guilty of misconduct in office.

Rule IV. Members of the public shall be permitted to address a meeting of Council upon recognition by the Mayor. Each person shall begin by stating their name and address and shall be permitted to speak once on each agenda item for three minutes. The Mayor may allow additional time at his or her discretion.

(a) **PUBLIC HEARING COMMENT:** Where the Agenda provides Public Hearing comment, each person addressing the Council shall be limited to five minutes regarding the specific agenda Public Hearing item.

(b) **CALL TO THE PUBLIC:** Call to the Public, as specified under Rule XIII Order of Business, shall be restricted to comment on Non-Agenda items with a three minute time restriction.

(c) **ADDRESSING THE COUNCIL:** Members of the public desiring to address the Council by oral communication shall first secure the permission of the Mayor. Preference will be given to those persons who have notified the City Clerk in advance of a regular Council Meeting of their desire to speak in order that their name may be placed on the agenda. They will be recognized by the Mayor without further action.

(d) **MANNER OF ADDRESSING THE COUNCIL:** Each person addressing the Council shall approach the lectern, and may give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body, and not to any member. No person, other than members of the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through the members of the Council. No questions shall be asked the Council Members, except through the Mayor.

(e) **PERSONAL AND SLANDEROUS REMARKS:** Any person making personal, impertinent or slanderous remarks, or who shall become boisterous, while addressing the Council, may be requested to leave the lectern.

(f) **WRITTEN COMMUNICATIONS:** Interested parties, or their authorized representatives, may address the Council by written communication in regard to any matter concerning the City's business or over which the Council has control at anytime by direct mail or by addressing the City Clerk, and copies will be distributed to Council Members.

The Police Chief or, in their absence, the assistant in command of the Police Department, shall serve as the Sergeant-at-Arms of Council in the enforcement of this section.

Rule V. Council shall keep a journal in the English language of all its proceedings, which shall be signed by the Mayor and the City Clerk. A citizen or taxpayer of the City shall have access to the minutes and records of all regular and special meetings of Council at all reasonable times.

Rule VI. Every Council member present when a question is stated or a vote is called for on a resolution, motion, question or ordinance shall vote "yes" or "no". A roll call shall be taken any time the vote is not unanimous.

Roll call votes shall be conducted by the City Clerk, or designee, in such sequence so as to rotate the requirement of voting first to each Council member clockwise around the Council table, provided that the Mayor always votes last. All votes shall be recorded either as unanimous or as stating how each Council member voted if there was a call of the roll.

A Council member having a pecuniary interest in the outcome of the vote shall abstain from voting and state this as their reason.

Rule VII. The Mayor shall preside at all meetings of Council and maintain order. In his or her absence, the Mayor Pro Tem shall preside. The Mayor may speak on all points and shall decide questions of order, subject to an appeal. He or she shall be entitled to vote on all questions. He or she shall put all questions for a vote of Council. If both the Mayor and the Mayor Pro Tem are absent, the remaining Council members may, by majority vote, elect one of their members to preside at the meeting.

Rule VIII. The City Clerk, or someone designated by the City Manager, shall attend all meetings of Council and cause to be kept correct minutes of the proceedings. The Clerk shall cause such minutes to be typed, with copies thereof to be placed in the files of the Mayor and the Council members. Upon approval of the minutes by Council, one copy, certified by the Mayor and the Clerk, shall be kept by the Clerk as and for the official record of the proceedings of Council.

Rule IX. The City Clerk shall publish and/or post all ordinances or notices in accordance with the requirements of the statutes of the State and the City Charter and as directed by Council. The Clerk is hereby designated as the person to post notices of all meetings of Council.

Rule X. All ordinances or resolutions shall be filed in the City Clerk's office by 12:00 noon on Wednesday of the week before the meeting at which they are to be considered by Council. The Clerk shall prepare a list for each Council member, setting forth the order of business for the meeting and the matters to come before the meeting, together with a copy of each resolution or ordinance to be considered by Council at such meeting, which list shall be available and delivered to each Council member not later than midnight on the Thursday prior to the regular meeting each week.

Rule XI. All ordinances shall be in writing and shall be introduced in the following manner:

(a) Any member of Council may, at the time provided for the introduction of ordinances in the regular order of business, or at any time agreed to by the rest of Council, request the City Clerk to read the title of the proposed ordinance. After the Clerk has read the title of the proposed ordinance, any member may introduce the ordinance. An ordinance may be referred to by reference to the entire title of the ordinance or by a short title.

(b) No ordinance shall be adopted unless it has been introduced within sixty days of the date it is to be adopted. Unless otherwise provided by law, an ordinance shall be adopted when approved by a majority vote of Council after it has been moved and seconded that the ordinance, in its entirety and as amended, be adopted, and it may be referred to in such motion by its short title. However, an ordinance may not be adopted during the same meeting during which it was introduced unless it was declared an emergency ordinance.

(c) All resolutions considered by Council shall be in writing and numbered sequentially each year, and the resolution or a summary thereof shall be read before a vote is taken. Resolutions, motions and questions shall require a second before a vote is taken and shall require an affirmative vote of a majority of Council for adoption or passage, unless otherwise

provided by law.

Rule XII. The Mayor or a Council member may request that an ordinance or resolution be prepared by the City Attorney and that it be placed on the agenda for consideration by Council in accordance with this section. Upon receipt of such a request, the Attorney shall prepare such ordinance or resolution and file it with the City Clerk to be placed on the agenda for the meeting at which it is to be considered in accordance with such request.

Rule XIII. The order of business at meetings of Council shall be as follows, except when otherwise agreed to by the Council members:

- (a) Call to order and invocation;
- (b) Approval of minutes;
- (c) Call to the public;
- (d) Introduction of new ordinances;
- (e) Unfinished business;
- (f) New Business;
- (g) Resolutions;
- (h) Consideration/passage of previously introduced ordinances;
- (i) Reports from the City Manager and/or department heads;
- (j) Approval of bills and payroll; and (k) Adjournment.

Rule XIV. When a question is under debate, no motion shall be entertained except the following, and they shall have precedence in the order in which they are set forth herein:

- (a) To adjourn;
- (b) To lay on the table;
- (c) For the previous question;
- (d) To postpone to a certain day;
- (e) To refer;
- (f) To amend; and
- (g) To postpone indefinitely.

Rule XV. Insofar as Robert's Rules of Order are not inconsistent with the statutes of the State, the City Charter or this section, Robert's Rules of Order shall govern the proceedings of Council when applicable. The official edition of such Robert's Rules of Order shall be maintained at the office of the City Clerk.

Rule XVI. This section may be amended from time to time by a majority vote of Council.

Rule XVII. This section or any part thereof may be temporarily suspended only after an affirmative vote of two-thirds of the members of Council.

Rule XVIII. At the first meeting of each new Council following each regular biennial City election, the City Clerk shall call the meeting to order and shall preside. The Clerk shall, after calling the meeting to order, proceed to administer the oath of office to the Mayor and to all newly elected Council members, who shall thereupon assume their duties and places as Council members. Council shall thereupon select one of its members to serve as Mayor Pro Tem. The Mayor Pro Tem shall perform the duties of the Mayor when, on account of absence from the City, disability or otherwise, the Mayor is temporarily unable to perform the duties of his or her office, and, in case of vacancy in the office of Mayor, until such vacancy is filled by Council. If a vacancy occurs in the office of Mayor Pro Tem, Council shall appoint from its membership to fill such vacancy and, in a time of emergency, members of Council may act as Mayor Pro Tem in the order of the number of votes received by them at their election, until a Mayor Pro Tem is so appointed.

Rule XIX. Whenever a board, committee, authority, council, agency or organization requests or recommends that Council take action with respect to a matter, whether it be by motion, resolution or ordinance, such request shall be in writing and shall include satisfactory evidence showing that such request or recommendation has been approved by such board, committee, authority, council or the governing board of such agency or organization.

(Res. 07-06. Passed 3-26-07.)

## **210.02 AUDIO TAPE OF COUNCIL MEETINGS.**

Council meetings shall be recorded by audio tape as follows:

- (a) All Council meetings shall be taped by audio tape over the current public address system.

(b) The audio tape shall be used, where necessary, to compile the written minutes of Council.

(c) Copies of the audio tape will be available to members of the general public, at cost, upon request.

(d) The audio taped proceedings of all Council meetings shall not be used in lieu of, nor in substitution for, the written minutes of Council.

(e) The audio tapes shall be kept by the City and may be destroyed no sooner than ninety days after approval of the written minutes.

(Res. 95-3. Passed 2-6-95; Res. 07-06. Passed 3-26-07.)

## **CHAPTER 212**

### **Mayor**

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EDITOR'S NOTE: There are no sections in Chapter 212. This chapter has been established to provide a place for cross references and any future legislation.

#### **CROSS REFERENCES**

Duties of Mayor - see M.C.L. Sec. 5.4

Mayor Pro Tem - see M.C.L. Sec. 5.5

Mayors in home rule cities - see M.C.L. Sec. 117.3

Powers and duties re civil defense - see ADM.246.03

## **CHAPTER 214**

### **Ordinances and Resolutions**

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214.01 Numbering and indexing of resolutions.

214.02 Resolutions establishing fees, charges, fines or rates.

#### **CROSS REFERENCES**

General Municipal powers - see CHTR. Ch. 3

City legislation - see CHTR. Ch. 6

Ordinances in home rule cities - see M.C.L. Secs. 117.3, 117.5b

Enforcement - see M.C.L. Sec. 117.4i

Enactment - see M.C.L. Sec. 117.4j

Actions to recover fines and penalties - see M.C.L. Sec. 117.29

Codified Ordinances - see ADM. Ch. 202

#### **214.01 NUMBERING AND INDEXING OF RESOLUTIONS.**

(a) All resolutions henceforth enacted by Council shall be numbered, starting with this one, such that the first two digits of the number shall be the last two digits of the calendar year in which the resolution is enacted, followed by a hyphen, followed by consecutive numbers starting each year again with the number one.

(b) The City Clerk shall maintain an index in numerical order of all such resolutions from and after November 1, 1982, consisting of the resolution number, the date on which it was enacted, and a brief description of the contents of such resolution.

(Res. 82-1. Passed 11-1-82.)

#### **214.02 RESOLUTIONS ESTABLISHING FEES, CHARGES, FINES OR RATES.**

All resolutions henceforth enacted by Council whereby fees, charges, fines or rates are established for services rendered or for material or goods sold by the City, shall be introduced in written or printed form. Except in the case of resolutions establishing fees, charges, fines or rates, which are declared to be emergency resolutions, no such resolution shall be finally passed by Council at the same meeting during which it is introduced.



## TITLE SIX - Administration

### CHAPTER 220

#### City Manager

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EDITOR'S NOTE: There are no sections in Chapter 220. This chapter has been established to provide a place for cross references and any future legislation.

##### **CROSS REFERENCES**

City Manager - see CHTR. Sec. 7.1

Changing salary or emoluments during term of office see M.C.L. Sec. 117.5

Powers and duties re civil defense - see ADM.246.04

### CHAPTER 222

#### City Clerk

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EDITOR'S NOTE: There are no sections in Chapter 222. This chapter has been established to provide a place for cross references and any future legislation.

##### **CROSS REFERENCES**

City Clerk - see CHTR. Sec. 7.2

Deputy Clerk - see CHTR. Sec. 7.5

Filing charters or amendments thereto - see M.C.L. Sec. 117.24

Filing of initiative petitions - see M.C.L. Sec. 117.25

Apportionment of wards, copy of apportionment plan - see M.C.L. Sec. 117. 27a

### CHAPTER 224

#### City Attorney

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224.01 Conflicts of interest.

##### **CROSS REFERENCES**

City Attorney - see CHTR. Sec. 7.3

Legal advisor - see M.C.L. Sec. 87.20

Membership in Board of Election Commissioners - see M.C.L. Sec. 168.25

Duties re animals at large - see M.C.L. Secs. 433.53, 433.62

Service of process - see M.C.L. Sec. 600.1925

#### **224.01 CONFLICTS OF INTEREST.**

(a) Council desires to arrange for the administrative handling of minor conflicts of interest between the City Attorney's office and private clients when such conflicts of interest arise from time to time out of the issuance of citations alleging traffic and other ordinance violations to be tried in the District Court.

(b) The Police Department shall, whenever possible under State law, reissue the citation alleging the same violation under State statute so that the matter which would otherwise be a conflict of interest for the City Attorney's office can be prosecuted by the County Prosecuting Attorney.

(c) When there is no comparable State statute for the violation of these Codified Ordinances alleged in the citation, the City Manager is hereby authorized to assign the prosecution of that case to outside counsel, being a lawyer or law firm located within the County, giving preference to a lawyer or law firm having experience in the prosecution of municipal ordinance violations, provided that this delegation of authority to the City Manager shall apply only to traffic and other ordinance violations triable in the Fifty-Third District Court.

(Res. 87-31. Passed 12-21-87.)

## **CHAPTER 226**

### **City Treasurer**

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226.01 Public Employee Health Care Fund.

226.02 ACH and electronic transactions policy.

#### **CROSS REFERENCES**

City Treasurer - see CHTR. Sec. 7.4

Deputy Treasurer - see CHTR. Sec. 7.5

Justices of the Peace to turn moneys collected over to City Treasurer - see M.C.L. Sec. 117.31

Deposit of public funds - see M.C.L. Secs. 129.11 et seq.

Collection of municipal income taxes - see M.C.L. Sec. 141.671

Tax Increment Finance Authority - see B.R. & T.Ch. 896

#### **226.01 PUBLIC EMPLOYEE HEALTH CARE FUND.**

(a) There is hereby established in and for the City a Public Employee Health Care Fund.

(b) The City Clerk/Treasurer, the City Manager and the Deputy Clerk shall be the Fund's investment fiduciary.

(c) Withdrawals from the Fund shall be restricted solely to the payment of health care benefits on behalf of qualified persons and the payment of the expenses of administration of the Fund.

(d) Retirees of the City who are eligible for health care benefits paid for by the City under the terms of the Personnel Policies Manual or collective bargaining agreements are hereby designated as qualified persons for purposes of payment of health care benefits from the Fund.

(e) The Fund will be established on a non-actuarial basis.

(f) The investment fiduciary shall invest the assets of the Fund in accordance with the City's investment policy and/or Section 13 of the Public Employee Retirement System Investment Act, 1965 PA 314, M.C.L.A. 38.1133.

(Res. 00-44. Passed 11-20-00.)

#### **226.02 ACH AND ELECTRONIC TRANSACTIONS POLICY.**

The following policy shall govern the use of electronic transactions and ACH arrangements for the City of Howell:

(a) Authority to Enter into ACH Agreements and Electronic Transfer of Public Funds.

(1) The Treasurer or ETO may enter into an ACH agreement as provided by Act 738 of the Public Acts of 2002, effective December 30, 2002. The City of Howell has adopted Resolution 03-26 authorizing electronic transactions and approving this policy. Applicable definitions in the Act shall apply.

(2) An ACH arrangement under Act 738 of the Public Acts of 2002 is not subject to the Revised Municipal Finance Act, Act 334 of the Public Acts of 2001, M.C.L.A. Sections 141.2101 to 141.2821, or to provisions of law or charter concerning the issuance of debt by the City.

(b) Responsibility for ACH Agreements. The Treasurer or ETO shall be responsible for all ACH agreements, including payment approval, accounting, reporting and generally overseeing compliance with the ACH policy. The Treasurer or ETO shall submit to the City of Howell documentation detailing the goods or services purchased, the cost of goods or services, the date of the payment and the department levels serviced by payment. This report can be contained in the electronic general ledger software system or in a separate report to the governing body.

(c) Internal Accounting Controls to Monitor Use of ACH Transactions.

(1) The Treasurer or ETO shall be responsible for the establishment of ACH agreements. The Treasurer or ETO shall notify the person responsible for approval and payment of those accounts to be paid by ACH or electronic transfers.

(2) Upon receipt of an invoice for payment for accounts paid by ACH, the person responsible for approval and payments all approve payment and notify the Treasurer or ETO of the date of debt to the City accounts. Accounts payable by this method may include utility and recurring lease payments. These payments shall be included on the report of payments to the City of Howell. All other invoices approved by the person responsible for approval and payment and payable by ACH may be paid in that matter if deemed in the best interest of the City of Howell to avoid a late fee.

(3) For payment of State and Federal payroll taxes, the Treasurer or ETO shall initiate payment to the proper authority upon receipt of the information from the payroll department and established EFTPS and state program.

(4) For deposits from state, county and/or federal authorities, and from third-party payment processors, e.g. banks/vendors, the Treasurer or ETO shall obtain the amount of the deposit and send an advice to the person responsible for accounting records.

(5) All invoices shall be held by the person charged with keeping the records along with copies of payment advices.  
(Res. 03-26. Passed 12-1-03.)

## **CHAPTER 228**

### **City Assessor**

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EDITOR'S NOTE: There are no sections in Chapter 228. This chapter has been established to provide a place for cross references and any future legislation.

#### ***CROSS REFERENCES***

City assessor - see CHTR. Sec. 7.6

Tax Assessors in home rule cities - see M.C.L. Sec. 117.3

Crimes and offenses - see M.C.L. Secs. 211.116, 211.150

Perjury - see M.C.L. Sec. 211.118

Special assessments - see B.R. & T.Ch. 892

Tax Increment Finance Authority - see B.R. & T.Ch. 896

## **CHAPTER 230**

### **Purchasing Agent**

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230.01 Establishment of office; appointment.

230.02 General duties.

230.03 Purchases not made through Agent prohibited.

230.04 Specific duties.

230.05 Requisitions.

230.06 Completion of purchase contingent on sufficient balance.

230.07 Competitive bidding.

230.08 Records of purchases.

230.09 Cooperative purchase plans.

230.10 Policy re recycled products.

#### ***CROSS REFERENCES***

General finance; budget procedure - see CHTR.Ch. 11

Borrowing power - see CHTR.Ch. 13

Contracts - see CHTR. Sec. 15.3

Franchises - see CHTR. Sec. 15.5

### **230.01 ESTABLISHMENT OF OFFICE; APPOINTMENT.**

There is hereby established the office of Purchasing Agent, under the direction and control of the City Manager. The Manager shall designate himself or herself or another officer of the City not affiliated with the City Treasurer's office to act as the Purchasing Agent. The duties of the Purchasing Agent are as set forth in this chapter.

### **230.02 GENERAL DUTIES.**

The Purchasing Agent shall purchase or contract for all supplies, materials, equipment and contractual services needed by all departments, boards, commissions and other agencies which derive their funds wholly or in part from City funds and which are referred to as using agencies in this chapter.

(Ord. 166. Passed 1-28-57.)

### **230.03 PURCHASES NOT MADE THROUGH AGENT PROHIBITED.**

Except as otherwise provided in this chapter, no City officer or using agency shall order the purchase of supplies or make a contract within the purview of this chapter other than through the Purchasing Agent. No purchase order or contract made contrary to this section shall be approved by City officials, and the City shall not be bound thereby.

(Ord. 166. Passed 1-28-57.)

### **230.04 SPECIFIC DUTIES.**

In addition to the purchasing authority conferred in Section 230.02 and in addition to any other powers conferred by this chapter, the Purchasing Agent shall:

- (a) Act to procure for the City the highest quality in supplies and contractual services at the least expense to the City;
- (b) Endeavor to obtain as full and open competition as possible on all purchases and sales;
- (c) Be responsible for the sale of City-owned personal property;
- (d) Establish and amend, when necessary, all rules and regulations authorized by this chapter and any other rules and regulations necessary to its administration and enforcement;
- (e) Prescribe and maintain such forms as he or she finds reasonably necessary to the administration and enforcement of this chapter;
- (f) Exploit the possibilities of buying in sufficient substantial quantities to take full advantage of available discounts;
- (g) Act to procure for the City all tax exemptions to which it is entitled;
- (h) Have the authority to declare vendors, who default on their quotations, irresponsible bidders and to disqualify them from receiving any business from the City for a stated period of time; and
- (i) Prepare standard and written specifications for supplies used by the various branches of the City government.

(Ord. 166. Passed 1-28-57.)

### **230.05 REQUISITIONS.**

Every using agency, either by or with the authorization of the head of the department under which it operates, shall file with the Purchasing Agent detailed requisitions of its requirements in supplies and contractual services in such manner, at such times and for such future periods as the Agent prescribes. The Agent shall examine each requisition and may revise it as to quantity, quality or estimated cost.

(Ord. 166. Passed 1-28-57.)

### **230.06 COMPLETION OF PURCHASE CONTINGENT ON SUFFICIENT BALANCE.**

Except in cases of emergency, the Purchasing Agent shall not issue any order for delivery on a contract or open market purchase until the City Clerk has certified, after pre-audit, that there is to the credit of the using agency concerned a sufficient unencumbered appropriation balance, in excess of all unpaid obligations, to defray the amount of such order.

(Ord. 166. Passed 1-28-57.)

### **230.07 COMPETITIVE BIDDING.**

(a) All purchases of and contracts for supplies and contractual services, and all sales of personal property which has become obsolete and unusable, shall, except as otherwise specifically provided in this chapter, be based, wherever possible, on competitive bids. If the amount of any proposed expenditure or sale is estimated to exceed ten thousand dollars (\$10,000), the Purchasing Agent shall, unless otherwise approved by Council, solicit sealed bids, and, when deemed necessary by the Agent, such bids shall be accompanied by surety in the form of a check, cash or bond in such amount as prescribed in the notice inviting bids. All bids shall be submitted sealed and shall be opened at the time and place stated in the notice. A tabulation of the bids shall be submitted to Council, and no purchase order shall be written until the tabulation

has been approved by Council. The Agent may reject any or all bids when the public interest will be served thereby.

(b) The requirement for sealed bids as provided in subsection (a) hereof shall not apply for professional services, emergency repairs or services, a continuation of services and transactions between governmental units, unless Council deems the same to be necessary.

(Ord. 655. Passed 9-15-97; Ord. 725. Passed 4-22-02.)

### **230.08 RECORDS OF PURCHASES.**

The Purchasing Agent shall keep adequate records of all purchase transactions, and such records shall be open to public inspection.

(Ord. 166. Passed 1-28-57.)

### **230.09 COOPERATIVE PURCHASE PLANS.**

The Purchasing Agent may join with other units of government in cooperative purchase plans when the best interests of the City will be served thereby.

(Ord. 166. Passed 1-28-57.)

### **230.10 COOPERATIVE PURCHASE PLANS.**

(a) It shall be the policy of the City to purchase and use recycled products whenever possible to the extent that such use does not negatively impact health, safety or operational efficiency.

(b) All procurement procedures and specifications shall clearly indicate a preference for recycled products.

(c) Recycled products will be purchased when quality and performance are not compromised and the cost differential between such products and products made with raw materials does not exceed ten percent, with a maximum difference of one thousand dollars (\$1,000) per contract.

(d) All purchases in excess of five thousand dollars (\$5,000) will require City Council approval. In all cases requiring Council approval, Council shall reserve the right to make the purchase that Council judges to be in the best interests of the City.

(e) In evaluating recycled products for purchase, preference shall be given to products meeting recommended minimum content amounts as specified from time to time by the State of Michigan and/or the Federal Government. A copy of the current EPA minimum content standards for paper products is attached to original Resolution 92-2, passed February 24, 1992, as Exhibit A. Preference shall also be given to those products having the highest percentage of post-consumer recovered material. Post-consumer recovered material is defined as a finished material which would normally be disposed of as a solid waste, having completed its life goal as a consumer item. Examples of post-consumer recovered materials include, but are not limited to, used newspaper, office paper, yard waste, plastic bottles, oil, asphalt, concrete and tires.

(f) The City will cooperate with Livingston County and other governmental agencies and non-profit groups in the development of programs and procedures which will further this policy.

(Res. 92-2. Passed 2-24-92; Ord. 725. Passed 4-22-02.)

## **CHAPTER 232**

### **Department of Public Safety**

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232.01 Establishment, supervision and responsibilities.

#### **CROSS REFERENCES**

Building Department - see ADM. Ch. 234

Police Department - see ADM. Ch. 236

Fire Department - see ADM. Ch. 238

Department of Civil Defense - see ADM. 246.02

#### **232.01 ESTABLISHMENT, SUPERVISION AND RESPONSIBILITIES.**

Pursuant to Section 4.2 of the City Charter, there is hereby established in and for the City a Department of Public Safety. The Department shall be in the immediate charge of a Director of Public Safety who shall be responsible directly to the City Manager. The Director shall be responsible for the coordination and general supervision of the work of the Police Department, the Fire Department, the Building Department and the Department of Civil Defense. (Res. Unno. Passed 11-19-56.)

## CHAPTER 234 Building Department

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EDITOR'S NOTE: There are no sections in Chapter 234. This chapter has been established to provide a place for cross references and any future legislation.

### **CROSS REFERENCES**

- Building code in home rule cities - see M.C.L. Sec. 117.3
- Management and control of municipal buildings and grounds - see M.C.L. Sec. 117.4j
- Enforcement of Zoning Code - see P. & Z.Chapter 1240 (Zoning Code)
- Building permits and certificates of occupancy - see P. & Z.Chapter 1240 (Zoning Code)
- Enforcement of State Construction Code - see B. & H.1410.05
- Authority of Building Inspector re flood hazards - see B. & H.1440.02 et seq.
- Building Authority - see ADM. Ch. 283

## CHAPTER 236

### Police Department

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236.01 Reserve Police Force.

### **CROSS REFERENCES**

- Police Department - see CHTR. Sec. 7.7
- Enforcement of laws - see M.C.L. Sec. 117.4i
- Arrests - see M.C.L. Sec. 117.34
- Jurisdiction outside City limits - see M.C.L. Sec. 117.34
- Assistance of Fire Department - see ADM. 238.05
- False police reports - see GEN. OFF.662.01(b)(13)
- Cost recovery for responses to emergencies - see TRAF Ch. 450

### **236.01 RESERVE POLICE FORCE.**

(a) There is hereby established a Reserve Police Force for the City for the purposes of assisting the regular Police Department, training for civil defense and being available to serve during any emergency period which may arise in the City.

(b) The members of the Reserve Police Force shall be designated by the City Manager, and persons applying for such membership shall be recommended by the Chief of Police to the Manager. All members shall be at least twenty-one years of age, shall be residents of the County and shall serve at the pleasure of the Manager.

(c) Members shall serve without compensation, except for special functions as designated by the Chief. Their functioning shall be under the management, supervision and control of the City Manager, but they shall be under the immediate direction of the Chief.

(d) While on duty, members of the Reserve Police Force shall have the same duties and authority as members of the Police Department under the ordinances of the City and the statutes of the State, except for any contrary ruling which may be made by the Michigan Law Enforcement Officers Training Council.

(Ord. 384. Passed 8-27-79.)

## CHAPTER 238

### Fire Department

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- 238.01 Composition; qualifications of Chief.
- 238.02 Duties of Chief.
- 238.03 Appointment, qualifications and discharge of members; compensation.

238.04 Apparatus and equipment.

238.05 Enforcement; police and other peace officers to assist Department.

238.06 Social officers.

### **CROSS REFERENCES**

Fire Department - see CHTR. Sec. 7.8

Firemen's Retirement System - see M.C.L. Secs. 38.551 et seq.

Borrowing money for fire protection - see M.C.L. Sec. 117.4a

Fire stations - see M.C.L. Sec. 117.4e

Right of way of Fire Department vehicles - see TRAF. 440. 04

False fire alarms - see GEN. OFF.662.01(b)(12)

Cost recovery for responses to emergencies - see TRAF.Ch. 450

### **238.01 COMPOSITION; QUALIFICATIONS OF CHIEF.**

(a) The Fire Department shall consist of a Fire Chief, an Assistant Fire Chief, a Fire Warden and such other officers and men as the Chief and Council may deem necessary for the effective operation of the Department. The Chief may also be the Fire Warden.

(b) The Chief shall be technically qualified by training and experience and shall have the ability to command men and women and hold their respect and confidence. (Ord. 134. Passed 2-7-50.)

### **238.02 DUTIES OF CHIEF.**

(a) The Fire Chief shall formulate a set of rules and regulations to govern the Fire Department and shall be responsible to the City Manager for the personnel, morale and general efficiency of the Department. (Adopting Ordinance)

(b) The Chief shall determine the number and kind of companies of which the Department is to be composed and shall determine the response of such companies to alarms.

(c) The Chief shall, at least once a month, conduct suitable drills or instruction in the operation or handling of equipment, first aid and rescue work, salvage, a study of buildings in the City, fire prevention, water supplies and all other matters generally considered essential to good firemanship and safety of life and property from fire.

(d) The Chief shall assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the cause, origin and circumstances of all fires.

(e) The Chief or his or her authorized assistant is hereby authorized to enter any and all buildings and premises at any reasonable hour for the purpose of making inspections and to serve written notice upon the owner or occupant thereof to abate, within a specified time, all fire hazards that may be found.

(f) Any person served with such a notice shall comply therewith and promptly notify the Chief.

(g) The Chief shall see that complete records are kept of all fires, inspections, apparatus, minor equipment, personnel and other information about the work of the Department.

(h) The Chief shall report monthly to Council the condition of the apparatus and equipment of the Department; the number of fires during the preceding month, their location, cause and date and the loss occasioned thereby; the number and purpose of all other runs made; the number of members responding to each fire or other run; and any changes in membership.

(i) The Chief shall make a complete annual report to Council within one month after the close of the fiscal year, such report to include the information specified in subsection (g) hereof, together with comparative data for previous years and recommendations for improving the effectiveness of the Department.

(Ord. 134. Passed 2-7-50.)

### **238.03 APPOINTMENT, QUALIFICATIONS AND DISCHARGE OF MEMBERS; COMPENSATION.**

(a) The Fire Department shall consist of such persons as may be appointed by the Fire Chief. They shall be able-bodied persons, preferably residing within the City and preferably property owners whose business activities are normally within the confines of the City, who have telephones in their homes.

(b) Any member of the Department may be suspended or discharged from the Department by the Chief at any time he or she may deem such action necessary for the good of the Department.

(Ord. 134. Passed 2-7-50.)

(c) The compensation of the Chief shall be set by the City Manager. The compensation of all other members of the

Department shall be fixed by resolution of Council.

#### **238.04 APPARATUS AND EQUIPMENT.**

(a) The Fire Department shall be equipped with such apparatus and equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire.

(b) All apparatus and equipment of the Department shall be safely and conveniently housed in such places as may be designated by Council. Such places shall be heated during the winter.

(Ord. 134. Passed 2-7-50.)

#### **238.05 ENFORCEMENT; POLICE AND OTHER PEACE OFFICERS TO ASSIST DEPARTMENT.**

(a) All regularly appointed members of the Fire Department are hereby given the necessary special police powers for the purpose of enforcing the provisions of this chapter and the Fire Prevention Code.

(b) The Chief of Police and/or other peace officers who may be on duty and available for fire duty shall respond to all fire alarms and assist the Fire Department in protecting life and property, regulating traffic, maintaining order and in enforcing observance of this chapter and the Fire Prevention Code. (Ord. 134. Passed 2-7-50.)

#### **238.06 SOCIAL OFFICERS.**

(a) The Fire Department may elect a President, Vice President, Secretary and Treasurer to be known as social officers. Such officers may be elected in any manner and for any term the membership of the Fire Department may decide upon, and their duties shall be to arrange for and manage all social functions sponsored by the Department.

(b) The functions and duties of such officers shall not interfere with those of the regular Department officers who are charged with responsibility for all fire service activities of the Department.

(Ord. 134. Passed 2-7-50.)

## **CHAPTER 239 Department of Parks and Cemetery**

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EDITOR'S NOTE: There are no sections in Chapter 239. This chapter has been established to provide a place for cross references and any future legislation.

### **CROSS REFERENCES**

Parks and recreational facilities - see S.U. & P.S.Ch. 1062

Cemeteries - see S.U. & P.S.Ch. 1064

## **CHAPTER 240**

### **Department of Public Works**

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240.01 Director.

### **CROSS REFERENCES**

Special assessments - see CHTR. Ch. 14

Improvements in home rule cities - see M.C.L. Secs. 117.4d et seq.

Approval of public works projects by Planning Commission - see M.C.L. Secs. 125.39, 125.40

#### **240.01 DIRECTOR.**

The Director of Public Works shall be appointed by and responsible to the City Manager. (Ord. 392. Passed 1-28-80.)

## **CHAPTER 242**

### **Water Department**

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EDITOR'S NOTE: There are no sections in Chapter 242. This chapter has been established to provide a place for cross references and any future legislation.



### **CROSS REFERENCES**

Contracts; franchises; permits - see CHTR. Ch. 15

Municipal utilities - see CHTR. Ch. 16

Water - see S.U. & P.S.Ch. 1040

Water and sewerage rates and management - see S.U. & P.S.Ch. 1044

## **CHAPTER 243**

### **Wastewater Treatment Department**

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EDITOR'S NOTE: There are no sections in Chapter 243. This chapter has been established to provide a place for cross references and any future legislation.

### **CROSS REFERENCES**

Sewers - see S.U. & P.S. Ch. 1042

Water and sewerage rates and management - see S.U. & P.S.Ch. 1044

## **CHAPTER 244**

### **Economic Development Corporation**

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EDITOR'S NOTE: There are no sections in Chapter 244. This chapter has been established to provide a place for cross references and any future legislation.

### **CROSS REFERENCES**

Department of Economic Expansion - see M.C.L. Secs. 125.1201 et seq.

Economic Expansion Council - see M.C.L. Sec. 125.1207

Regional economic development commission - see M.C.L. Secs. 125.1231 et seq.

Economic development corporations - see M.C.L. Secs. 125.1601 et seq.

Tax Increment Finance Authority Act - see M.C.L. Secs. 125.1801 et seq.

Economic and Social Opportunity Act - see M.C.L. Secs. 400.1101 et seq.

## **CHAPTER 246**

### **Civil Defense**

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EDITOR'S NOTE: A Manual for Handling Emergency or Disaster Situations has been prepared by the Chief of Police, in conjunction with the County Civil Defense Director. Copies of the First Edition (May 1, 1981) are available, at cost, from the City Clerk.

246.01 Definitions.

246.02 Department of Civil Defense.

246.03 Powers and duties of the Mayor.

246.04 Powers and duties of the City Manager.

246.05 Powers and duties of the Director of Civil Defense.

246.06 Civil defense and disaster control plan.

246.07 Conflicts.

246.08 Violations.

246.99 Penalty.

## **CROSS REFERENCES**

Civil Defense Department as part of the Department of Public Safety - see ADM.232.01

Flood hazards - see B. & H.Ch. 1440

### **246.01 DEFINITIONS.**

As used in this chapter:

(a) "Civil defense" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, for protection against, and to minimize and repair injury and damage resulting from, enemy attack, sabotage or other hostile action or natural disaster.

(b) "Natural disaster" means any condition seriously affecting or threatening public health, welfare or security as a result of a severe fire, explosion, flood, tornado, hurricane or similar natural or accidental cause and which is beyond the control of public or private agencies ordinarily responsible for the control of relief of such conditions. Riots, strikes, insurrections and other civil disturbances are not included within the meaning of "natural disaster."

(c) "Emergency" means a condition resulting from enemy attack or natural disaster which cannot be handled by normal operating personnel and facilities.

(d) "Civil defense volunteer" means any person who serves without compensation in the civil defense organization.

(Ord. 168. Passed 3-25-57.)

### **246.02 DEPARTMENT OF CIVIL DEFENSE.**

A Department of Civil Defense is hereby established utilizing to the fullest extent personnel and facilities of existing City departments and agencies. The City Manager shall be responsible for its organization, administration and operation. The organization shall consist of the following:

(a) A Department of Civil Defense within the administrative organization of the City government. There shall be an executive head of the Department, appointed by the City Manager subject to confirmation by Council, who shall be known as the Director of Civil Defense, and such assistants, clerical help, other employees and civil defense volunteers as are deemed necessary to the proper functioning of the organization. The position of Director of Civil Defense may be combined with any other position in the administrative service of the City.

(b) Such deputy directors and coordinators as may be deemed necessary to furnish adequate supervision to the several civil defense functions. These shall, so far as possible, be additional duty assignments to existing personnel, and it is the intent of this chapter that civil defense and disaster assignments shall be as nearly consistent with normal duty assignments as possible.

(c) The employees, equipment and facilities of all City departments and agencies for, or adaptable to, civil defense and designated by the City Manager to participate in the civil defense activity; and

(d) Civil defense volunteers, including persons and private agencies or governmental units offering services to the organization.

(Ord. 168. Passed 3-25-57.)

### **246.03 POWERS AND DUTIES OF THE MAYOR.**

(a) In the event of actual or threatened enemy attack or natural disaster, the Mayor or, in his or her absence or inability to serve, the Mayor Pro-tem as conservator of the peace, shall:

(1) Declare a state of emergency within the City thereby placing in effect the civil defense and disaster control plan required by this chapter;

(2) As soon as possible thereafter, convene Council to perform its legislative and administrative functions as the situation may demand. Council shall have the power to terminate the state of emergency.

(3) Request the State, its agencies or political subdivisions to send aid if the situation is beyond the control of the regular and emergency City forces;

(4) Have the power to command services and the use of equipment and facilities for such work and duties as the City may require to aid the regular and volunteer City forces in time of emergency; and (

(5) Promulgate such emergency regulations as may be deemed necessary to protect life and property and conserve critical resources. Such regulations may be invoked when necessary for tests of the civil defense and disaster plan. All such regulations shall be subject to the approval of Council as soon as practical subsequent to their promulgation.

(b) The Mayor or, in his or her absence or inability to serve, the Mayor Pro-tem, is hereby authorized to order civil defense forces to the aid of the State or political subdivisions thereof, subject to Council's review as soon as practical thereafter.

(Ord. 168. Passed 3-25-57.)

#### **246.04 POWERS AND DUTIES OF THE CITY MANAGER.**

The City Manager:

(a) Shall, through the Director of Civil Defense, maintain general supervision over planning and administration for the civil defense organization and the execution of the civil defense and disaster plan. He or she shall coordinate the civil defense activities and make emergency assignments of civil defense duties and civil defense forces in order to meet situations not covered in the normal duties of such forces.

(b) May take all necessary action to conduct tests of the civil defense and natural disaster plan;

(c) Shall, through the Director of Civil Defense, when a state of emergency has been declared, assemble and utilize civil defense forces and prescribe the manner and conditions of their use; and

(d) Shall designate a line of succession among his or her department heads to carry out the powers and duties of this section in the event of his or her absence or inability to serve.

(Ord. 168. Passed 3-25-57.)

#### **246.05 POWERS AND DUTIES OF THE DIRECTOR OF CIVIL DEFENSE.**

The Director of Civil Defense:

(a) Shall be the executive head of the Department of Civil Defense and have responsibility for the organization, administration and operation of the civil defense and disaster control organization under the direction and control of the City Manager;

(b) Shall be responsible for public relations, information and education regarding all phases of civil defense;

(c) Shall be responsible for the development of a civil defense and disaster control plan and, upon adoption, be responsible for such implementation and revision of the plan as to maintain it in a current state of readiness at all times;

(d) Shall coordinate all activities for civil defense and disaster control and maintain liaison and cooperate with all other interested and affected agencies, public and private;

(e) Shall coordinate the recruitment and training of volunteer personnel and agencies to augment the personnel and facilities of the City for civil defense purposes; and

(f) May issue proper insignia and papers to civil defense workers and other people directly concerned with civil defense.

(Ord. 168. Passed 3-25-57.)

#### **246.06 CIVIL DEFENSE AND DISASTER CONTROL PLAN.**

As soon as practical after the enactment of this chapter (Ordinance 168, passed March 25, 1957), a comprehensive civil defense and disaster control plan shall be adopted by resolution of Council upon the recommendation of the City Manager. In the preparation of this plan, as it pertains to City organization, the services, equipment, facilities and personnel of all existing departments and agencies shall be utilized to the fullest extent possible. When approved, it shall be the duty of all Municipal departments and agencies to perform the functions and duties assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times.

(Ord. 168. Passed 3-25-57.)

#### **246.07 CONFLICTS.**

At all times when the orders, rules and regulations made and promulgated pursuant to this chapter are in effect, they shall supersede all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

(Ord. 168. Passed 3-25-57.)

#### **246.08 VIOLATIONS.**

No person shall willfully obstruct, hinder or delay the civil defense organization in the enforcement of any rule or regulation issued pursuant to this chapter, or do any act prohibited by any rule or regulation issued pursuant to this chapter, or wear, carry or display any emblem, insignia or other means of identification as a member of the civil defense organization of the City unless authority to do so has been granted to such person by the proper officials. (Ord. 168. Passed 3-25-57.)

#### **246.99 PENALTY.**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

## **Employees Generally**

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EDITOR'S NOTE: Personnel Rules have been promulgated for officers and employees of the City, providing for, inter alia, fringe benefits, grievance procedures, disciplinary action and other incidents of employment. Copies of the same, dated June 26, 1961, with amendments, are available, at cost, from the City Clerk.

Because of the frequency of change, provisions relating to compensation are not codified. Copies of the latest relevant legislation may be obtained, at cost, from the City Clerk.

- 248.01 Social security.
- 248.02 Eligibility for benefits; temporary employees excluded.
- 248.03 Equal employment- affirmative action policy.
- 248.04 Handicapped grievance procedure.
- 248.05 Retirement pensions.

### **CROSS REFERENCES**

General provisions affecting officers of the City - see CHTR. Ch. 4

Nepotism - see CHTR. Sec. 7.9

Civil service - see CHTR. Sec. 7.10

Pension plan - see CHTR. Sec. 7.11

Employee welfare benefits - see CHTR. Sec. 7.12

Municipal Employees Retirement System - see M.C.L.A Secs. 38.601 et seq.

Compensation and salaries in home rule cities - see M.C.L. Secs. 117.3, 117.5, 117.17, 117.19, 117.20, 117.28, 117.32, 117.33

Civil service in home rule cities - see M.C.L. Sec. 117.4i

Shortening or extending term of office - see M.C.L. Sec. 117.5

Public Employees Health Care Fund - see ADM.226.01

### **248.01 SOCIAL SECURITY.**

(a) Council hereby elects coverage under the Old Age and Survivors' Insurance, as provided by Act 205 of the Public Acts of 1951, as amended.

(b) The City Clerk is hereby authorized and directed, on behalf of the City, to enter into agreement with the department for the extension of the benefits under Title II of the Social Security Act, subject to the provisions of Sec. 8 of Act 205 of the Public Acts of 1951, as amended.

(c) The proper fiscal officers are hereby authorized to make all required payments into the Contribution Fund established by the Enabling Act and to establish such system of payroll deductions from the salaries of employees and officers as may be necessary to their coverage under the Old Age and Survivors' Insurance system.

(d) The proper officials of the City shall do all things necessary to the continued implementation of such system.

(e) Any funds payable to the City from any department of the State may be withheld by such department and transferred to the State Employees' Retirement Board to be used in the payment of any default on the part of the City in accordance with paragraph Vc of the contract between the State and the City.

(f) The following positions are hereby designated as those which are to be excluded: Part-time employees, employees paid on a contract or fee basis and students.

(g) For the purpose of carrying out the provisions of Title II, Sec. 218, of the Federal Social Security Act, as amended, the agreement entered into between the State Agency, with the approval of the Attorney General, and the Social Security Administrator, is hereby made a part of this resolution and shall be termed as an agreement between the City and the State Agency and shall become a part of the agreement or modification of the agreement between the State and the Social Security Administrator.

(Res. Unno. Passed 12-22-51.)

### **248.02 ELIGIBILITY FOR BENEFITS; TEMPORARY EMPLOYEES EXCLUDED.**

(a) Employees of the City must work at least ten days at eight or more hours per day per month to qualify for retirement benefits.

(b) Temporary and seasonal part-time employees are excluded from enrollment in the Municipal Employees' Retirement

System, regardless of the number of hours worked.

(Res. 84-18. Passed 6-25-84.)

#### **248.03 EQUAL EMPLOYMENT-AFFIRMATIVE ACTION POLICY.**

The City hereby adopts an affirmative action plan. In adopting such plan, the City commits itself to the principles of equal employment opportunity in all phases of its employment practices and procedures. It is the intent of the City, in adopting this plan, to ensure that the equal employment opportunity policies and concepts are adopted as official City policy and are translated into operational realities.

Equal employment opportunity is the right of all people to work and advance on the basis of true merit, ability and potential without reference to race, color, age, religion, sex, national origin, handicap, height, weight or marital status. In addition to being a moral commitment, equal opportunity recognizes the full utilization of human resources as a necessary principle. The City has an obligation which extends to all segments of the community to ensure that these principles of equal opportunity and greater utilization of human resources and potential are fairly and equitably applied.

(Res. Unno. Passed 1-12-81.)

#### **248.04 HANDICAPPED GRIEVANCE PROCEDURE.**

(a) Coordinator. If a handicapped person has a grievance arising out of the course of his or her community participation or employment, the matter shall first be taken up with the coordinator by the aggrieved person. Such grievance must be presented in written form (provided by the coordinator) to the coordinator within three business days of the aggrieved person's knowledge of the cause for the grievance.

An oral decision by the coordinator must be given within one day or, at the request of the aggrieved person, a written decision must be given within three business days.

(b) Appeal to City Manager. If no satisfactory settlement is obtained from the coordinator, the aggrieved person may submit the matter to the City Manager. In this step the grievance shall be presented in writing and a written decision shall be given the aggrieved person within three business days.

(c) Appeal to Mayor and Council. If the grievance is not adjusted pursuant to subsection (b) hereof, the aggrieved person may appeal the grievance to the Mayor and Council.

(d) Records. The City Clerk shall keep records of all proceedings for a period of ten years as suggested by the Michigan Municipal Records Management Bulletin No. 104 of 1984.

(Res. 84-32. Passed 10-29-84.)

#### **248.05 RETIREMENT PENSIONS.**

(a) The City hereby elects to pick up Michigan Municipal Employees' Retirement System (MERS) members' contributions as provided by the Internal Revenue Code. Such picked up contributions shall be remitted directly by the City to the MERS. Further contributions remitted are designated as employer contributions for purposes of the Retirement System which are being paid by the City in lieu of the employee contribution requirements, and the employees will not be given the option to receive the contributed amounts directly instead of having them paid to the pension plan.

A copy of this subsection shall be filed with the MERS and the City Payroll Officer for purposes of implementing this action.

(Res. 94-14. Passed 9-19-94.)

(b) The City hereby elects to provide the MERS Plan B-3 for all its non-union employees, for the employees in the AFSCME Bargaining Unit and for its Chiefs, Lieutenants and Sergeants Group. As part of this change, employees will also contribute to the retirement plan on a phased-in basis. Employees will make a one percent contribution in fiscal year 1994, a 1.5 percent contribution in fiscal year 1995 and a two percent contribution in fiscal year 1996 and all years thereafter. This change will take effect beginning October 1, 1994. Effective May 10, 1999, all general non-union employees of the City shall make a 4.27 percent contribution to the retirement plan.

A copy of this subsection shall be filed with the MERS and the City Payroll Officer for purposes of implementing this action.

(Res. 94-15. Passed 9-19-94; Res. 99-15. Passed 5-10-99.)

(c) The City hereby elects to provide the MERS Plan B-3 for all its police union (POAM) employees. As part of this change, employees will also contribute to the retirement plan on a phased in basis. Employees will make a 0.5 percent contribution in fiscal year 1997/98, a 1.0 percent contribution in fiscal year 1998/99, a 1.5 percent contribution in fiscal year 1999/00, and a 2.0 percent contribution in all years thereafter. This change will take effect beginning July 1, 1997.

A copy of this subsection shall be filed with the Michigan Municipal Employees' Retirement System and the City Payroll Officer for purposes of implementing this action. (Res. 97-27. Passed 11-24-97.)

## CHAPTER 260

### Planning Commission

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EDITOR'S NOTE: Provisions relating to the Planning Commission are codified in Chapter 1210 of Part Twelve - the Planning and Zoning Code.

## CHAPTER 262

### Board of Zoning Appeals

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EDITOR'S NOTE: Provisions relating to the Board of Zoning Appeals are codified in Part Twelve - the Planning and Zoning Code.

## CHAPTER 264

### Board of Review

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264.01 Alternate members; appointment.

#### **CROSS REFERENCES**

Taxation - see CHTR. Ch. 12

Board of Review - see CHTR. Secs. 12.10 et seq.

Tax day - see B.R. & T.890.01

#### **264.01 ALTERNATE MEMBERS; APPOINTMENT.**

The City Council may appoint not more than two alternate members for a four year term as regular members of the Board of Review. Each alternate member shall be a property tax payer of the City. Alternate members shall qualify by taking the constitutional oath of office within ten days after appointment. The City Council may fill any vacancies that occurs in the alternate membership of the Board of Review. A member of the City Council is not eligible to serve as an alternate member or to fill any vacancy. A spouse, mother, father, sister, brother, son, or daughter, including an adopted child of the City Assessor is not eligible to serve as an alternate member or to fill any vacancy. An alternate member may be called to perform the duties of a regular member of the Board of Review in the absence of a regular member. An alternate member may also be called to perform the duties of a regular member of the Board of Review for the purpose of reaching a decision in issues protested in which a regular member has abstained for reasons of conflict of interest.

(Ord. 806. Passed 2-11-08.)

## CHAPTER 266

### Cemetery Commission

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EDITOR'S NOTE: Chapter 266 was repealed by Ordinance 602, passed July 11, 1994. Ordinance 602 provided that a Cemetery Advisory Panel may be established by resolution of Council relating to the establishment of new cemeteries.

## CHAPTER 268

### Local Officers Compensation Commission

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268.01 Establishment; membership; terms of office.

268.02 Determination of City officials' salaries.

268.03 Meetings; quorum; Chairman; compensation.

### **CROSS REFERENCES**

Remuneration of administrative officers - see CHTR. Sec.4.4

Increase or decrease of compensation - see CHTR. Sec.4.10

Salaries of members of Council - see CHTR. Sec.5.3

### **268.01 ESTABLISHMENT; MEMBERSHIP; TERMS OF OFFICE.**

(a) There is hereby established a Local Officers Compensation Commission. The Commission shall consist of five members, all of whom shall be residents of the City, appointed by the Mayor and confirmed by a majority of Council.

(b) Each member of the Commission shall serve for a period of five years, except that of the members appointed to the first Commission, one each shall be appointed for terms of one, two, three, four and five years. All members of the first Commission shall be appointed within thirty days after the effective date of this chapter (Ordinance 379, passed April 9, 1979). Thereafter, members shall be appointed before October 1 of the year of appointment. Vacancies shall be filled for the remainder of the unexpired term. No member or employee of the legislative, judicial or executive branch of any level of government, or members of the immediate family of such a member or employee, shall be eligible to be a member of the Commission.

(Ord. 379. Passed 4-9-79.)

### **268.02 DETERMINATION OF CITY OFFICIALS' SALARIES.**

The Local Officers Compensation Commission is hereby authorized to determine the salaries of local elected officials, which determination shall set the salaries unless Council, by a resolution of two-thirds of its members, rejects such determination. The determination of the Commission shall be effective thirty days following its filing with the City Clerk, unless the determination is rejected by Council. In case of such a rejection, the existing salary of each elected official shall continue.

(Ord. 379. Passed 4-9-79.)

### **268.03 MEETINGS; QUORUM; CHAIRMAN; COMPENSATION.**

(a) The Local Officers Compensation Commission shall meet for not more than fifteen sessions in 1979 and every odd-numbered year thereafter and shall make its determination within forty-five days of its first meeting. A majority of the members of the Commission shall constitute a quorum for conducting the business of the Commission. The Commission shall take no action or make determinations without the concurrence of a majority of the members thereof. The Commission shall elect a Chairman from among its members.

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

(Ord. 379. Passed 4-9-79.)

## **CHAPTER 272**

### **Parks and Recreation Commission**

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272.01 Establishment.

272.02 Membership; terms.

272.03 Township participation.

272.04 Vacancies.

272.05 Officers; rules and regulations; meetings; records.

272.06 Director of Parks, Recreation and Cemetery.

272.07 Powers.

272.08 Employment and compensation of Commission members. (Repealed)

272.09 Employment of personnel; expenditures.

272.10 Fiscal year; budget.

272.11 Accounts; audit.

- 272.12 Reports.
- 272.13 Receipt of funds.
- 272.14 Disposal of recreational property.
- 272.15 Recreational program.
- 272.16 Purchases.

### **CROSS REFERENCES**

- Parks generally - see Mich. Const. Art. 7, Sec. 23
- Recreation facilities in home rule cities - see M.C.L. Sec. 117.4e
- Sale of park property - see M.C.L. Sec. 117.5
- Misapplication of park funds - see M.C.L. Sec. 123.67
- Alcoholic beverages prohibited in public parks - see GEN. OFF.604.01
- Commercial recreational establishments - see B.R. & T. Ch. 806
- Parks and recreational facilities - see S. U. & P. S.Ch. 1062

### **272.01 ESTABLISHMENT.**

Under the authority of Act 156 of the Public Acts of 1917, as amended, a Public Park and Recreation Commission, to be known as the Howell Park and Recreation Commission, is hereby established.

(Ord. 170. Passed 5-20-57. )

### **272.02 MEMBERSHIP; TERMS.**

(a) The Park and Recreation Commission shall consist of four members plus a representative from each participating township as approved by Council. Voting members of the Commission shall consist of one member of Council; one elector of the City, who shall hold no other public office in the City; one member appointed by the Board of Education of the Howell Public School District; one member of the Livingston County United Way; and a representative of each participating township. The City Manager and the Director of Parks, Recreation and Cemetery shall serve as ex-officio members.

(b) The terms of the member of Council, the member of the Board of Education and the member of the Livingston County United Way shall be for one year and until their successors are appointed. The other members of the Commission shall be appointed for four-year terms and until their successors are appointed.

(c) Members of the Commission shall be appointed by Council for the respective terms as hereinbefore directed.

(Ord. 212. Passed 8-5-63; Ord. 459. Passed 5-28-85.)

### **272.03 TOWNSHIP PARTICIPATION.**

Upon the recommendation of a majority of the members of the Park and Recreation Commission, as provided for in Section 272.02, Council may appoint one additional member from any township desiring to participate in the parks and recreation program pursuant to the township participation formula adopted by the Commission. Each member appointed under this section shall be entitled to one vote on the Commission. Nomination for these appointments shall be made by the respective township boards. The terms of office for these appointments shall begin on May 1 of the year in which they become effective and shall continue as provided in Section 272.02(b). (Ord. 459. Passed 5-28-85.)

### **272.04 VACANCIES.**

Whenever a vacancy occurs on the Park and Recreation Commission, Council shall fill the same within thirty days thereafter. The appointee to fill a vacancy shall complete the balance of the term of the member whom he or she was appointed to replace. The appointee to fill such vacancy shall be recommended to Council within ten days after the vacancy occurs by the same group or organization that made such recommendation for appointment in the original instance, and shall possess the same qualifications as the member whom he or she is appointed to replace.

(Ord. 170. Passed 5-20-57.)

### **272.05 OFFICERS; RULES AND REGULATIONS; MEETINGS; RECORDS.**

The Park and Recreation Commission shall, within twenty days after its appointment and annually thereafter within the first twenty days of May, organize and elect from its membership a Chairman, and such other officers as is deemed expedient by the Commission. The Director of Parks, Recreation and Cemetery shall perform the functions of the Secretary. The Commission shall adopt such rules and regulations as may be necessary for the transaction of its business. It shall hold regular meetings, at least once in each month, which meetings shall be open to the public. The Commission shall keep a record of its proceedings, which record shall be open to the public. A majority of the Commission shall constitute a quorum for the transaction of business, though a smaller number may adjourn meetings of the Commission from time to time. Action



of the Commission may be taken upon a favorable vote of a majority of the members present at any regular meeting or at any special meeting. Special meetings of the Commission may be called by the Secretary on the written request of the Chairman or of any two members of the Commission on at least eighteen hours written notice to each member of the Commission designating the time, place and purpose of any such meeting and served personally or left at his or her place of residence by the Secretary or someone designated by him or her. Notwithstanding the foregoing requirements for the calling of special meetings, any special meeting at which all members of the Commission are present or have in writing waived the requirement that notice be given at least eighteen hours prior to the time specified for the holding of such meeting and at which a quorum of the Commission is present, shall be a legal meeting.

(Ord. 459. Passed 5-28-85.)

#### **272.06 DIRECTOR OF PARKS, RECREATION AND CEMETERY.**

The City Manager shall appoint a Director of Parks, Recreation and Cemetery subject to the confirmation of this appointment by the Park and Recreation Commission. The Director shall report directly to the City Manager and the compensation of the Director shall be paid from the budget of the Recreation Department in an amount suggested by the Commission and confirmed by the City Manager.

(Ord. 459. Passed 5-28-85.)

#### **272.07 POWERS.**

(a) The Park and Recreation Commission shall have the right to provide, conduct and supervise recreational areas, facilities, services and programs for the public recreation in its broadest sense, including the right to operate parks, playgrounds, playfields, swimming pools, beaches, indoor community centers and any and all other recreational facilities and activities. Further, the Commission shall specifically have the right, subject to approval by Council, to establish rules and regulations governing admittance to any and all recreational areas and facilities and to restrict or regulate the use of these areas in any manner which, in the opinion of a majority of the Commission members, best serves the interest of the people of the City. Such rules and regulations shall be in writing and a copy thereof shall be posted at the main entrance of all City parks and/or at other appropriate places in the recreational areas of the City and shall also be available at the office of the City Clerk. Such rules and regulations may be amended and changed from time to time, provided that at least ten days notice is given in advance of any change or amendment by posting the notice of change or amendment in the same places the rules and regulations are posted or available. However, the Commission is not required to provide for the upkeep and care of the School District's athletic fields and playgrounds. The Commission shall have the power to conduct and pay for necessary supervision of public recreation in connection with Municipal parks, School District athletic fields and playgrounds and other recreational areas. However, this shall not be construed to delegate to the Commission by the City or by the School District any of the powers, jurisdiction or control of either over their respective properties and facilities. In other words, it is anticipated that the Commission shall work with the School Districts, its Board of Education and the City in connection with public recreation.

(Ord. 205. Passed 12-11-61.)

(b) The Park and Recreation Commission is hereby directed to promulgate rules for the use of lands owned by the City and under supervision of the Commission regulating the use thereon of such pavilions, playing fields, shelters or other facilities as may from time to time exist. Included in these rules shall be a system of reservations for such facilities by such persons entitled to use the same on such terms as the Commission from time to time decides.

The Commission shall recommend to Council reasonable user fees for the facilities under its supervision, whereupon Council may, by resolution, adopt such fees as proposed by the Commission or as modified by Council.

The Commission shall review the reasonableness of such fees from time to time, but not less frequently than annually.

(Ord. 420. Passed 4-5-82.)

#### **272.08 EMPLOYMENT AND COMPENSATION OF COMMISSION MEMBERS. (REPEALED)**

(EDITOR'S NOTE: Section 272.08 was repealed by Ordinance 459, passed May 28, 1985.)

#### **272.09 EMPLOYMENT OF PERSONNEL; EXPENDITURES.**

Employment practices and expenditures by the Recreation Department shall conform to and shall be made in accordance with the regular procedures of the City which are promulgated in appropriate administrative memoranda. The Commission shall not obligate the City and other agencies participating in the financing of recreation activity for any amount for salaries or recreational expenditures of any kind greater than the amount set aside for recreational purposes by the City, the School District, the Livingston County United Way and the participating townships in their respective annual budgets. The Recreation Department shall not exceed the authorized budget appropriation. Any excess revenues remaining at the end of any fiscal year shall be returned to the Commission for the next annual budget. However, the excess may be reduced by a proportional amount for administrative expenses incurred by the City in its administration of the regular business of the Department.

(Ord. 459. Passed 5-28-85.)

#### **272.10 FISCAL YEAR; BUDGET.**

The fiscal year under which the Park and Recreation Commission shall operate shall be from July 1 through June 30. The Commission shall prepare an annual budget. Such budget shall be submitted to Council and to any other agency participating in the financing of the recreational activities of the Commission. Such annual budget for the ensuing fiscal year shall be so submitted not later than March 1 preceding the beginning of the fiscal year in question. Such annual budget shall be reviewed by Council and by any other agency participating in the financing of recreational activities of the Commission. It is intended that the preparation of the annual proposed budget by the Commission shall be an administrative act only.

(Ord. 170. Passed 5-20-57.)

#### **272.11 ACCOUNTS; AUDIT.**

The City Clerk shall maintain the financial accounts of the recreation system which shall be subject to the regular independent audit of City funds. Moneys received by the Park and Recreation Commission shall be paid into the City Treasury and shall be made available for the use of the Commission and disbursed only on order of the Commission.

(Ord. 170. Passed 5-20-57.)

#### **272.12 REPORTS.**

The City Clerk shall prepare a monthly report for the Park and Recreation Commission and deliver the same to the Commission showing all receipts and disbursements during the preceding month. The Commission shall make an annual report to Council and to any other participating agency and shall make such other and further reports as may be requested by Council and any other participating agency.

(Ord. 170. Passed 5-20-57.)

#### **272.13 RECEIPT OF FUNDS.**

The Park and Recreation Commission is hereby authorized to receive and receipt for funds provided for a Civic Center, for Civic Center purposes, for recreational purposes, for Youth Center purposes or for similar public or civic purposes, from any and all public or private sources desiring to contribute funds thereto.

(Ord. 170. Passed 5-20-57.)

#### **272.14 DISPOSAL OF RECREATIONAL PROPERTY.**

No real property owned by the City and used for recreational purposes shall be sold without the approval of three-fifths of the electors voting thereon at any general or special election.

(Ord. 459. Passed 5-28-85.)

#### **272.15 RECREATIONAL PROGRAM.**

The Park and Recreation Commission shall have authority over and shall supervise the holding of games, exhibitions, contests and other recreational events and shall have authority to charge admission for such games, exhibitions and events, as it deems advisable and necessary in order to defray the expenses of the recreational program.

(Ord. 170. Passed 5-20-57.)

#### **272.16 PURCHASES.**

All purchases of the Park and Recreation Commission shall be made through the City Purchasing Agent wherever practical.

(Ord. 170. Passed 5-20-57.)

## **CHAPTER 274**

### **Board of Health**

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EDITOR'S NOTE: There are no sections in Chapter 274. This chapter has been established to provide a place for cross references and any future legislation.

#### **CROSS REFERENCES**

Municipal health departments - see M.C.L. Sec. 327.205

Health, safety and sanitation - see GEN. OFF.Ch. 622

Nuisances - see GEN. OFF.Ch. 652

Private sewage disposal systems - see S.U. & P.S.1042.04

## **CHAPTER 276**

### **Library Board**

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EDITOR'S NOTE: There are no sections in Chapter 276. This chapter has been established to provide a place for cross references and any future legislation.

Resolution 88-24, passed September 26, 1988, established a Board of Trustees for the Howell District Library. Copies of this resolution may be obtained, at cost, from the City Clerk. On October 4, 1988, the voters of the City approved the establishment of the Howell District Library.

#### ***CROSS REFERENCES***

City Library - see CHTR. Ch. 17

Library Board - see CHTR. Secs. 17.1 et seq.

## **CHAPTER 278**

### **Thompson Lake Board**

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EDITOR'S NOTE: There are no sections in Chapter 278. This chapter has been established to provide a place for cross references and any future legislation.

#### ***CROSS REFERENCES***

Park and Recreation Commission - see ADM.Ch. 272

Parks and recreational facilities - see S.U. & P.S.Ch. 1062

Traffic control at Thompson Lake - see S.U. & P.S.1062.01

## **CHAPTER 280**

### **Howell Historical Preservation Commission**

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EDITOR'S NOTE: There are no sections in Chapter 280. This chapter has been established to provide a place for cross references and any future legislation.

#### ***CROSS REFERENCES***

Planning Commission - see P. & Z.Ch. 1210

Comprehensive Land Use Plan - see P. & Z.Ch. 1212

HL Historic Limited Use Districts - see P. & Z.Chapter 1240 (Zoning Code)

## **CHAPTER 282 Election Commission**

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EDITOR'S NOTE: There are no sections in Chapter 282. This chapter has been established to provide a place for cross references and any future legislation.

#### ***CROSS REFERENCES***

Election precincts - see CHTR. Sec. 1.4

Elections - see CHTR. Ch. 10

Election Commission - see CHTR. Sec. 10.6

Use of property as a voting place - see P. & Z.Chapter 1240 (Zoning Code)

## CHAPTER 283

### Building Authority

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283.01 Purpose; approval and adoption of Articles of Incorporation.

283.02 Articles of Incorporation.

#### **CROSS REFERENCES**

Management and control of municipal buildings and grounds - see M.C.L. Sec. 117.4j

Building Department - see ADM. Ch. 234

Board of Building Code Appeals - see ADM.Ch. 284

State Construction Code - see B. & H.Ch. 1440

Authority of Building Inspector re flood hazards - see B. & H.1440.02 et seq.

#### **283.01 PURPOSE; APPROVAL AND ADOPTION OF ARTICLES OF INCORPORATION.**

For the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating and maintaining a building or buildings, automobile parking lots or structures, recreational facilities, stadiums and the necessary site or sites for the property, together with appurtenant properties and facilities necessary or convenient for the effective use of the property, for use for any legitimate public purpose of the City, Council hereby approves and adopts Articles of Incorporation to incorporate the City Building Authority, which shall be in the form provided in Section 283.02.

(Res. 93-25. Passed 9-7-93.)

#### **283.02 ARTICLES OF INCORPORATION.**

These Articles of Incorporation are adopted and executed by the incorporating unit, being the City of Howell, Livingston County, Michigan, for the purpose of creating a Building Authority, pursuant to the provisions of Act No. 31 of the Michigan Public Acts of 1948 (First Extra Session), as amended (the "Act").

##### ARTICLE I

The name of this Authority is the "CITY OF HOWELL BUILDING AUTHORITY" (referred to herein as the "Authority").

##### ARTICLE II

The name of the incorporating unit creating this Authority is the City of Howell, in the County of Livingston, State of Michigan.

##### ARTICLE III

The purpose of this Authority is to acquire, furnish, equip, own, improve, enlarge, operate and maintain buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for the use or benefit of the City of Howell, Michigan (the "City").

##### ARTICLE IV

The Authority shall be a body corporate with power to sue and be sued in any court of this State. It shall have a corporate seal. The corporate limits of the Authority shall be the same as those of the City. The Authority shall possess all the powers necessary to carry out the purpose of its incorporation and those incident thereto. The enumeration of any powers herein shall not be construed as a limitation upon its general powers unless the context shall clearly indicate otherwise.

##### ARTICLE V

The Authority shall continue in existence until dissolved pursuant to law: Provided, that it shall not be dissolved if such dissolution would operate as an impairment of any bond or other contract. In the event of such dissolution, the title to any property then owned by the Authority shall pass to the City.

##### ARTICLE VI

The fiscal year of the Authority shall be the same as the fiscal year of the City.

##### ARTICLE VII

For the purpose of accomplishing the objects of its incorporation, the Authority may acquire property by purchase, construction lease, gift, devise or condemnation, and for the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as now or hereafter amended, or any other appropriate statute.

## ARTICLE VIII

The Authority shall have power to enter into a contract or contracts with the City, whereby the Authority will acquire property to be used by the City and will lease the same to the City for a period not to exceed fifty (50) years. The consideration specified in such contract or contracts for such use shall be subject to increase by the Authority, if necessary, in order to provide funds to meet its obligations: Provided, that such increase shall not require the City to pay more than a reasonable rental for the leased premises.

## ARTICLE IX

For the purpose of defraying all or part of the cost of acquiring, improving, and enlarging any building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites for the property, together with appurtenant properties and facilities necessary or convenient for the effective use of the property, furnishing and equipping the same; or refunding outstanding bonds as provided in Section 11K of the Act, the Authority, after execution and delivery of a full faith and credit general obligation contract of lease, as provided in the Act, and pursuant to resolution duly adopted by a majority vote of the elected members of the Commission (as hereinafter defined), may issue its negotiable bonds in anticipation of the contract obligations of the City to make cash rental payments to the Authority and may pledge the receipts from the payments for payment of bonds and the interest on the bonds. Bonds shall not be issued unless the property has been leased by the Authority to the City for a period extending beyond the last maturity of the bonds and no maturity shall in any event be more than forty (40) years from the date of the bonds and until the contract of lease is fully effective. The bonds shall be called building authority bonds, or, in the case of bonds issued to refund outstanding bonds, the bonds shall be called building authority refunding bonds.

## ARTICLE X

The powers of the Authority shall be exercised by its governing body which shall be known as the "Commission" and shall consist of three (3) members to be appointed by the City Council of the City, each of whom shall hold office for a term of three (3) years, except that the term of one (1) of the Commissioners first appointed shall expire on December 31, 1994; the term of one (1) of the Commissioners first appointed shall expire on December 31, 1995; and the term of one (1) of the Commissioners first appointed shall expire on December 31, 1996, respectively. Thereafter, each Commissioner shall be appointed for a full three (3) year term beginning on January 1 of the first year of the term and expiring on December 31 of the last year thereof. Each Commissioner shall serve during the term for which he or she was appointed and thereafter until his or her successor is appointed. No member of the City Council of the City shall be eligible to appointment or membership on the Commission. The members of the Commission shall serve without compensation but the Commission in its discretion may authorize the payment of the actual expenditures of any member incurred in connection with the business of the Authority as may be authorized by the Act and as are approved by the City Council of the City. The first members of the Commission shall meet for the purpose of organization within twenty (20) days after their appointment and thereafter the Commission shall meet for such purpose on the first business day in January in each year at 10:00 a.m., at the Howell City Hall, 611 E. Grand River, Howell, Michigan, or such other usual place of holding the meetings of the Commission as shall be provided in the By-Laws of the Authority and as may be permitted by law. At each of such organization meetings, the Commission shall select a Chairperson, a Vice Chairperson, a Secretary, and a Treasurer who shall be members of the Commission and as permitted by the Act. The office of the Treasurer may be held by any member of the Commission notwithstanding that he or she holds some other office on the Commission. Such officers shall serve until the organization meeting in the following year and until their respective successors shall be selected. The time and place of such original organization meeting shall be fixed by a majority of the members of the Commission and notice thereof served personally upon all members, at least twenty-four (23) hours prior to the time of holding of the meeting and in accordance with the Act. No appointment to the Commission and no election of an officer of the Commission shall be deemed to be invalid because it was not made within or at the time specified in these Articles. Any member of the Commission may be removed for cause at any time by action of the City Council of the City. Any officer of the Commission may be removed at any time by action of the Commission.

## ARTICLE XI

In event of a vacancy on the Commission, the City Council of the City shall fill the vacancy for the unexpired term. In event of a vacancy in any office of the Commission, such vacancy shall be filled by the Commission for the unexpired term. In the case of the temporary absence or disability of any officer, the Commission may appoint some person to temporarily act in his or her stead except that in case of the temporary absence or disability of the Chairperson, the Vice Chairperson shall so act.

## ARTICLE XII

All meetings of the Commission shall be conducted at public meetings held in compliance with Act No. 267 of the Public Acts of Michigan of 1976, as amended ("Act 267"). Public notice of the time, date and place of the meetings shall be given in the manner required by Act 267. Meetings of the Commission shall be held at such times and places as shall be prescribed by resolution of the Commission. Special Meetings of the Commission may be called by the Chairperson or any two (2) members thereof, by serving written notice of the time, place and purpose thereof, upon each member of the Commission personally, or by leaving it at his or her place of residence at least twenty-four (24) hours prior to the time of such meeting, or by depositing the same in a United States Post Office or mailbox within the City, at least seventy-two (72) hours prior to the time of such meeting, enclosed in a sealed envelope properly addressed to him or her at his or her home or office address, with postage fully prepaid thereon. Special meetings of the Commission at which all members are present shall be deemed to be valid even though no written notice thereof may have been given as above provided. Any member of the Commission may waive notice of any meeting either before or after the holding thereof. A majority of all members of the

Commission shall be required for a quorum. The Commission shall act by motion or resolution. For the passage of any motion or resolution there shall be required the affirmative vote of two (2) members thereof. The Commission shall have the right to adopt rules governing its procedure, provided the same are not in conflict with the terms of any State statute or of these Articles. The Commission shall keep a journal of its proceedings which shall be signed by the Chairperson and Secretary. All votes shall be by yeas and nays. The journal shall show how each member voted. Each member shall be required to vote upon all motions and resolutions unless he or she shall be disqualified from voting thereon. No member of the Commission shall vote upon any motion or resolution in which he or she has any personal interest and in accordance with law. No member of the Commission shall be financially interested in any contract with the Authority.

#### ARTICLE XIII

The Chairperson of the Commission shall be the presiding officer thereof. In the absence or disability of the Chairperson the Vice Chairperson shall perform the duties of the Chairperson. The Secretary shall be the recording officer of the Commission. The Treasurer shall be custodian of the funds of the Authority and shall give to it a bond in such amount as shall be fixed by the Commission, conditioned upon the faithful performance of the duties of his or her office. The cost of said bond shall be paid by the Authority. The Secretary shall be the chief accounting officer of the Authority and subject to the approval of the Commission and the City Council of the City may employ such assistants as may be necessary. All moneys shall be deposited in a bank or banks to be designated by the Commission, and all checks or other forms of withdrawal therefrom shall be signed by the Treasurer and countersigned by the Secretary of the Commission. The officers of the Commission shall have such other powers and duties as may be conferred upon them by the Commission.

#### ARTICLE XIV

The Commission shall have power to secure all necessary services to carry out the functions of the Authority and to fix the compensation therefor, except that the Commission shall only have power to hire such employees of the Authority as are approved by the City Council of the City. The Commission shall submit to the City Council of the City an annual report of its financial transactions, which report shall be open to public inspection at all reasonable times.

#### ARTICLE XV

These Articles of Incorporation may be amended as provided by the Act, under which statute this Authority is incorporated, or any other applicable State statute: Provided, that no such amendment shall impair the obligation of any bond or other contract of the Authority.

#### ARTICLE XVI

These Articles of Incorporation, upon their adoption by the City Council of the City, shall be executed in duplicate for and on behalf of the City, by the Mayor and the City Clerk of the City. Said duplicate executed copies shall be delivered to the County Clerk of the County of Livingston, who shall file one (1) of said executed copies in his or her office and the other with the Secretary of the Authority, when selected. The City Clerk of the City shall cause a copy of these Articles of Incorporation to be published once in the Livingston County Press, a newspaper circulating within the City. The County Clerk shall file one (1) printed copy of these Articles of Incorporation with the Secretary of State of the State of Michigan and one (1) printed copy thereof in his or her office, attached to each of which printed copies shall be his or her certificate setting forth that the same is a true and complete copy of the original Articles of Incorporation on file in his or her office, and also the date and place of the publication thereof. This Authority shall become effective upon filing of one printed copy of the Articles of Incorporation with the Secretary of State.

(Res. 93-25. Passed 9-7-93.)

## **CHAPTER 284**

### **Board of Building Code Appeals**

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EDITOR'S NOTE: There are no sections in Chapter 284. This chapter has been established to provide a place for cross references and any future legislation.

#### **CROSS REFERENCES**

Building Department - see ADM. Ch. 234

Building Authority - see ADM. Ch. 283

State Construction Code - see B. & H. Ch. 1410

Board of Zoning Appeals is Board of Building Code Appeals - see B. & H.1410.05(b)

## **CHAPTER 285**

## **Downtown Development Authority**

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- 285.01 Title.
- 285.02 Determination of necessity; purpose.
- 285.03 Definitions.
- 285.04 Creation of Authority.
- 285.05 Termination.
- 285.06 Description of Downtown District.
- 285.07 Board of Directors.
- 285.08 Powers of Authority.
- 285.09 Fiscal year; adoption of budget.

### **CROSS REFERENCES**

- Municipal bonds - see M.C.L.A. Secs. 117.4a, 117.4b, 117.4e, 117.4g, 117.5, 117.14a, 117.35a
- Improvements in home rule cities - see M.C.L.A. Secs. 117.4d et seq.
- Downtown Development Authority - see M.C.L.A. Secs. 125.1651 et seq.
- Planning Commission - see P. & Z. Ch. 1210
- Commercial and industrial developments - see P. & Z. 1226.12
- Development Plan and Tax Increment Financing Plan - see P. & Z. Ch. 1219
- Tax Increment Finance Authority - see B.R. & T. Ch. 896

### **285.01 TITLE.**

This chapter shall be known as the "Downtown Development Authority Ordinance" of the City of Howell.

(Ord. 533. Passed 1-2-91.)

### **285.02 DETERMINATION OF NECESSITY; PURPOSE.**

The City Council hereby determines that it is necessary for the best interests of the public to create a public body corporate which shall operate to halt property value deterioration, eliminate the causes of that deterioration, increase property tax valuation where possible in the business district of the City, and promote economic growth, pursuant to Act 197 of the Public Acts of Michigan, 1975, as amended.

(Ord. 533. Passed 1-2-91.)

### **285.03 DEFINITIONS.**

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

- (a) "Act 197" means Act 197 of the Public Acts of Michigan of 1975, as amended.
- (b) "Authority" means the Downtown Development Authority of the City of Howell created by this chapter.
- (c) "Board" or "Board of Directors" means the Board of Directors of the Authority, the governing body of the Authority.
- (d) "Chief Executive Officer" means the Mayor or the duly appointed designee of the Mayor.
- (e) "City" means the City of Howell, Michigan.
- (f) "Council" or "City Council" means the City Council of the City.
- (g) "Downtown District" means the downtown district designated by this chapter, as now existing or hereafter amended, and within which the Authority shall exercise its powers.

(Ord. 533. Passed 1-2-91.)

### **285.04 CREATION OF AUTHORITY.**

There is hereby created pursuant to Act 197 a Downtown Development Authority for the City. The Authority shall be a public body corporate and shall be known and exercise its powers under title of the "Downtown Development Authority of the City of Howell." The Authority may adopt a seal, may sue and be sued in any court of this State and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by this chapter and Act 197. The

enumeration of a power in this chapter or in Act 197 shall not be construed as a limitation upon the general powers of the Authority.

(Ord. 533. Passed 1-2-91.)

#### **285.05 TERMINATION.**

Upon completion of its purposes, the Authority may be dissolved by the Council. The property and assets of the Authority, after dissolution and satisfaction of its obligations, shall revert to the City.

(Ord. 533. Passed 1-2-91.)

#### **285.06 DESCRIPTION OF DOWNTOWN DISTRICT.**

The Downtown District shall consist of the territory in the City described as follows, subject to such changes as may hereinafter be made pursuant to this chapter and Act 197:

Beginning at the southeast corner of Section 36, T3N, R4E, City of Howell, Livingston County, Michigan; thence north along the west line of said section, also being the centerline of Lucy Road to the intersection of Grand River Avenue; thence southeasterly along the centerline of Grand River Avenue to the southwest right-of-way of the Ann Arbor Railroad; thence northwesterly along said right-of-way to the west right-of-way of Catrell Drive; thence south to a point that is 410 feet north of the intersection of the north right-of-way of Grand River Avenue and the west right-of-way of Catrell Drive; thence west 488 feet; thence south to a point 100 feet north of the north right-of-way of Grand River Avenue; thence northwesterly parallel with Grand River Avenue 150 feet; thence north 353 feet; thence west 33 feet; thence north 49.5 feet; thence west 264 feet to the east right-of-way of National Avenue; thence north to the extended north right-of-way of Clinton Street; thence west along said right-of-way to the southwest corner of Lot 16 of T.W. Mizners Washington Heights Addition; thence north along the west line of said Lot 16 to the north line of Lot 11; thence west to the east line of Lot 20 of Victory Gardens; thence south to the north line of Lot 20; thence west to the east right-of-way of E. Park Street; thence south to the north right-of-way of Clinton Street; thence northwesterly along said right-of-way to the extended west line of Lot 6 of A. Whipples Addition; thence southwesterly along said west line of Lot 6 to the southwest corner of said lot; thence northwesterly parallel to and 8 rods north of the north right-of-way of Grand River Avenue, to the east right-of-way of Bannard Street; thence northeasterly along said right-of-way to the north right-of-way of Clinton Street; thence northwesterly along said right-of-way to the east right-of-way of Court Street; thence northerly to the extended north right-of-way of Church Street; thence northwesterly along said right-of-way to the east right-of-way of State Street; thence northeasterly to the south right-of-way of Ann Arbor Railroad and the extended north right-of-way of Wetmore Street; thence northwesterly along said right-of-way to the extended west right-of-way of Center Street; thence southwesterly to the north right-of-way of Clinton Street; thence northwesterly to the west right-of-way of Chestnut Street; thence southwesterly to the southeast corner of Lot 94 of Crane and Brook's Addition; thence northwesterly along the north line of Lots 101 through 94 to the west right-of-way of West Street; thence southwesterly along said right-of-way to the south right-of-way of Grand River Avenue; thence southeasterly along the said right-of-way to the west line of Section 36 and the northeasterly corner of Lot 50 of the Assessor's Plat #1; thence south 14.4 feet; thence southwesterly 127 feet; thence westerly 28.5 feet; thence southerly 32.5 feet; thence southeasterly 59.5 feet to the west line of Section 36; thence south to the southerly right-of-way of Sibley Street; thence southeasterly along said right-of-way to the west right-of-way of Walnut Street; thence southwesterly to the south right-of-way of Washington Street; thence southeasterly to a point 26 feet west of the northwest corner of Lot 181 of Crane and Brook's Subdivision; thence southwesterly to a point 26 feet west of the northwest corner of Lot 182 of Crane and Brook's Subdivision; thence southeasterly 26 feet to the northwest corner of Lot 182 of Crane and Brook's Subdivision; thence southwesterly 528 feet to the northwest corner of Lot 265 of Crane and Brook's Subdivision; thence northwesterly 66 feet to the northwest corner of Lot 268 of Crane and Brook's Subdivision; thence southwesterly 132 feet to the northwest corner of Lot 267 of Crane and Brook's Subdivision; thence northwesterly 132 feet to the northwest corner of Lot 271 of Crane and Brook's Subdivision, said corner being a point on the easterly right-of-way line of Walnut Street; thence southwesterly along the easterly right-of-way line of Walnut Street to the southwest corner of Lot 8 of the Assessor's Plat #10, said point also being the northeast intersection of Walnut Street and Mason Road right-of-ways; thence along the northerly right-of-way line of Mason Road to a point on the extended west line of Lot 1 of First Marion Addition; thence southerly 1,023 feet to the southwest corner of the north 1/2 of Lot 16 of First Marion Addition; thence easterly 132 feet to the northeast corner of Lot 16 of First Marion Addition, also being a point on the westerly right-of-way line of Pinckney Road; thence southerly along the westerly right-of-way line of Pinckney Road to the northeast corner of Lot 20 of First Marion Addition; thence westerly 132 feet to the northwest corner of Lot 20 of First Marion Addition; thence southerly 264 feet to the southwest corner of Lot 23 of First Marion Addition; thence easterly 132 feet to the southeast corner of Lot 23 of First Marion Addition, also being a point on the westerly right-of-way line of Pinckney Road; thence southerly along the westerly right-of-way line of Pinckney Road to the northeast corner of Lot 28 of First Marion Addition; thence south 89 degrees, 33 minutes, 28 seconds, west 1,245.28 feet to a point on the northerly right-of-way line of I-96; thence southwesterly along the northerly right-of-way line of I-96 south 89 degrees, 33 minutes, 28 seconds, west 644.73 feet; thence south 44 degrees, 1 minute, 12 seconds, east 721.24 feet; thence continuing along the northerly right-of-way line of I-96 south 45 degrees, 41 minutes, 20 seconds, east 123.34 feet; thence southeasterly 569.35 feet along a radius to the left, with a central angle of 45 degrees, 15 minutes, radius 720.90 feet, long chord bearing south 68 degrees, 18 minutes, 50 seconds east, 554.66 feet along the northerly right-of-way line of I-96; thence north 89 degrees, 3 minutes, 40 seconds east, 360.36 feet; thence north 43 degrees, 55 minutes, 40 seconds east, 134.40 feet to a point on the westerly right-of-way line of Pinckney Road; thence southeasterly across Pinckney Road right-of-way to a point 1,220.21 feet north of the west 1/4 corner of Section 01, also being a point on the easterly right-of-way line of Pinckney Road; thence north 89 degrees, east 300 feet; thence north 144 feet; thence south 89 degrees, west 97.89 feet; thence north 60 feet; thence northwesterly to a point north 0 degrees, 56 minutes, 20 seconds,



west 1,457.87 feet and north 88 degrees, 5 minutes, 10 seconds, east 204 feet from the west 1/2 corner of Section 01; thence north 237.5 feet; thence east 711.5 feet; thence south 310 feet; thence east 1,020 feet; thence north 1,460 feet; thence west 317.5 feet; thence south 192 feet; thence west 361 feet; thence north 132 feet; thence west 995 feet to the southeast corner of Lot 78 of J.B. Skilbeck's Addition; thence northerly 132 feet to the northeast corner of Lot 78 of J.B. Skilbeck's Addition, also being a point on the southerly right-of-way line of Pulford Street; thence easterly along the southerly right-of-way line of Pulford Street to the northwest corner of Lot 78 of J.B. Skilbeck's Addition; thence northerly across Pulford Street right-of-way to a point being 10 rods east of the southwest corner of Lot 74 of J.B. Skilbeck's Addition, also being a point on the northerly right-of-way line of Pulford Street; thence north 6 rods to a point 10 rods east of the southwest corner of Lot 73 of J.B. Skilbeck's Addition; thence east to the southeast corner of Lot 73 of J.B. Skilbeck's Addition; thence north to the northwest corner of Lot 4 of J.B. Skilbeck's Addition; thence west to a point 10 rods east of the southwest corner of Lot 71 of J.B. Skilbeck's Addition; thence north 8 rods to a point 10 rods east of the northwest corner of Lot 71 of J.B. Skilbeck's Addition, also being a point on the southerly right-of-way line of Argyle Street; thence northwesterly across the Argyle Street right-of-way to the southwest corner of Lot 17 of J.B. Skilbeck's Addition, also being a point on the northerly right-of-way line of Argyle Street; thence northerly to the northeast corner of Lot 3 of J.B. Skilbeck's Addition, also being a point on the southerly right-of-way line of Marion Street; thence northeasterly to the southeast corner of Lot 22, Assessor's Plat #10, also being a point on the northerly right-of-way line of Marion Street; thence easterly along the northerly right-of-way line of Marion Street to the southwest corner of Lot 25, Assessor's Plat #10, also being the northwest corner of the Marion Street and Dearborn Street right-of-way intersection; thence northerly along the westerly right-of-way line of Dearborn Street to the southwest corner of the Dearborn Street and C & O Railroad right-of-way lines; thence northeasterly along the westerly right-of-way line of Dearborn Street to the southeast corner of Lot 26 of Wilcox's Addition; thence northwesterly to the southwest corner of Lot 16 of Wilcox's Addition; thence northeasterly to the northwest corner of Lot 16 of Wilcox's Addition; thence northwesterly to the southeast corner of Lot 3 of Wilcox's Addition, also being a point on the westerly right-of-way line of McCarthy Street; thence northerly along the westerly right-of-way line of McCarthy Street to a point 1 rod south of the southeast corner of Lot 2 of Wilcox's Addition; thence westerly to a point 5 rods west and 1 rod south of the southeast corner of Lot 2 of Wilcox's Addition; thence northerly to a point 5 rods west of Lot 2 of Wilcox's Addition, also being a point on the southerly right-of-way line of Livingston Street; thence northwesterly to the southeast corner of Lot 262 of Crane and Brook's Addition, also being a point on the northerly right-of-way line of Livingston Street; thence northeasterly to a point 1 rod northeast of the northeast corner of Lot 262 of Crane and Brook's Addition; thence northwesterly to a point 7 rods south and 9 feet west of the northeast corner of Lot 264 of Crane and Brook's Addition; thence northeasterly to a point of intersection 9 feet west of the northeasterly corner of Lot 264 of Crane and Brook's Addition and the southerly right-of-way line of Brooks Street; thence northeasterly to the southeast corner of Lot 222 of Crane and Brook's Addition, also being a point on the northerly right-of-way line of Brooks Street; thence southeasterly along the northerly right-of-way line of Brooks Street to the southeast corner of Lot 225 of Crane and Brook's Addition; thence northeasterly to the northeast corner of Lot 225 of Crane and Brook's Addition; thence northwesterly along the northerly line of Lot 225 of Crane and Brook's Addition, to a point 40 feet northwest of the northeast corner of Lot 225 of Crane and Brook's Addition; thence north 28 degrees east, 43 feet; thence north 62 degrees west, 60 feet; thence north 28 degrees east, 89 feet, to a point on the southerly right-of-way line of Crane Street; thence northeasterly across Crane Street right-of-way to the southeast corner of Lot 179 Crane and Brook's Addition; thence southeasterly along the northerly right-of-way line of Crane Street to the southeast corner of Lot 170 of Crane and Brook's Addition; thence northeasterly to the northeast corner of Lot 170 of Crane and Brook's Addition; thence northwesterly to the northwest corner of Lot 170 of Crane and Brook's Addition; thence northeasterly to a point 82.5 feet southeasterly of the southwest corner of Lot 1 of Crane and Brook's Addition, also being a point on the northerly right-of-way line of Washington Street; thence northeasterly along the northerly right-of-way line of Washington Street to the southeast corner of Lot 1 of Crane and Brook's Addition, also being a point on the easterly right-of-way line of State Street; thence northeasterly to a point 22 feet south of the southwest corner of Lot 2 of Crane and Brook's Addition; thence southeasterly parallel to the southerly line of Lot 2 to the easterly line of Lot 27 of Cowdry's Addition; thence northeasterly to the southeast corner of Lot 16; thence southeasterly along the southerly line of Lot 17 through 21 and 29 to the east right-of-way of Barnard Street; thence northeasterly to the south right-of-way of Sibley Street; thence southeasterly along said right-of-way to the west right-of-way of National Street; thence south to the south line of Section 36; thence east to the place of beginning. All distances have been taken from tax descriptions and recorded plats and are approximate.

(Ord. 630. Passed 5-13-96.)

### **285.07 BOARD OF DIRECTORS.**

The Authority shall be under the supervision and control of the Board. The Board shall consist of the Chief Executive Officer and eight members. Members shall be appointed by the Chief Executive Officer, subject to approval by the 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. Members shall be appointed to serve for a term of four years, except that of the members first appointed, an equal number, as near as is practicable, shall be appointed for terms of one year, two years, three years, and four years. A member shall hold office until the member's successor is appointed and qualified. Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office. An appointment to fill a vacancy shall be made by the Chief Executive Officer 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. The Board shall adopt bylaws governing its procedures subject to the approval of the Council. In the event that the Board determines to employ a Director of the Authority, such Director shall furnish a bond in the penal sum of ten thousand dollars (\$10,000) payable to the Authority for use and benefit of the Authority and shall file the same with the City Clerk of the City.

(Ord. 533. Passed 1-2-91; Ord. 740. Passed 4-7-03.)

#### **285.08 POWERS OF AUTHORITY.**

Except as specifically otherwise provided in this chapter, the Downtown Development Authority shall have all powers provided by law subject to the limitations imposed by law and herein. The Downtown Development Authority shall not have the power to levy a tax.

(Ord. 533. Passed 1-2-91.)

#### **285.09 FISCAL YEAR; ADOPTION OF BUDGET.**

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

(b) The Board shall prepare annually a budget and shall submit it to the Council for approval in the manner and at the time, and which budget shall contain the information, required of Municipal departments. The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by the 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 Council at the same time and on the same basis as departments of the City are required to submit reports. The Authority shall be audited annually by the same independent auditors auditing the City, and copies of the audit report shall be filed with the Council.

(Ord. 533. Passed 1-2-91.)

## **CHAPTER 286**

### **Tax Increment Finance Authority**

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EDITOR'S NOTE: Provisions relating to the Tax Increment Finance Authority are codified in Chapter 896 of Part Eight - the Business Regulation and Taxation Code.

## **CHAPTER 287**

### **Local Development Finance Authority**

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EDITOR'S NOTE: Provisions relating to the Local Development Finance Authority are codified in Chapter 898 of Part Eight - the Business Regulation and Taxation Code.

## **CHAPTER 288**

### **Cable Television Commission**

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EDITOR'S NOTE: This chapter, previously titled Cable T.V. Commission, was repealed by implication by Ordinance 615, passed September 5, 1995, codified as new Chapter 803 of these Codified Ordinances.

There are no sections in Chapter 288. This chapter has been established to provide a place for cross references and any future legislation.

#### **CROSS REFERENCES**

Notice of public meetings - see M.C.L.A. Sec. 15.264

Encroachments on highways and roads - see M.C.L.A. Secs. 247.1 et seq.

Construction and maintenance of facilities - see M.C.L.A. Secs. 247.183 et seq.

Television and radio generally - see M.C.L.A. Secs. 484.301 et seq., 750.507 et seq.

Cables improperly located; insurance - see M.C.L.A. Sec. 500.3123

Cable television franchises - see B.R. & T.Ch. 803

Cable television rates - see B.R. & T.Ch. 804

## CHAPTER 289

### Brownfield Redevelopment Authority

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EDITOR'S NOTE: Provisions relating to the Brownfield Redevelopment Authority are codified in Chapter 899 of Part Eight - the Business Regulation and Taxation Code.

## TITLE TEN - Judiciary

### CHAPTER 290

#### Municipal Court

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EDITOR'S NOTE: The Howell Municipal Court was abolished by the State legislature in 1968. Violations of Municipal law are prosecuted in the Fifty-Third District Court of the State. Equitable remedies are pursued in the Forty-Fourth Judicial Circuit Court of the State.

There are no sections in Chapter 290. This chapter has been established to provide a place for cross references and any future legislation.

#### **CROSS REFERENCES**

Circuit Courts generally - see Mich. Const. Art. 6, Sec. 1; M.C.L. Secs. 600.501 et seq.

Courts generally - see Mich. Const. Art. 6, Secs. 1 et seq.; M.C.L. Secs. 600.101 et seq.

Municipal Court - see CHTR. Ch. 8

District Courts generally - see M.C.L. Secs. 600.8101 et seq.

General Code penalty; complicity - see ADM.202.99

## PART FOUR - TRAFFIC CODE

Chap. 400. Michigan Vehicle Code.

Chap. 410 Uniform Traffic Code.

Chap. 420 Commercial and Heavy Vehicles.

Chap. 430 Parking Violations Bureau.

Chap. 440 Miscellaneous Regulations.

Chap. 450 Cost Recovery and Reimbursement for Emergency Responses.

### CHAPTER 400

#### Michigan Vehicle Code

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400.01 Adoption by reference.

400.02 Reference in code.

400.03 Citation.

400.04 Notices to be published.

400.99 Penalty.

#### **CROSS REFERENCES**

Adoption of codes by reference - see CHTR. Sec.6.5

#### **400.01 ADOPTION BY REFERENCE.**

The Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923 as amended through February 29, 2012, is incorporated and adopted by reference.

(Ord. 745. Passed 9-22-03; Ord. 786. Passed 9-11-06; Ord. 805. Passed 9-10-07; Ord. 814. Passed 9-8-08; Ord. 825. Passed 9-14-09; Ord. 837. Passed 6-28-10; Ord. 853. Passed 4-9-12.)

#### **400.02 REFERENCE IN CODE.**

References in the Michigan Vehicle Code to "local authorities" shall mean the City of Howell.

(Ord. 745. Passed 9-22-03; Ord. 786. Passed 9-11-06; Ord. 805. Passed 9-10-07; Ord. 814. Passed 9-8-08; Ord. 825. Passed 9-14-09; Ord. 837. Passed 6-28-10.)

#### **400.03 CITATION.**

Section citations to this Code shall be preceded by the prefix "H."

(Ord. 745. Passed 9-22-03; Ord. 786. Passed 9-11-06; Ord. 805. Passed 9-10-07; Ord. 814. Passed 9-8-08; Ord. 825. Passed 9-14-09; Ord. 837. Passed 6-28-10.)

#### **400.04 NOTICES TO BE PUBLISHED.**

The Howell City Clerk shall publish this Ordinance in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Michigan Vehicle Code and the fact that a complete copy of the Code is available to the public at the office of the Clerk for inspection.

(Ord. 745. Passed 9-22-03; Ord. 786. Passed 9-11-06; Ord. 805. Passed 9-10-07; Ord. 814. Passed 9-8-08; Ord. 825. Passed 9-14-09; Ord. 837. Passed 6-28-10.)

#### **400.99 PENALTY.**

The penalties provided by the Michigan Vehicle Code are adopted by reference, and that the City may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days. The exception to this provision is adoption by reference of MCL 257.625(l)(c) in which the violation for this specific Section of the Michigan Vehicle Code is punishable by one or more of the following:

- (a) Community service for not more than 360 hours;
- (b) Imprisonment for not more than 180 days;
- (c) A fine of not less than two hundred dollars (\$200.00) or more than seven hundred dollars (\$700.00).

(Ord. 745. Passed 9-22-03; Ord. 786. Passed 9-11-06; Ord. 805. Passed 9-10-07; Ord. 814. Passed 9-8-08; Ord. 825. Passed 9-14-09; Ord. 837. Passed 6-28-10; Ord. 853. Passed 4-9-12.)

## **CHAPTER 410 Uniform Traffic Code**

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410.01 Adoption by reference.

410.02 References in Code.

410.03 Citation.

410.04 Notices to be published.

410.99 Penalty.

### **CROSS REFERENCES**

Adoption of codes by reference - see CHTR. Sec.6.5

Traffic rules and regulations in home rule cities - see M.C.L. Sec. 117.4h

Traffic rules and regulations generally - see M.C.L. Secs. 257.601 et seq., 257.634 et seq.

Uniform Traffic Code - see M.C.L. Secs. 257.951 et seq.

Traffic control at Thompson Lake - see S.U. & P.S.1062.01

Traffic control in Lake View Cemetery - see S.U. & P.S.1064.02

#### **410.01 ADOPTION BY REFERENCE.**

The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, being Act 306 of the Public Acts of 1969, being M.C.L.A. Sections 24.201 to 24.328 and made effective October 30, 2002, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state are incorporated and adopted by reference.

(Ord. 414. Passed 8-10-81; Ord. 746. Passed 9-22-03.)

#### **410.02 REFERENCES IN CODE.**

References in the Uniform Traffic Code for Cities, Townships and Villages to a "governmental unit" shall mean the City of Howell.

(Ord. 414. Passed 8-10-81; Ord. 746. Passed 9-22-03.)

Section citations to this Code shall be preceded by the prefix "HUTC."

(Ord. 746. Passed 9-22-03.)

#### **410.04 NOTICES TO BE PUBLISHED.**

The Howell City Clerk shall publish this Ordinance in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Uniform Traffic Code for Cities, Townships and Villages and the fact that a complete copy of the Code is available to the public at the office of the Clerk for inspection.

(Ord. 746. Passed 9-22-03.)

#### **410.99 PENALTY.**

The penalties provided by the Uniform Traffic Code for Cities, Townships and Villages are adopted by reference.

(Ord. 746. Passed 9-22-03.)

## **CHAPTER 420**

### **Commercial and Heavy Vehicles**

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420.01 Weight limits; truck routes.

420.99 Penalty.

#### ***CROSS REFERENCES***

Turn signals - see U.T.C. Secs. 5.35, 5.78

Use on certain highways prohibited - see U.T.C. Sec. 5.61

Windshield defrosters required - see U.T.C. Sec. 5.81

Mud flaps required - see U.T.C. Sec. 5.88

Flag or lamp required; projecting load - see U.T.C. Sec. 5.89

Commercial vehicle defined - see TRAF.410.03(U.T.C. Sec 1.007)

D.U.I - see TRAF. 410.03(U.T.C. Secs. 5.01, 5.15 et seq.)

Truck loads causing litter - see GEN. OFF.652.05(f)

#### **420.01 WEIGHT LIMITS; TRUCK ROUTES.**

(a) Intent. The intent and purpose of this section is to protect the surfacing and pavements of the public streets and alleys of the City and to such end the same shall be liberally construed.

(b) Definitions. As used in this section:

(1) "Truck" means a motor vehicle designed, used or maintained primarily for the transportation of property.

(2) "Commercial vehicle" means a motor vehicle used for the transportation of passengers for hire, or constructed or used for the transportation of goods, wares or merchandise, and/or a motor vehicle designed and used for drawing another vehicle and not so constructed as to carry any load thereon, either independently or as any part of the weight of a vehicle or load so drawn.

(c) Designated Truck Routes. No person shall operate or cause to be operated a commercial vehicle or truck on any of the public streets or alleys of the City, except as herein otherwise provided, except upon the following public streets which are hereby designated as commercial vehicle or truck routes:

Barnard St., between Sibley St. and the A.A. Railroad.

Catrell Dr., between Grand River Ave. and Sutton Ave.

Clinton St. between Center St. and State St.

Chestnut St., between Sibley St. and Grand River Ave.

Centel St. between Sibley St. and Wetmore St.

Court St. between Sibley St. and Grand River Ave.

Dearborn St., from Marion St. to Livingston St.

Elm St. from North St. to Grand River Ave.

Fowler St. from the C. & O. Railroad to Grand River Ave.

Grand River Ave., from the east City limits to the west City limits.

Lucy Rd., from Grand River Ave. to the south City limits.

Livingston St., from Dearborn St. to Fowler St.

Livingston St., from S. Michigan Ave. to W. Walnut St.

Michigan Ave., from Pinckney Rd. to Grand River Ave. From Grand River to M-59, weight limits shall be as provided in subsection (e) hereof.

Marion St., from Pinckney Rd. to Dearborn St.

Mason Rd., from the west City limits to Pinckney Rd.

Morgan Dr., from Pinckney Rd. to the end of the street.

M-59, Highland Rd., all those sections within the City limits.

National Ave., from the south City limits to Sutton Ave.

North St., from National St. to Roosevelt St.

Pinckney Rd., from the south City limits to Michigan Ave.

Pulford St., between Pinckney Rd. and Jones St.

Roosevelt St., between North St. and Mt. Olive Cemetery.

Sibley St., from Fair St. to National Ave.

S. Highlander Way, from the C. & O. Railroad to W. Grand River Ave.

State St., between Grand River Ave. and Clinton St.

Sutton Ave., between National Ave. and the east end.

Sibley St., between Chestnut St. and Fowler St.

Wetmore St., between Center St. and Walnut St.

Walnut St., between Sibley St. and Wetmore St.

(d) Exceptions. The restrictions imposed in subsection (c) hereof shall not apply to any vehicle the weight of which, loaded or unloaded, is 5,000 pounds or less, and shall not prevent the delivery of any person or property to any place in the City or prevent a vehicle from receiving any person or property at any place in the City. In addition, the Chief of Police, at his or her discretion, may issue a permit for the operation of a truck or commercial vehicle on any public street or alley in the City.

(e) North Michigan Avenue. No person shall operate or cause to be operated a commercial vehicle weighing more than 10,000 pounds on North Michigan Avenue between Grand River and M-59, unless the vehicle is owned or operated by a governmental body or unless the vehicle is making deliveries to residences or businesses located on or accessible only from North Michigan Avenue.

(Ord. 301. Passed 5-16-72; Ord. 484. Passed 2-2-87; Ord. 493. Passed 11-9-87; Ord. 697. Passed 11-8-99.)

(f) Signs. Notice of the prohibitions and limitations set forth in this section shall be given by posting appropriate and legible signs, such as may be seen by an ordinarily observant person, upon or at the entrance to the streets or parts thereof affected by the provisions hereof.

(g) Enforcement. The Chief of Police and other police officers of the City shall enforce all weight, size and other vehicle and load limitations imposed by the Uniform Traffic Code, as adopted in Section 410.01, in addition to the provisions of this section.

(Ord. 195. Passed 10-17-60.)

**420.99 PENALTY.**

## CHAPTER 430

### Parking Violations Bureau

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- 430.01 Establishment; responsibility of City Clerk.
- 430.02 Authority of City Clerk.
- 430.03 Procedure for processing violations.
- 430.04 Issuance of violations; contents of notice of violation.
- 430.05 Parking offenses and fine schedule.

#### **CROSS REFERENCES**

Parking generally - see M.C.L. Secs. 257.672 et seq.; U.T.C. Secs. 1.019 et seq., 8.10 et seq.

Municipal violations bureaus in counties of 100,000 or more - see M.C.L. Sec. 725.301

Parking for handicapped persons - see TRAF. 440.02

Storage of junk vehicles - see GEN. OFF.622.05

Off-street parking and loading - see P. & Z.Ch. 1276

Fire lanes - see F. P.Ch. 1620

Parking in HL Historic Limited Use Districts - see P. & Z.Chapter 1240 (Zoning Code)

#### **430.01 ESTABLISHMENT; RESPONSIBILITY OF CITY CLERK.**

Pursuant to M.C.L. 600.8395, a Parking Violations Bureau is hereby established for the purpose of accepting civil infraction admissions in parking violation cases and to collect and retain civil fines and costs as prescribed by this chapter. The Bureau shall be under the supervision and control of the City Clerk.

(Ord. 522. Passed 3-26-90.)

#### **430.02 AUTHORITY OF CITY CLERK.**

The City Clerk shall establish a location for the Parking Violations Bureau and adopt rules and regulations for its operation. The City Clerk shall appoint the Chief of Police, or, subject to the approval of Council, any other qualified City employee to administer the day-to-day affairs of the Bureau.

(Ord. 522. Passed 3-26-90.)

#### **430.03 PROCEDURE FOR PROCESSING VIOLATIONS.**

All parking violations as enumerated in this chapter and issued under this chapter shall be disposed of by the Parking Violations Bureau. Violations may be settled by the City Clerk, the Chief of Police or a designated administrator upon request by an alleged violator of this chapter. If a violation has not been settled within the time periods set forth in Section 430.05, then the Bureau shall cause to be issued a civil infraction citation against the alleged violator. All civil infraction citations issued pursuant to this chapter shall be processed in the same manner as a civil infraction under Act 300 of the Public Acts of 1949, as amended.

(Ord. 522. Passed 3-26-90.)

#### **430.04 ISSUANCE OF VIOLATIONS; CONTENTS OF NOTICE OF VIOLATION.**

The issuance of a notice of violation by a duly appointed City employee or a police officer of the City shall be deemed an allegation of a parking violation. Such notice of violation shall indicate the address of the Bureau, the hours during which the Bureau is open, the length of time to respond before the Bureau, the amount of the scheduled penalty for the violation, and notice that failure to respond shall be cause for the Bureau to issue a civil infraction citation pursuant to Section 430.03.

(Ord. 522. Passed 3-26-90.)

#### **430.05 PARKING OFFENSES AND FINE SCHEDULE.**

(a) Parking Offenses. Following is the schedule of parking offenses in the City:

- (1) On or encroaching upon a sidewalk.

- (2) In front of or encroaching upon a public or private driveway.
- (3) Within an intersection.
- (4) Within 15 feet of a fire hydrant.
- (5) On a crosswalk.
- (6) Within 20 feet of a crosswalk, or if there is not a crosswalk, then within 15 feet of the intersection of property lines at an intersection of highways.
- (7) Within 30 feet of the approach to a flashing beacon, stop sign, or traffic-control signal located at the side of a highway.
- (8) Between a safety zone and the adjacent curb or within 30 feet of a point on the curb immediately opposite the end of a safety zone, unless a different length is indicated by an official sign or marking.
- (9) Within 50 feet of the nearest rail of a railroad crossing.
- (10) Within 20 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station within 75 feet of the entrance if properly marked by an official sign.
- (11) Alongside or opposite a street excavation or obstruction, if the stopping, standing, or parking would obstruct traffic.
- (12) On the roadway side of a vehicle stopped or parked at the edge or curb of a street.
- (13) Upon a bridge or other elevated highway structure or within a highway tunnel.
- (14) Within 500 feet of an accident at which a police officer is in attendance, if the scene of the accident is outside of a city or village.
- (15) In front of a theater.
- (16) In a place or in a manner that blocks immediate egress from an emergency exit conspicuously marked as an emergency exit of a building.
- (17) In a place or in a manner that blocks or hampers the immediate use of an immediate egress from a fire escape conspicuously marked as a fire escape providing an emergency means of egress from a building.
- (18) In a parking space clearly identified by an official sign as being reserved for use by disabled persons that is on public property or private property available for public use, unless the individual is a disabled person as described in section 19a of Chapter 400 or unless the individual is parking the vehicle for the benefit of a disabled person. In order for the vehicle to be parked in the parking space the vehicle shall display one of the following:
  - A. A certificate of identification or windshield placard issued under section 675 of Chapter 400 to a disabled person.
  - B. A special registration plate issued under section 803d of Chapter 400 to a disabled person.
  - C. A similar certificate of identification or windshield placard issued by another state to a disabled person.
  - D. A similar special registration plate issued by another state to a disabled person.
  - E. A special registration plate to which the tab for persons with disabilities is attached issued under this act.
- (19) In a clearly identified access aisle or access lane immediately adjacent to a space designated for parking by persons with disabilities.
- (20) On a street or other area open to the parking of vehicles that results in the vehicle interfering with the use of a curb-cut or ramp by persons with disabilities.
- (21) Within 500 feet of a fire at which the fire apparatus is in attendance, if the scene of the fire is outside a city or village. However, volunteer fire fighters responding to the fire may park within 500 feet of the fire in a manner not to interfere with fire apparatus at the scene. A vehicle parked legally previous to the fire is exempt from this paragraph.
- (22) In violation of an official sign restricting the period of time for or manner of parking.
- (23) In a space controlled or regulated by a meter on a public highway or in a publically owned parking area or structure, if the allowable time for parking indicated on the meter has expired, unless the vehicle properly displays one or more of the items listed in section 675(8) of Chapter 400.
- (24) On a street or highway in such a way as to obstruct the delivery of mail in a rural mailbox by a carrier of the United States postal service.
- (25) In a place or in a manner that blocks access to a space clearly designated as a fire lane.
- (26) In a place or in a manner that blocks the use of an alley.
- (27) In any Howell School District lot without a valid parking permit (student).
- (28) A person shall not park or stand a vehicle in a roadway which is to the right of the finished hard surface. A person



shall park or stand a vehicle parallel with the edge of the hard surface, headed in the direction of lawful traffic movement, and with the right-hand wheels of the vehicle within 12 inches of the curb or edge of the hard surface. A hard surface is otherwise defined as the finished road or designated parking area comprised of asphalt, concrete or an area containing crushed gravel or stone sufficient to accommodate a motor vehicle.

(29) Displaying vehicle for sale within the public right-of-way or upon City owned real property.

(30) Working on or repairing vehicle within public right-of-way, except for emergency repairs made to move an otherwise disabled vehicle.

(31) A vehicle shall not be parked in an area purchased, acquired, or used as a clear vision area adjacent to or on a highway right-of-way. A person shall not conduct vending or other commercial enterprises in a clear vision area.

(32) A person shall not display advertising and sell merchandise from a vehicle within the public right-of-way or upon City owned real property.

(33) Prohibited zones as posted.

(34) Prohibited parking in areas where a permit issued by the City is required (boat launch and City park as examples).

(35) Failure to move from the public right-of-way a disabled or abandoned vehicle. Failure to move said vehicle under such conditions shall cause the City to remove the vehicle at the owner's expense.

(36) Prohibited parking in areas contrary to Chapter 1240 of the City of Howell Zoning Ordinance as it exists upon the date of enactment of this section and as amended, from time to time, in the future.

(b) Fine Schedule. Following is the schedule of fines for parking violations in the City:

Offense	Penalty (If Paid Within 48 Hrs.)	Penalty (Not Paid Within 48 Hrs.)	Penalty (Not Paid Within 10 Days)
1. Parking in parking lot over posted time limits.	\$ 5.00	\$ 10.00	\$ 30.00
2. Parking on designated streets over time limit.	\$ 5.00	\$10.00	\$ 30.00
3. Bicycle parking violations.	\$ 5.00	\$10.00	\$ 30.00
4. Handicap Zone.	\$60.00	\$80.00	\$100.00
35. Prohibited Zone (City boat launch & City Park with no seasonal permit)	\$30.00	\$60.00	\$80.00

The following offenses shall carry a civil fine of ten dollars (\$10.00) per violation and, if not paid within ten days, the amount of the fine shall be increased to twenty dollars (\$20.00).

5. Parking too far from curb.

6. Angle parking violations.

7. Obstructing traffic.

8. On or encroaching upon a sidewalk.

9. Within an intersection.

10. Within 15 feet of a fire hydrant.

11. On a crosswalk.

12. Within 20 feet of a crosswalk, or if there is not a crosswalk, then within 15 feet of the intersection of property lines at an intersection of highways.

13. Within 30 feet of the approach to a flashing beacon, stop sign, or traffic-control signal located at the side of a highway.

14. Within 50 feet of the nearest rail of a railroad crossing.

15. Within 20 feet of the driveway entrance to a fire station.

16. On the side of a street opposite the entrance to a fire station within 75 feet of the entrance if properly marked by an official sign.

17. On the roadway side of a vehicle stopped or parked at the edge or curb of a street, i.e. double parking.

18. Upon a bridge or other elevated highway structure or within a highway tunnel.

19. In front of a theater.

20. In a place or in a manner that blocks immediate egress from an emergency exit conspicuously marked as an emergency exit of a building.
21. In a place or in a manner that blocks or hampers the immediate use of an immediate egress from a fire escape conspicuously marked as a fire escape providing an emergency means of egress from a building.
22. In a place or in a manner that blocks the use of an alley.
23. Displaying vehicle for sale within the public right-of-way or upon City owned real property.
24. Working on or repairing vehicle within public right-of-way, except for emergency repairs made to move an otherwise disabled vehicle.
25. Displaying advertising within the public right-of-way or upon City owned real property.
26. Selling merchandise from a vehicle within the public right-of-way or upon City owned real property.
27. Loading zone violations.
28. Failure to set brakes.
29. Parked on grade and wheels not turned to curb.
30. Parked left to curb.
31. Abandoned vehicle within public right-of-way.
32. Disabled vehicle, failure to move from public right-of-way.
33. Unattended vehicle with keys in ignition or motor running.
34. All night parking as posted.
35. Parking in areas requiring a permit (including boat launch and City park with no seasonal permit), except as otherwise set forth above, with respect to the boat launch and City Park seasonal permits.
36. Tow away zones.
37. In a place or in a manner that blocks access to a space clearly designated as a fire lane.
38. On a street or highway in such a way as to obstruct the delivery of mail in a rural mailbox by a carrier of the United States postal service.
39. In any Howell School District lot without a valid parking permit (student).
40. Parking right of a hard surface.
41. A vehicle shall not be parked in an area purchased, acquired, or used as a clear vision area adjacent to or on a highway right-of-way. A person shall not conduct vending or other commercial enterprises in a clear vision area.
42. In front of or encroaching upon a public or private driveway.
43. Between a safety zone and the adjacent curb or within 30 feet of a point on the curb immediately opposite the end of a safety zone, unless a different length is indicated by an official sign or marking.
44. Alongside or opposite a street excavation or obstruction, if the stopping, standing, or parking would obstruct traffic.
45. Reserved for future use.
46. Snow emergency.
47. Special event.
48. Prohibited parking in areas contrary to Chapter 1240 of the City of Howell Zoning Ordinance.

(Ord. 522. Passed 3-26-90; Ord. 692. Passed 7-6-99; Ord. 841. Passed 12-20-10; Ord. 844. Passed 5-9-11; Ord. 917. Passed 8-13-18.)

## **CHAPTER 440**

### **Miscellaneous Regulations**

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- 440.01 School Board property.
- 440.02 Parking for handicapped persons.
- 440.03 Prohibited vehicles in public parks and cemeteries.

440.04 Fire Department vehicles.

440.05 Motor vehicle liability insurance.

440.99 Penalty.

### **CROSS REFERENCES**

School buildings and grounds - see M.C.L. Secs. 322. 281 et seq., 388.851 et seq.

Right of way of authorized emergency vehicles - see U.T.C. Sec. 5.1

Application of U.T.C. to motorcycles and mopeds - see U.T.C. Secs. 6.1, 6.2

Riding on motorcycles and mopeds - see U.T.C. Sec. 6.8

Mandatory child restraints - see TRAF.410.03 (U.T.C. Sec. 5.82)

Safety belts - see TRAF.410.03 (U.T.C. Sec. 5.83)

Parking Violations Bureau - see TRAF. Ch. 430

### **440.01 SCHOOL BOARD PROPERTY.**

(a) The provisions of the Uniform Traffic Code, as adopted in Section 1410. 01, are hereby expressly made applicable to property of the Howell Public School System. (Adopting Ordinance)

(b) Council may from time to time, by ordinance, establish reasonable rates of speed, the direction of vehicular traffic, stop signs and parking restrictions for property of the Howell Public School System, such regulations to be first approved by the Board of Education of the School District, provided the same are not in conflict with any of the provisions of the Uniform Traffic Code, as adopted in Section 410. 01.

(c) At any time from and after the effective date of this subsection (Ordinance 279, passed November 30, 1970), the City may remove any and all traffic control orders established on property owned by the School District without the consent or prior approval of the School Board.

(Ord. 279. Passed 11-30-70.)

(d) No person shall violate any regulation or traffic control order established by Council pursuant to this section.

### **440.02 PARKING FOR HANDICAPPED PERSONS.**

(a) As used in this section, "handicapper" means a person who has a physical characteristic categorized as a handicap, which handicap limits ambulation or necessitates the use of a wheelchair for mobility, or a person who is blind.

(b) Every vehicle parking in parking spaces designated for handicappers shall be equipped with special license plates or serially numbered registration displayed on the vehicle.

(c) Any person parking a vehicle in a parking space designated for handicappers, which vehicle is not equipped with special plates or serially numbered registration indicating that it is a handicapper's vehicle, shall be guilty of a civil infraction and such violation shall be processed in the same manner as a civil infraction under Act 300 of the Public Acts of 1949, as amended, being MCL 257.1 to 257.923.

(Ord. 410. Passed 6-29-81.)

### **440.03 PROHIBITED VEHICLES IN PUBLIC PARKS AND CEMETERIES.**

(a) No person shall operate any of the following vehicles within the public parks of the City or within the cemetery owned and operated by the City as follows:

- (1) Mopeds as defined by MCL 257.32b of the Michigan Motor Vehicle Code;
- (2) Snowmobiles as defined by MCL 324.82101;
- (3) Off-road vehicles or "ORV" as defined in MCL 324.81101.

(b) No person shall operate any other vehicle allowed within the public parks of the City or within the cemetery owned and operated by the City in any place other than designated roadways and parking areas.

(Ord. 684. Passed 9-28-98.)

### **440.04 FIRE DEPARTMENT VEHICLES.**

(a) All motor equipment of the Fire Department and all personal motor vehicles of Department members shall have the right of way over all other traffic when responding to an alarm. No person shall fail to yield such right of way to any such equipment or vehicle at such times.

(b) Each member of the Fire Department driving a motor vehicle shall be issued a suitable insignia to be attached to the motor vehicle.

(Ord. 134. Passed 2-7-50.)

#### **440.05 MOTOR VEHICLE LIABILITY INSURANCE.**

(a) No owner or registrant of a motor vehicle, with respect to which security is required by MCLA 500.3101 et seq., shall operate the motor vehicle, or permit it to be operated, upon a highway or other place open to the general public, including an area designated for the parking of motor vehicles within the City, without having in full force and effect security complying with such statutes. Whoever violates this subsection is guilty of a misdemeanor.

(b) No person shall operate a motor vehicle upon a highway or other place open to the general public, including an area designated for the parking of motor vehicles within the City, with the knowledge that the owner or registrant of the motor vehicle does not have security in full force and effect as required by MCLA 500.3101 et seq.; MSA 24.13101 et seq. Whoever violates this subsection is guilty of a misdemeanor.

(c) The owner of a motor vehicle who operates or permits the operation of the motor vehicle upon the highways of the City, or the operator of the motor vehicle, shall produce, pursuant to subsection (b), upon the request of a police officer, evidence that the motor vehicle is insured under Chapter 31 of the Insurance Code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.3101 to 500.3179 of the Michigan Compiled Laws. An owner or operator of a motor vehicle who fails to produce evidence of insurance under this subsection when requested to produce that evidence or who fails to have motor vehicle insurance for the vehicle as required under Chapter 31 of Act No. 218 of the Public Acts of 1956, is responsible for a civil infraction.

(d) A certificate of insurance, if issued by an insurance company, which certificate states that security which meets the requirements of sections 3101 and 3102 of the Michigan Compiled Laws is in force, shall be accepted as prima-facie evidence that insurance is in force for the motor vehicle described in the certificate of insurance until the expiration date shown on the certificate. The certificate, in addition to describing the motor vehicles for which insurance is in effect, shall state the name of each person named on the policy, policy declaration or a declaration certificate whose operation of the vehicle would cause the liability coverage of that insurance to become void.

(e) If an owner or operator of a motor vehicle is determined to be responsible for a violation of subsection (c) hereof, the court in which the civil infraction determination is entered may require the person to surrender his or her operator's or chauffeur's license unless proof that the vehicle has insurance meeting the requirements of sections 3101 and 3102 of Act No. 218 of the Public Acts of 1956, is submitted to the court. If the person submits proof to the court that the vehicle has insurance meeting the requirements of sections 3101 and 3102 of Act No. 218 of the Public Acts of 1956, in addition to the civil fine and costs provided by Section 907 of the Michigan Motor Vehicle Code, being MCLA 257.907; MSA 9.2607, the court shall assess a fee of twenty-five dollars (\$25.00). If the court requires the license to be surrendered, the court shall order the secretary of state to suspend the person's license. The court shall immediately destroy the license and shall forward to the secretary of state an abstract of the court record as required by Section 732 of the Michigan Motor Vehicle Code, being MCLA 257.732; MSA 9.2432. Upon receipt of the abstract, the secretary of state shall suspend the person's license beginning with the date on which such person is determined to be responsible for the civil infraction, for a period of 30 days or until proof of insurance which meets the requirements of section 3101 and 3102 of Act No. 218 of the Public Acts of 1956, is submitted to the secretary of state, whichever occurs later. A person who submits proof of insurance to the secretary of state under this subsection shall pay a service fee of twenty-five dollars (\$25.00) to the secretary of state. The person shall not be required to be examined as set forth in Section 320c of the Michigan Motor Vehicle Code, being MCLA 257.320c; MSA 9.2020(3), and shall not be required to pay a replacement license fee.

(f) If an owner or operator of a motor vehicle is determined to be responsible for a violation of subsection (c), the court in which the civil infraction determination is entered shall notify the secretary of state of the vehicle registration number and the year and make of the motor vehicle being operated at the time of the violation. This notification shall be made on the abstract or on a form approved by the supreme administrator. Upon receipt, the secretary of state shall immediately enter this information in the records of the department. The secretary of state shall not renew, transfer, or replace the registration plate of the vehicle involved in the violation or allow the purchase of a new registration plate for the vehicle involved in the violation until the owner meets the requirements of Section 227a of the Michigan Motor Vehicle Code, being MCLA 257.227a; MSA 9.1927a, or unless the vehicle involved in the violation is transferred or sold to a person other than the owner's spouse, mother, father, sister, brother, or child.

(g) An owner or operator of a motor vehicle who knowingly produces false evidence under this section is guilty of a misdemeanor, punishable by imprisonment for not more than ninety days, or a fine of not more than five hundred dollars (\$500.00), or both.

(h) Points shall not be entered on a driver's record pursuant to Section 320a of the Michigan Motor Vehicle Code, being MCLA 257.320a; MSA 9.2020(1), for a violation of this section.

(i) This section does not apply to the owner or operator of a motor vehicle that is registered in a state other than this state or a foreign country of province.

(Ord. 639. Passed 2-17-97.)

#### **440.99 PENALTY.**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

## CHAPTER 450

### Cost Recovery and Reimbursement for Emergency Responses

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EDITOR'S NOTE: This chapter, previously a codification of Ordinance 578, passed April 5, 1993, was repealed in its entirety and re-enacted by Ordinance 695, passed September 13, 1999.

450.01 Definitions.

450.02 Incidents requiring reimbursement.

#### **CROSS REFERENCES**

Police Department - see ADM. Ch. 236

Fire Department - see ADM. Ch. 238

D.U.I. - see TRAF. 410.03 (U.T.C. Secs. 5.01, 5.15 et seq.)

Fire Department vehicles - see TRAF. 440.04

Motor vehicle liability insurance - see TRAF.440.05

Recovery of costs for responses to hazardous spills, releases or discharges - see GEN. OFFCh. 620

#### **450.01 DEFINITIONS.**

As used in this chapter:

(a) "Aircraft" means that term as defined in Section 4 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.4.

(b) "Local unit of government" means the City of Howell.

(c) "Motor vehicle" means that term as defined in Section 33 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.33.

(d) "ORV" means that term as defined in Section 81101 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.81101.

(e) "Snowmobile" means that term as defined in Section 8210 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.82101.

(f) "Vessel" means that term as defined in Section 82108 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.82108.

(Ord. 695. Passed 9-13-99.)

#### **450.02 INCIDENTS REQUIRING REIMBURSEMENT.**

(a) As part of the sentence for a conviction of any of the following offenses, in addition to any other penalty authorized by law, the court may order the person convicted to reimburse the City for expenses incurred in relation to that incident, including, but not limited to, expenses for an emergency response and expenses for prosecuting the person, as provided in this section:

(1) A violation of Section 410.03(UTC Section 5.15(1), (3), (4), (5), (6) or (7) or section 5.15m) of the Howell City Code.

(2) Felonious driving, negligent homicide, manslaughter, or murder resulting from the operation of a motor vehicle, snowmobile, ORV, aircraft, vessel or locomotive engine while the person was impaired by or under the influence of intoxicating liquor or a controlled substance, as defined in section 7104 of the Public Health Code, 1978 PA 368, MCL 333.7104, or a combination of intoxicating liquor and a controlled substance, or had an unlawful blood alcohol content.

(3) A violation of Section 82127 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.82127.

(4) A violation of Section 81134 or 81135 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.81134 and 324.8115.

(5) A violation of Section 185 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.185.

(6) A violation of Section 80176(1), (3), (4) or (5) of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.80176.

(7) A violation of Section 353 or 355 of the Railroad Code of 1993, 1993 PA 354, MCL 462.353 and 462.355.

(b) The expenses for which reimbursement may be ordered under this chapter include all of the following:

(1) The salaries or wages, including overtime pay, of City law enforcement personnel for time spent responding to the

incident from which the conviction arose, arresting the person convicted, processing the person after the arrest, preparing response on the incident, investigating the incident and collecting and analyzing evidence, including determining the blood alcohol content and the presence and identity of controlled substances in the blood, breath or urine.

(2) The salaries, wages or other compensation, including overtime pay, of City fire department and emergency medical service personnel, including City volunteer fire-fighters or City volunteer emergency medical service personnel, for time spent responding to, and providing fire-fighting, rescue and emergency medical services in relation to, the incident from which the conviction arose.

(3) The cost of medical supplies lost or expended by the City fire department and emergency medical service personnel, including City volunteer fire-fighters or City volunteer emergency medical service personnel, in providing services in relation to the incident from which the conviction arose.

(c) If police department, fire department, or emergency medical service personnel from more than one unit of government incurred expenses as described in subsection (b) hereof, the court may order the person convicted to reimburse each unit of government for the expenses it incurred.

(d) The amount ordered to be paid under this chapter shall be paid to the clerk of the court, who shall transmit the appropriate amounts to the City to receive reimbursement. If not otherwise provided by the court under this subsection, the reimbursement ordered under this chapter shall be made immediately. However, the court may require that the person make the reimbursement ordered under this chapter within a specified period or in specified installments.

(e) If the person convicted is placed on probation or parole, any reimbursement ordered under this chapter shall be a condition of that probation or parole. The court may revoke probation and the parole board may revoke parole if the person fails to comply with the order and if the person has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole, the court or parole board shall consider the person's employment status, earning ability, number of dependents, financial resources, the willfulness of the person's failure to pay, and any other special circumstances that may have a bearing on the person's ability to pay.

(f) An order for reimbursement under this chapter may be enforced by the prosecuting attorney of the State or the City attorney to receive the reimbursement in the same manner as a judgment in a civil action.

(g) Notwithstanding any other provision of the chapter, a person shall not be imprisoned, jailed or incarcerated for a violation of parole or probation, or otherwise, for failure to make reimbursement as ordered under this chapter unless the court determines that the person has the resources to pay the ordered reimbursement and has not made a good faith effort to do so.

(h) The City may elect to be reimbursed for expenses under this chapter or 1998 PA 345. This subsection does not allow the City to be fully reimbursed more than once for any expenses incurred herein by the City.

(Ord. 695. Passed 9-13-99.)

## **PART SIX - GENERAL OFFENSES CODE**

Chap. 604 Alcoholic Beverages.

Chap. 606 Animals.

Chap. 612 Drugs.

Chap. 618 Gambling.

Chap. 620 Howell Area Fire Authority Charges.

Chap. 622 Health, Safety and Sanitation.

Chap. 652 Nuisances.

Chap. 656 Offenses Relating to Persons.

Chap. 658 Offenses Relating to Property.

Chap. 662 Peace Disturbances.

Chap. 668 Railroads.

Chap. 688 Weapons and Explosives.

### **CHAPTER 604**

#### **Alcoholic Beverages**

604.01 Prohibited in public parks.

604.02 Prohibited in Howell Shopping Center parking lot.

- 604.03 Permitted in Armory.
- 604.04 Sale to and possession by minors.
- 604.05 Selling or furnishing alcoholic liquor to minor; failure to make diligent inquiry; violation as misdemeanor; penalty; 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.
- 604.05A Selling, serving, or furnishing alcohol; prohibitions.
- 604.06 Purchase, consumption, or possession of alcoholic liquor by minor; attempt; chemical breath analysis; notice to parent, custodian, or guardian; construction of section; exceptions; "any bodily alcohol content" defined.
- 604.07 Power of peace officer or law enforcement officer witnessing violation to stop and detain person; issuance of appearance ticket.
- 604.08 Presumptions; notice requirements.
- 604.09 Stop and detain; appearance tickets.
- 604.99 Violation, fines, sanctions; furnishing fraudulent identification to minor; screening and assessment.

### **CROSS REFERENCES**

Intoxicating liquors generally - see M.C.L. Secs. 436.1 et seq.

Sales on Sundays and municipal election days - see M.C.L. Sec. 436.19e

Driving under the influence of intoxicating liquor - see TRAF.410.03 (U.T.C. Secs. 5.01, 5.15 et seq.)

Possession of alcoholic liquor in a passenger compartment - see TRAF.410.03(U.T.C. Secs. 5.16a, 5.16b)

Drugs - see GEN. OFF.Ch. 612

Public intoxication - see GEN. OFF.662.01(b)(5)

### **604.01 PROHIBITED IN PUBLIC PARKS.**

No person shall consume or have in his or her possession any intoxicating liquor or alcoholic beverage in a public park in the City.

(Ord. 121. Passed 7-15-47.)

### **604.02 PROHIBITED IN HOWELL SHOPPING CENTER PARKING LOT.**

No person shall consume intoxicants or have intoxicants open and available for consumption upon the premises designated as the Howell Shopping Center parking lot or upon or within any motor vehicle parked upon such premises.

(Ord. 374. Passed 9-25-78.)

### **604.03 PERMITTED IN ARMORY.**

The serving and use of alcoholic beverages on the premises of the Howell National Guard Armory, located at 725 South Isbell Street, by outside parties of a nonmilitary or State governmental nature, is hereby authorized, provided, however, that any such use of alcoholic beverages on such premises shall be in conformity with the rules and regulations of the Michigan Liquor Control Commission, local ordinances, State and Federal rules and regulations and rules in general orders of the Department of Military Affairs.

(Res. Unno. Passed 6-5-67.)

### **604.04 SALE TO AND POSSESSION BY MINORS.**

(a) As used in this section "alcoholic liquor" means any spirituous, vinous, malt or fermented liquor, liquid or compound, whether or not medicated, proprietary or patented and by whatever name called, containing one-half of one percent or more of alcohol by volume, which is fit for use for beverage purposes.

(b) A minor, defined as a person less than twenty-one years of age, shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor or attempt to possess alcoholic liquor, except as provided in this chapter and by Section 703 of the Michigan Liquor Control Code (hereinafter referred to as "the Code"), that being M.C.L.A. 436.1101 et seq.

(c) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by the Code, by the Commission or by an agent of the Commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(d) This section shall not be construed to limit the civil or criminal liability of a vendor or a vendor's clerk, servant, agent or employee for a violation of the Code.

(Ord. 696. Passed 10-11-99.)

**604.05 SELLING OR FURNISHING ALCOHOLIC LIQUOR TO MINOR; FAILURE TO MAKE DILIGENT INQUIRY; VIOLATION AS MISDEMEANOR; PENALTY; 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. Except as otherwise provided in subsection (b) hereof and subject to subsections (d), (e), and (f) hereof, 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. A retail licensee or a retail licensee's clerk, agent, or employee who violates this subsection shall be punished in the manner provided for licensees in section 909 of the code except that if the violation is the result of an undercover operation in which the minor received alcoholic liquor under the direction of the State police, the commission, or a local police agency as part of an enforcement action, the retail licensee's clerk, agent or employee is responsible for a State civil infraction and may be ordered to pay a civil fine of not more than one hundred dollars (\$100.00). Except as otherwise provided in subsection (b) hereof, a person who is not a retail licensee or a retail licensee's clerk, agent, or employee and who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) and imprisonment for not more than sixty days for a first offense, a fine of not more than two thousand five hundred dollars (\$2,500) and imprisonment for not more than ninety days for a second or subsequent offense, and may be ordered to perform community service. For a second or subsequent offense, the Secretary of State shall suspend the operator's or chauffeur's license of an individual who is not a retail licensee or retail licensee's clerk, agent, or employee and who is convicted of violating this subsection as provided in section 319 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.319. A suitable sign describing the content of this section and the penalties for its violation shall be posted in a conspicuous place in each room where alcoholic liquor is sold. The signs shall be approved and furnished by the commission.

(b) A person who is not a retail licensee or the retail licensee's clerk, agent, or employee and who violates subsection (a) hereof is guilty of a felony, punishable by imprisonment for not more than ten years or a fine of not more than five thousand dollars (\$5,000), or both, if the subsequent consumption of the alcoholic liquor by the minor is a direct and substantial cause of the person's death or an accidental injury that causes that person's death.

(c) If a violation occurs in an establishment that is licensed by the commission for the 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) hereof or section 801(2) 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 person less than twenty-one 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.

(d) If the enforcing agency involved in the violation is the State police or a local police agency, a licensee shall not be charged with a violation of subsection (a) hereof or section 801 (2) of the code unless all of the following occur, if applicable:

(1) Enforcement action is taken against the minor who purchased or attempted to purchase, consume or attempted to consume, or possessed or attempted to possess alcoholic liquor.

(2) Enforcement action is taken under the section against the person twenty-one years of age or older who is not the retail licensee or the retail licensee's clerk, agent, or employee who sold or furnished the alcoholic liquor to the minor.

(3) Enforcement action under this section is taken against the clerk, agent, or employee who directly sold or furnished alcoholic liquor to the minor.

(e) If the enforcing agency is the commission and an appearance ticket or civil infraction citation has not been issued, then the commission shall recommend to a local law enforcement agency that enforcement action be taken against a violator of this section or section 703 who is not a licensee. However, subsection (d) hereof does not apply if the minor against whom enforcement action is taken under section 703, the clerk, agent, or employee of the licensee who directly sold or furnished alcoholic liquor to the minor, or the person twenty-one 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. Subsection (d)(1) hereof does not apply under either of the following circumstances:

(1) The violation of subsection (a) hereof 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 employee-sponsored internal enforcement action.

(2) The violation of subsection (a) hereof 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.

(f) Any initial or contemporaneous purchase or receipt of alcoholic liquor by the minor under subsection (e)(1) or (2) hereof must have been under the direction of the State police, the commission, or the local police agency and must have been part of the undercover operation.

(g) 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 or her parents or legal guardian shall consent to the participation if that person is less than eighteen years of age.

(h) 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, a military identification card, 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.

(i) The commission shall provide, on an annual basis, a written report to the Department of State Police as to the number of actions heard by the commission involving violations of this section and section 801(2). The report shall include the disposition of each action and contain figures representing the following categories:

- (1) Decoy operations.
- (2) Off-premises violations.
- (3) On-premises violations.
- (4) Repeat offenses within the three years preceding the date of that report.

(j) As used in this section:

(1) "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) "Diligent inquiry" means a diligent good faith effort to determine the age of a person, which includes at least an examination of an official Michigan operator's or chauffeur's license, an official Michigan personal identification card, a military identification card, or any other bona fide picture identification which establishes the identity and age of the person.

(Ord. 854. Passed 4-9-12.)

#### **604.05A SELLING, SERVING, OR FURNISHING ALCOHOL; PROHIBITIONS.**

(a) A vendor shall not sell, serve, or furnish any alcoholic liquor to any person in an intoxicated condition.

(b) A licensee shall not allow a person who is in an intoxicated condition to consume alcoholic liquor on the licensed premises.

(c) A licensee, or the clerk, servant, agent, or employee of a licensee, shall not be in an intoxicated condition on the licensed premises.

(d) A licensee shall not allow an intoxicated person to frequent or loiter on the licensed premises except where the intoxicated person has been refused service of further alcoholic liquor and continues to remain on the premises for the purpose of eating food, seeking medical attention, arranging for transportation that does not involve driving himself or herself, or any other circumstances where requiring the person to vacate the premises immediately would be considered dangerous to that person or to the public.

(e) A licensee shall not allow a minor to consume alcoholic liquor or to possess alcoholic liquor for personal consumption on the licensed premises.

(f) A licensee shall not allow any person less than eighteen years of age to sell or serve alcoholic liquor.

(g) A licensee shall not allow any person less than eighteen years of age to work or entertain on a paid or voluntary basis on the licensed premises unless the person is employed in compliance with the youth employment standard act, 1978 PA 90, MCL 409.101 to 409.124.

This subsection does not apply to an entertainer under the direct supervision and control of his or her parent or legal guardian.

(Ord. 854. Passed 4-9-12.)

#### **604.06 PURCHASE, CONSUMPTION, OR POSSESSION OF ALCOHOLIC LIQUOR BY MINOR; ATTEMPT; CHEMICAL BREATH ANALYSIS; NOTICE TO PARENT, CUSTODIAN, OR GUARDIAN; CONSTRUCTION OF SECTION; EXCEPTIONS; "ANY BODILY ALCOHOL CONTENT" DEFINED.**

A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this chapter. A minor who violates this section is guilty of a misdemeanor punishable by the following fines and sanction and is not subject to the penalties prescribed in section 909 of the code.

(Ord. 854. Passed 4-9-12.)

#### **604.07 POWER OF PEACE OFFICER OR LAW ENFORCEMENT OFFICER WITNESSING VIOLATION TO STOP AND DETAIN PERSON; ISSUANCE OF APPEARANCE TICKET.**

A peace officer or law enforcement officer described under section 201 or an inspector of the commission who witnesses a violation of section 701(1) or 703, or a local ordinance corresponding to section 701(1) or 703, may stop and detain a person and obtain satisfactory identification, seize illegally possessed alcoholic liquor, and issue an appearance ticket as prescribed in section 9c of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c.

(Ord. 854. Passed 4-9-12.)

#### **604.08 PRESUMPTIONS; NOTICE REQUIREMENTS.**

(a) A peace 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 peace 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.

(b) The Howell City Police Department, upon determining that a person less than eighteen years of age who is not emancipated pursuant to Act 293 of the Public Acts of 1968, being M.C.L.A. 772.1 to 772.6, allegedly consumed, possessed, purchased, or attempted to consume, possess, or purchase alcoholic liquor in violation of Section 604.04 shall notify the parent or parents, 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 forty-eight hours after the City Police Department determines that the person who allegedly violated Section 604.04 is less than eighteen years of age and not emancipated pursuant to Act 293 of the Public Acts of 1968. 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 seventeen years of age is incarcerated for violating Section 604.04, his or her parents or legal guardian shall be notified immediately as provided in this subsection.

(Ord. 696. Passed 10-11-99.)

#### **604.09 STOP AND DETAIN; APPEARANCE TICKETS.**

(a) A peace officer who witnesses a violation of Section 604.04 may stop and detain the person for purposes of obtaining satisfactory identification, seizing illegally possessed alcoholic liquor, and issuing an appearance ticket.

(b) As used in this section, "appearance ticket" means a complaint or written notice issued and subscribed by a peace officer directing a designated person to appear in the Fifty-Third District Court or the Livingston County Juvenile Court at a designated time in connection with the alleged violation. The appearance ticket shall consist of the following parts:

- (1) The original which shall be a complaint or notice to appear by the officer and filed with the court.
- (2) The first copy which shall be the abstract of court record.
- (3) The second copy which shall be delivered to the alleged violator.
- (4) The third copy which shall be retained by the Howell City Police Department.

(c) The court may accept a plea of guilty by the defendant of the allegations of an appearance ticket and the court shall then impose a fine, license suspension, or other sanction as further authorized by this chapter. If the defendant denies the allegations of the appearance ticket, the court shall then set a date for trial or hearing.

(Ord. 634. Passed 7-22-96.)

#### **604.99 VIOLATION, FINES, SANCTIONS; FURNISHING FRAUDULENT IDENTIFICATION TO MINOR; SCREENING AND ASSESSMENT.**

(a) The following fines and sanctions are hereby assessed for a violation of Section 604.06 as follows:

(1) For the first violation a fine of not more than one hundred dollars (\$100.00), and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in Section 6107 of the Public Health Code, 1978 PA 368, M.C.L.A. 333.6107, and designated by the administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (d), below.

(2) For a violation of Section 604.06 following a prior conviction or juvenile adjudication for a violation of this subsection, section 33b(l) of former 1933 (Ex Sess) PA 8, or a local ordinance substantially corresponding to this subsection or section 33b(l) of former 1933 (Ex Sess) PA 8, by imprisonment for not more than thirty days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than two hundred dollars (\$200.00), or both, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in Section 6107 of the Public Health Code, 1978 PA 368, M.C.L.A. 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance screening and assessment at his or her own expense as described in subsection (d), below.

(3) For a violation of the subsection following two or more prior convictions or juvenile adjudications for a violation of this subsection, section 33b(1) of former 1933 (Ex Sess) PA 8, or a local ordinance substantially corresponding to this

subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, by imprisonment for not more than sixty days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than five hundred dollars (\$500.00), or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in Section 6107 of the Public Health Code, 1978 PA 368, M.C.L.A. 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance screening and assessment at his or her own expense as described in subsection (d), below.

(b) A person who furnishes fraudulent identification to a minor, or notwithstanding subsection (a) hereof, a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than ninety-three days or a fine of not more than one hundred dollars (\$100.00), or both.

(c) When an individual who has not previously been convicted of or received a juvenile adjudication for a violation of subsection (a) hereof pleads guilty to a violation of subsection (a) hereof or offers a plea of admission in a juvenile delinquency proceeding for a violation of subsection (a) hereof, the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that include, but are not limited to, the sanctions set forth in subsection (a)(1), above, payment of the costs including minimum State cost as provided for in section 18m of chapter XI A of the Probate Code of 1939, 1939 PA 288, MCL 712A.18m, and section 1j of the Code of Criminal Procedure, 1927 PA 172, MCL 769.1j, and the costs of probation as prescribed in section 3 of chapter XI of the Code of Criminal Procedure, 1927 PA 175, MCL 771.3. Upon violation of a term or condition of probation or upon a finding that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. Upon fulfillment of the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including this additional penalties imposed for second or subsequent convictions or juvenile adjudications under subsection (a)(2) and (3), above. There may be only one discharge and dismissal under this subsection as to an individual. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation and if there is a discharge and dismissal under this subsection. The Secretary of State shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. These records shall be furnished to any of the following:

(1) To a court, prosecutor, or police agency upon request for the purpose of determining if an individual has already utilized this subsection.

(2) To the Department of Corrections, a prosecutor, or a law enforcement agency, upon the department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:

A. At the time of the request, the individual is an employee of the Department of Corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the Department of Corrections, the prosecutor, or the law enforcement agency.

B. The record is used by the Department of Corrections, the prosecutor, or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

(d) The court may order the person convicted of violating subsection (a) hereof to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of the Public Health Code, 1978 PA 368, MCL 333.6103, in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. The court may order a person subject to a conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsection (a) hereof to submit to random or regular preliminary chemical breath analysis. In case of a minor under eighteen years of age not emancipated under 1968 PA 293, MCL 722.1 to 722.6, the parent, guardian, or custodian may request a random or regular preliminary chemical breath analysis as part of the probation.

(e) The Secretary of State shall suspend the operator's or chauffeur's license of an individual convicted of violating subsection (a) or (b) hereof as provided in section 319 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.319.

(f) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may require the person to submit to a preliminary chemical breath analysis. A peace 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 or had any bodily alcohol content. A minor who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a State civil infraction and may be ordered to pay a civil fine of not more than one hundred dollars (\$100.00).

(g) The Howell City Police Department, upon determining that a person less than eighteen years of age who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of subsection (a)

hereof shall notify the parent or parents, 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 law enforcement agency. The notice required by this subsection shall be made not later than forty-eight hours after the law enforcement agency determines that the person who allegedly violated subsection (a) hereof is less than eighteen years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. 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 seventeen years of age is incarcerated for violating subsection (a) hereof, his or her parents or legal guardian shall be notified immediately as provided in this subsection.

(h) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by this act, by commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(i) This section does not limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent, or employee for a violation of this act.

(j) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this act if the purpose of the consumption is solely educational and is a requirement of the course.

(k) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this act.

(l) Subsection (a), above, 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.

(m) 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), above, section 801(2) of the code, or section 701(1) of the code.

(n) In a criminal prosecution for the violation of subsection (a), above, concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption was legal.

(o) As used in this section, "any bodily alcohol content" means either of the following:

(1) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(Ord. 696. Passed 10-11-99; Ord. 854. Passed 4-9-12.)

## **CHAPTER 606**

### **Animals**

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- 606.01 Dogs running at large.
- 606.02 Prohibited animals.
- 606.03 Barking and howling dogs.
- 606.04 Interference with impounding of animals.
- 606.05 Dangerous and vicious dogs.
- 606.06 Bites; report to Police Department.
- 606.07 Removal of animal excrement.
- 606.08 Keeping of chickens.
- 606.99 Penalty.

## **CROSS REFERENCES**

Animal pounds - see M.C.L. Secs. 123.301 et seq., 750.70

Animal diseases generally - see M.C.L. Secs. 287.2 et seq.

Animals generally - see M.C.L. Secs. 287.2 et seq., 750.49 et seq., 752.21 et seq.

### **606.01 DOGS RUNNING AT LARGE.**

(a) No person shall permit a dog owned or harbored by, or under the control of, such person, to run at large in the City.

(b) As used in this section, "running at large" means a dog which is loose on the streets or other public ways of the City or a dog which is at large upon any property not owned and occupied by the person who is the owner or custodian of such dog. However, a dog shall not be construed to be running at large when it is upon the public ways or private places of the City if it is accompanied by its owner or caretaker and such owner or caretaker thereof holds such dog by a leash securely fastened to its collar or otherwise maintains effective control and supervision of such animal.

(c) A dog found running at large, as set forth in this section, may be caught and taken charge of by officers of the Police Department, the Livingston County Animal Director or its designate, or any other person designated by resolution of Council for such work. Upon catching a dog running at large, the same shall be confined in the Livingston County Animal Shelter. If the owner of the dog is known, or if the owner's name can be learned by means of a license tag attached to the collar of such animal, immediate notification of such impounding shall be given to the owner. If a dog is impounded and the owner or custodian thereof cannot be located, the Chief, Animal Director, or other designated person, is authorized to destroy such animal any time after five days from the date of impounding, provided that the impounding fee has not been paid to the Livingston County Animal Shelter within that time. The redemption procedure provided for herein is in addition to the penalty provided for in Section 606.99.

(Ord. 527. Passed 9-24-90.)

### **606.02 PROHIBITED ANIMALS.**

(a) In General. Except as otherwise provided for in this section, and except for domesticated breeds of dogs and cats, no person shall keep, maintain or confine anywhere in the City, bovines, equines, sheep, goats, or swine, regardless of whether the same have been domesticated or otherwise kept, maintained or confined by virtue of a State or Federal license. In addition, and by way of illustration, but not by way of limitation, no person shall keep, as a pet, the following wild or exotic animals: alligator, badger, bat, bear, beaver, bobcat, cheetah, cougar, coyote, crocodilian, eagle, elk, ermine, falcon, ferret, fox, hawk, jackal, jaguar, nonhuman primates, lemur, leopard, lion, lynx, mink, muskrat, ocelot, opossum, owl, panther, porcupine, puma, raccoon, skunk, tiger, venomous reptiles, wolf, wolf-hybrid, wolverine, weasel or wildcat.

(b) Declaration of Certain Animals as Wildlife; Rabies Risk to Humans; Testing Animals in the following group are hereby declared to be wildlife, even if born in captivity. Animals in this group cannot be vaccinated against rabies and shall be destroyed and sent for testing by the Police Department if they bite a human being. By way of illustration, the animals designated in this group are as follows: badger, bat, beaver, coyote, ermine, fox, lemur, mink, muskrat, opossum, porcupine, raccoon, skunk, weasel, wolf and wolf-hybrid.

(c) Other Risks to Humans. Except as otherwise provided for in this section, no person shall keep, maintain or confine anywhere in the City any other animal not listed herein which may cause, by virtue of being a carrier of a disease which can be serious or fatal to humans, or which represents, by virtue of its size, disposition or physical attributes, a risk to owners and the community as a whole. If found anywhere in the City, the same shall be removed from the City forthwith.

(d) Certain Animals Declared to be Public Nuisances; Destruction or Confinement Except as otherwise provided for in this section, if the animals designated in this section are not removed from the City forthwith by the owners thereof, after notice to said owners, the same shall be declared to be a public nuisance per se, and the City hereby has the authority to proceed to a court of competent jurisdiction to have said animals removed from within the City limits and either destroyed or confined so as to remove any risk to citizens of the City in the protection of the health, safety and welfare of the City.

(e) Resolution of Disputes re Animal Designations If there is a dispute between the City and an owner of an animal as to whether or not said animal is prohibited by virtue of this section, then, in such event, the owner, at his or her cost, shall be afforded the opportunity to have said animal certified by a competent veterinarian, or some other person who is an expert as to the breed of said animal, to show that said animal is not prohibited pursuant to this section.

(f) Permit to Keep Animals; Requirements Notwithstanding anything in this section to the contrary, the City Council, in its sole discretion, may allow a person to keep, maintain or confine in the City the prohibited animals set forth in this section so long as the person requesting permission files an application with the City Clerk containing the following information:

(1) The location and zoning classification where the animal will be kept, maintained and confined;

(2) A detailed plan of how the animal will be kept, maintained and confined;

(3) United States Department of Agriculture or other Federal or State approval that the applicant meets all of the criteria by either a State or Federal department and that approval has otherwise been received by the applicant;

(4) Liability insurance for injury which could be suffered by any person related to the keeping, maintenance and confinement of the animal. City Council shall set the minimum limits of insurance as part of permit approval.

(5) A plan of veterinary care shall be provided, signed by both the owner of the animal, any person who will be maintaining the animal not the owner, and the veterinarian; and

(6) Any other information requested by City Council during the application process.

City Council shall not grant the application if the animal is kept, maintained or confined in any area of the City not zoned B-1 or B-2. The permit to be issued by the City Council may either be in the form of a motion, duly made and approved by a majority of the City Council members, or in writing, at the sole discretion of the City Council. Further, the permit shall be for one year, whereupon application for a new permit shall be made by the person in the manner set forth in this subsection. City Council may, by resolution, fix a fee for the issuance of a permit.

(g) Ferrets Excluded. Ferrets shall not be regulated by this section, but shall be regulated pursuant to the terms and conditions of Act 358 of the Public Acts of 1994, as amended, being M.C.L.A. 287.891 et seq.

(h) Chickens Excluded. The keeping of female chickens shall not be regulated by this section, but regulated by Section 606.08.

(Ord. 677. Passed 7-20-98; Ord. 883. Passed 10-28-13.)

### **606.03 BARKING AND HOWLING DOGS.**

No person shall harbor or keep a dog which, by loud and frequent yelping or habitual barking or howling, causes a serious annoyance to other persons in the neighborhood. If said dog is caught and confined, the owner shall be notified and/or the dog destroyed pursuant to the procedures described in Section 606.01.

(Ord. 527. Passed 9-24-90.)

### **606.04 INTERFERENCE WITH IMPOUNDING OF ANIMALS.**

No person shall prevent or hinder or attempt to prevent or hinder the impounding of any animal or the delivery of the same to the Livingston County Animal Shelter by any person authorized to do so or release or attempt to release any animal from the shelter in a manner not otherwise authorized by law.

(Ord. 527. Passed 9-24-90.)

### **606.05 DANGEROUS AND VICIOUS DOGS.**

(a) As used in this section:

(1) "Dangerous dog" is defined as follows:

A. "Dangerous dog" means a dog that, without provocation, and subject to paragraph (a)(1)C. and D. hereof, has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person, while that dog is off the premises of its owner, keeper or harbinger and not under the reasonable control of its owner, keeper, harbinger or some other responsible person, or not physically restrained or confined in a locked pen which has a top, locked fenced yard with a fence of appropriate height within the yard so as to not allow said dog to escape by means of jumping the fence, or other locked enclosure which has a top.

B. "Dangerous dog" means and includes:

1. Any dog with a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
2. Any dog which attacks a human being or domestic animal without provocation; or
3. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting, or any dog trained to attack people or other animals.

C. No dog shall be deemed dangerous if it bites, attacks or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it.

D. "Dangerous dog" does not include a police dog that has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.

(2) "Menacing fashion" means that a dog would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.

(3) "Police dog" means a dog that has been trained and may be used to assist one or more law enforcement officers in the performance of their official duties.

(4) "Vicious dog" is defined as follows:

A. "Vicious dog" means a dog that, without provocation and subject to paragraph (a)(4)B. hereof, meets any of the following requirements:

1. Has killed or caused serious injury to any person;

2. Has caused injury, other than killing or serious injury to any person or has killed another dog.

B. "Vicious dog" does not include either of the following:

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

2. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense inside the residential building of the owner, keeper or harbinger of the dog.

(5) "Without provocation" means that a dog was not teased, tormented or abused by a person, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.

(b) No owner, keeper or harbinger of a dangerous or vicious dog shall fail to do either of the following, except when the dog is lawfully engaged in hunting or training for the purpose of hunting, accompanied by the owner, keeper, harbinger or a handler:

(1) While that dog is off the premises of the owner, keeper or harbinger, securely confine it at all times in a locked pen which has a top, locked fenced yard with a fence of appropriate height within the yard so as to not allow said dog to escape by means of jumping the fence or other locked enclosure which has a top, except that a dangerous dog may, in the alternative, be tied with a leash or tether so that the dog is adequately restrained;

(2) While that dog is off the premises of the owner, keeper or harbinger, keep it on a chain link leash or tether that is not more than six feet in length and additionally do at least one of the following:

A. Keep that dog in a locked pen which has a top, locked fence yard or other locked enclosure which has a top;

B. Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such a person in a close enough proximity to that dog so as to prevent it from causing injury to any person; and/or

C. Muzzle that dog.

(c) No person shall possess with intent to sell, or offer for sale, breed, buy or attempt to buy, within the City, any dangerous or vicious dog.

(d) Any dangerous or vicious dog which attacks a human being or another domestic animal may be ordered destroyed when, in a court's judgment, such dangerous or vicious dog represents a continuing threat of serious harm to human beings or domestic animals.

(e) Any person found guilty of violating any of the provisions of this section shall pay all expenses, including shelter, food and veterinary expenses, necessitated by the seizure of any dog for the protection of the public and such other expenses as may be required for the destruction of such dog. Such payment shall be in addition to the penalty provided in Section 606.99.

(Ord. 731. Passed 10-21-02.)

#### **606.06 BITES; REPORTS TO POLICE DEPARTMENT.**

If any person is bitten by any animal as set forth in this chapter, it shall be the duty of that person, or the owner or custodian of the animal having knowledge of the same, to report such fact to the Police Department within twelve hours thereafter. If the owner or custodian of any animal has any reason to believe or suspect that such animal has become infected with rabies, it shall be the duty of that person to report such fact to the Police Department immediately. No person shall refuse to show or exhibit, at any reasonable time, any animal which he or she is harboring, sheltering or keeping in his or her possession or custody to any City inspector, police officer or health official to the City or Livingston County.

(Ord. 731. Passed 10-21-02.)

#### **606.07 REMOVAL OF ANIMAL EXCREMENT.**

(a) Any person who, while walking or escorting a dog on a leash, allows said dog to deposit excrement on public or private property, other than the property of the dog's owner or the property of the person walking or escorting the dog on a leash, shall immediately remove such excrement.

(b) Any person owning a dog, whether or not on a leash, which deposits excrement on public or private property, other than the property of the animal's owner, shall, upon being made aware of such fact, immediately remove such excrement.

(c) A person who violates the above sections is responsible for a Municipal civil infraction, as follows:

(1) Upon being found responsible for a first violation of this section, a fine of twenty-five dollars (\$25.00);

(2) Upon being found responsible for a second violation of this section, a fine of fifty dollars (\$50.00); and

(3) Upon being found responsible for a third and/or subsequent violation of this section, a fine of seventy-five dollars (\$75.00).

(Ord. 711. Passed 7-31-00; Ord. 731. Passed 10-21-02.)

#### **606.08 KEEPING OF CHICKENS.**

(a) Permit Required. Any person who keeps chicken within the City shall obtain a permit from the City prior to acquiring the chickens and pay a permit fee set by City Council. Applications shall be made to the City of Howell Community Development Department. Permits are nontransferable.

(b) Neighbor Consent. No permit shall be issued and no chickens shall be allowed to be kept unless the owners of all adjacent properties (as defined below) consent in writing to the permit and this consent is presented along with an application for a permit.

(c) Term of Permit. Permits are issued on an annual basis and are then renewable annually.

(d) Adjacent Property. For the purposes of this chapter, "adjacent property" is defined as any property sharing any part of a property line or corner with the parcel proposed for the keeping of chickens.

(e) Requirements. Each person holding a permit to keep chickens within the City shall comply with the following:

(1) The principle use of the property where the chickens are to be kept must be a single family dwelling as defined by the City of Howell Zoning Ordinance;

(2) No more than six hens per parcel;

(3) No keeping of roosters;

(4) No slaughter of any chickens;

(5) Chickens shall not be kept in any location on the property other than the backyard as defined by the City of Howell Zoning Ordinance;

(6) Chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or in a fenced enclosure at all times. Fenced enclosures are subject to the requirements of Section 5.11 of the City of Howell Zoning Ordinance;

(7) Chickens shall be provided with a secure, well-ventilated, roofed and lockable enclosure. The floors and walls of the structure shall be kept in a clean and sanitary condition;

(8) No covered enclosure or fenced enclosure shall be located closer than ten feet to any property line;

(9) No covered enclosure or fenced enclosure shall be located closer than forty feet from any residential structure on an adjacent property;

(10) All enclosures for the keeping of chickens shall be so constructed as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure;

(11) Chicken feed must be stored within a tightly lidded container in a shed, garage, or similar storage area; and

(12) Waste materials (feed, manure, litter) shall be disposed of in a sanitary manner (which may include bagging or composting) and not piled or otherwise stored on the property.

(f) Application for Permit. An application for a permit for keeping chickens shall be made on a form provided by the City, shall be accompanied by a payment of a non-refundable annual permit fee in an amount set by resolution of City Council and shall include, but not be limited to, the following information:

(1) Number of chickens;

(2) Description of all pens, coops, cages and enclosures constructed for housing and confining chickens;

(3) The distance and location of all pens, coops, cages and enclosures from all adjacent property lines and residential structures; and

(4) Documentation of consent from all adjacent property owners.

(g) Amendment. No additional fee shall be required for an amendment to a permit.

(h) Violation of Section and Revocation of Permits. If any of the above requirements are not complied with, the City may revoke any permit granted under this section and/or initiate a civil infraction violation pursuant to Section 606.99. The City may also revoke a permit if a person's chickens become a nuisance as defined in Section 652.01 or the permit holder receives two verified violations pertaining to the keeping of chickens within a six month period.

(Ord. 883. Passed 10-28-13.)

#### **606.99 PENALTY.**

(a) Except as otherwise provided herein, any person violating or refusing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor subject to the following penalties:



(1) Upon a first conviction under this chapter, a fine of twenty-five dollars (\$25.00) and payment of any and all impound fees.

(2) Upon a second conviction under this chapter, a fine of fifty dollars (\$50.00) and payment of any and all impound fees.

(3) Upon a third or subsequent conviction, a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than ninety days in the County Jail, or both, and payment of any and all impound fees. In addition, the animal may be impounded and destroyed by order of the District Court.

(Ord. 527. Passed 9-24-90.)

(b) Whoever violates Section 606.05 and 606.08 is responsible for a municipal civil infraction, and shall be subject to the following fines:

(1) Upon being found responsible for a first violation, twenty-five dollars (\$25.00);

(2) Upon being found responsible for a second violation, fifty dollars (\$50.00); and

(3) Upon being found responsible for a third and/or subsequent violation, seventy-five dollars (\$75.00).

(Ord. 711. Passed 7-31-00; Ord. 883. Passed 10-28-13.)

## CHAPTER 612

### Drugs

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612.01 Definitions.

612.02 Use or possession of drug paraphernalia.

612.03 Delivery or manufacture of drug paraphernalia.

612.04 Advertising of drug paraphernalia.

612.05 Medical marihuana.

612.06 Recreational marihuana.

612.99 Penalty.

#### **CROSS REFERENCES**

Drugs and medicine generally - see M.C.L. Secs. 335.1 et seq.

Marihuana - see M.C.L. Secs. 335.4, 335.59, 335.151 et seq.

Purchase by municipal officers and employees - see M.C.L. Sec. 335.55

Driving under the influence of narcotic drugs - see TRAF.Ch. 410 (U.T.C. Secs. 5.15 et seq.)

Alcoholic beverages - see GEN. OFF.Ch. 604

Public intoxication - see GEN. OFF.662.01(b)(5)

#### **612.01 DEFINITIONS.**

As used in this chapter:

(a) Controlled Substance. "Controlled substance" means a drug, substance or immediate precursor, as defined in the State Public Health Code, being Act 368 of the Public Acts of 1978 (MCL 333.7201 through 333.7231), as amended.

(b) Drug Paraphernalia. "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of any of the provisions of this chapter. In further definition of "drug paraphernalia" the following shall be considered:

(1) Types of paraphernalia. "Drug paraphernalia" includes, but is not limited to, the following:

A. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

B. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

C. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

D. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

E. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

F. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, which are used, intended for use or designed for use in cutting controlled substances;

G. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;

H. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

I. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;

J. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;

K. Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body; and

L. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:

1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;
2. Water pipes;
3. Carburetion tubes and devices;
4. Smoking and carburetion masks;
5. Roach clips (objects used to hold burning materials, such as a marihuana cigarette that has become too small or too short to be held in the hand);
6. Miniature cocaine spoons and cocaine vials;
7. Chamber pipes;
8. Carburetor pipes;
9. Electric pipes;
10. Air-driven pipes;
11. Chillums;
12. Bongs; and
13. Ice pipes or chillers.

(2) Determination of paraphernalia. In determining whether or not an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

A. Statements by the owner or by anyone in control of the object concerning its use;

B. Prior convictions, if any, of the owner or of anyone in control of the object, under any State or Federal law relating to a controlled substance;

C. The proximity of the object, in time and space, to a direct violation of this chapter;

D. The proximity of the object to controlled substances;

E. The existence of any residue of controlled substances on the object;

F. Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object to deliver it to a person who he or she knows, or should reasonably know, intends to use the object to facilitate a violation of this chapter. The innocence of the owner or of anyone in control of the object, as to a direct violation of this chapter, should not prevent a finding that the object is intended or designed for use as drug paraphernalia.

G. Instructions, oral or written, provided with the object concerning its use;

H. Descriptive materials accompanying the object which explain or depict its use;

- I. National and local advertising concerning use of the object;
- J. The manner in which the object is displayed for sale;
- K. Whether or not the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- L. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- M. The existence and scope of legitimate uses for the object in the community; and
- N. Expert testimony concerning use of the object.

(Ord. 406. Passed 4-6-81.)

#### **612.02 USE OR POSSESSION OF DRUG PARAPHERNALIA.**

No person shall use, or possess with intent to use, drug paraphernalia, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of any of the provisions of this chapter, unless such person is licensed to do so by the State.

(Ord. 406. Passed 4-6-81.)

#### **612.03 DELIVERY OR MANUFACTURE OF DRUG PARAPHERNALIA.**

No person shall deliver, or possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that such drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of any of the provisions of this chapter, unless such person is licensed to do so by the State.

(Ord. 406. Passed 4-6-81.)

#### **612.04 ADVERTISING OF DRUG PARAPHERNALIA.**

No person shall place in a newspaper, magazine, handbill or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(Ord. 406. Passed 4-6-81.)

#### **612.05 MEDICAL MARIHUANA.**

Pursuant to Section 333.27205 of the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, no Marihuana Facilities, as defined by the Act, shall be permitted in the City of Howell.

(Ord. 920. Passed 12-3-18.)

#### **612.06 RECREATIONAL MARIJUANA.**

Pursuant to Section 6.1 of the Michigan Regulation and Taxation of Marihuana Act, no Marihuana Establishment, as defined by the Act, shall be permitted in the City of Howell.

(Ord. 920. Passed 12-3-18.)

#### **612.99 PENALTY.**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

## **CHAPTER 618**

### **Gambling**

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618.01 Gaming in public places.

618.02 Gambling devices in public places.

618.99 Penalty.

#### **CROSS REFERENCES**

Gambling - see M.C.L. Secs. 750.301 et seq.

### **618.01 GAMING IN PUBLIC PLACES.**

(a) No person shall engage in any game of cards or game with dice for money or merchandise or any other valuable thing in any store, restaurant, billiard or pool room or cigar or tobacco stand in the City.

(b) No person shall permit any game of cards or game of dice for money or merchandise or any other valuable thing to be carried on in any store, restaurant, billiard or pool room or cigar or tobacco stand, occupied or controlled by such person, in the City.

(Ord. 87. Passed 3-23-26.)

### **618.02 GAMBLING DEVICES IN PUBLIC PLACES.**

(a) No person shall operate or play any slot machine or other mechanical device, incident to which prizes of money, merchandise or other things of value are given, in any store, restaurant, billiard or pool room or cigar or tobacco stand in the City.

(b) No person shall permit the operation or playing of any slot machine or other mechanical device, incident to which prizes of money, merchandise or other things of value are given, in any store, restaurant, billiard or pool room or cigar or tobacco stand, occupied or controlled by such person, in the City. (Ord. 87. Passed 3-23-26.)

### **618.99 PENALTY.**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

## **CHAPTER 620**

### **Howell Area Fire Authority Charges**

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620.01 Purpose.

620.02 Definitions.

620.03 Charges imposed upon responsible party.

620.04 Billing procedures.

620.05 Other remedies.

620.06 Severability.

#### ***CROSS REFERENCES***

Police Department - see ADM. Ch. 236

Fire Department - see ADM. Ch. 238

Fire Department vehicles - see TRAF. 440.04

Cost recovery and reimbursement for emergency responses to traffic incidents - see TRAF.Ch. 450

Discharges of hazardous materials to sewers - see S.U. & P.S.1043.02(d)

### **620.01 PURPOSE.**

This chapter is created to insure that a responsible party, as defined in this chapter, found culpable or otherwise liable for a fire, extraordinary emergency incident or incendiary fire is responsible and financially liable for the payment of the actual costs of clean-up, mitigation, and recoverable expenses incurred by the Howell Area Fire Authority in its response and mitigation of the fire, extraordinary incident, or incendiary fire within the City of Howell. In the event the liable party does not or cannot perform such clean-up or mitigation within a reasonable time, as determined by the Fire Chief of the Howell Area Fire Authority, the Fire Chief of the Howell Area Fire Authority shall perform or cause to be performed clean-up and mitigation of the fire, extraordinary emergency incident or incendiary fire.

(Ord. 761. Passed 8-23-04.)

### **620.02 DEFINITIONS.**

(a) "Extraordinary emergency incident" means an emergency incident which requires a greater amount of firefighters, equipment, supplies, and/or personnel hours than were required to respond to ninety percent of the Howell Area Fire Authority's incidents in the prior fiscal year.

(b) "Incendiary fire" is any fire intentionally set or caused to be set by any human being or entity, whether by their own act, or in concert with another, or with mechanical assistance, regardless of whether said fire was set with incendiary

materials or fuels or ignited merely by applying flame or heat to any substance.

(c) "Responsible party" is any individual, sole proprietorship, partnership, joint venture, trust, firm, joint stock company, corporation including government corporation, association, local unit of government, commission, the state, a political subdivision of the state, an interstate body or any other legal entity that owns, controls, leases, or accepts for transport, storage, treatment or disposal the property involved in the extraordinary emergency incident, and/or was found responsible by a court of competent jurisdiction for setting a incendiary fire.

(Ord. 761. Passed 8-23-04.)

### **620.03 CHARGES IMPOSED UPON RESPONSIBLE PARTY.**

A responsible party or responsible parties are jointly and severally liable for and shall be required to reimburse the City of Howell and/or the Howell Area Fire Authority for all costs incurred in responding to a fire, extraordinary emergency incident or incendiary fire, including but not limited to:

(a) Costs or expenses incurred by the Howell Area Fire Authority, its fire department, and the City of Howell, as well as any other fire department, police agency, emergency medical service agency, public service or public works department, technical or specialty rescue response team, private contractor and any other entity whose assistance is requested by or contracted for by the Howell Area Fire Authority, including all actual expenses attributable to the response, mitigation of the incident and clean-up, including all actions deemed necessary by the Howell Area Fire Authority Fire Chief to preserve public safety, including the costs of equipment, operations, personnel, materials utilized, meals and overtime costs for personnel, medical expenses for any injuries resulting to response personnel, costs of specialists, experts, contractors, and consultants, legal fees, engineering fees, water costs, rental or purchase of machinery and/or equipment, costs related to canine response, costs related to the repair or replacement of any equipment or apparatus damaged in the course of the response, costs incurred by any agency whose response is requested by the Howell Area Fire Authority Fire Chief pursuant to any mutual aid agreement, and any other incidental costs of the Howell Area Fire Authority and the City of Howell, incurred because or related to the response to the fire, extraordinary emergency incident or incendiary fire.

(b) Charges to the Howell Area Fire Authority and/or the City of Howell or either's agencies imposed by any local, state or federal government entities related to the fire, extraordinary emergency incident or incendiary fire.

(c) Costs incurred by the Howell Area Fire Authority and/or the City of Howell in accounting for the fire, extraordinary emergency incident or incendiary fire expenditures, including billing and collection costs, court costs, and actual attorney fees. If a responsible party or parties fail to pay charges assessed under this ordinance, and a collection action is subsequently filed, the responsible party or parties shall be responsible for any and all actual costs incurred by the Howell Area Fire Authority and/or the City of Howell in the course of such collection action.

(Ord. 761. Passed 8-23-04.)

### **620.04 BILLING PROCEDURES.**

Upon the occurrence of an extraordinary emergency incident or a determination of responsibility for incendiary fire, the Fire Chief of the Howell Area Fire Authority shall prepare and deliver or cause to be delivered an invoice of the charges imposed by Section 620.03 to the responsible party or parties for payment. The responsible party or parties shall reimburse the City of Howell and/or the Howell Area Fire Authority, as directed by the invoice, for the charges set forth in the invoice within thirty (30) days. For any amounts due that remain unpaid after thirty (30) days, the responsible party or parties shall be responsible for any and all actual costs incurred by the Howell Area Fire Authority and/or the City of Howell in the course of such collection action, as further addressed in Section 620.03(c) of this chapter.

(Ord. 761. Passed 8-23-04.)

### **620.05 OTHER REMEDIES.**

The City of Howell and/or the Howell Area Fire Authority may pursue any other remedy or may institute any appropriate action or proceeding in a court of competent jurisdiction to collect charges imposed under this chapter. The recovery of charges imposed under this chapter does not limit the liability of responsible parties under any other local ordinance or state or federal laws, rules, or regulations.

(Ord. 761. Passed 8-23-04.)

### **620.06 SEVERABILITY.**

Should any provision or part of this chapter be declared by any court of competent jurisdiction to be invalid or unenforceable, such finding shall not affect the validity or enforceability of the remainder of this chapter.

(Ord. 761. Passed 8-23-04.)

## **CHAPTER 622**

### **Health, Safety and Sanitation**

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- 622.01 Air pollution.
- 622.02 Trees and vegetation.
- 622.03 Noxious odors; filthy accumulations; polluting and diverting watercourses.
- 622.04 Accumulations of junk.
- 622.05 Storage of certain motor vehicles.
- 622.06 Unenclosed wells, cisterns, excavations.
- 622.07 Slaughterhouses.
- 622.08 Playing games in streets; throwing missiles; coasting.
- 622.09 Barbed wire; obstruction of street rights of way.
- 622.10 (Reserved for future legislation)
- 622.11 Abandoned refrigerators.
- 622.99 Penalty.

### **CROSS REFERENCES**

Health and sanitation generally - see Mich. Const. Art. 4, Sec. 51; M.C.L. Secs. 325.1 et seq., 327.1 et seq., 750.466 et seq.

Health and sanitation in home rule cities - see M.C.L. Secs. 117.3, 117.4i

Municipal health departments - see M.C.L. Sec. 327.205

Public safety generally - see M.C.L. Secs. 750.493 et seq.

Board of Health - see ADM. Ch. 274

Mandatory child restraints - see TRAF. 410.03 (U.T.C. Sec 5.82)

Safety belts - see TRAF. 410.03 (U.T.C. Sec. 5.83)

Nuisances - see GEN. OFF. Ch. 652

Private sewage disposal systems - see S.U. & P.S. 1042.04

Performance standards in zoning - see P. & Z. Chapter 1240 (Zoning Code)

### **622.01 AIR POLLUTION.**

(a) No person shall cause or permit the discharge into the open air of any vapors, smoke, dirt or soot by the use of fuel and a fuel burning device so as to cause physical discomfort or danger to the health or person of any of the inhabitants of the City or so as to interfere with the ordinary use and enjoyment of the property of any inhabitant in the City. A violation of this subsection is hereby declared to be a public nuisance.

(b) The continuance of a public nuisance, as referred to in subsection (a) hereof, may be restrained by proceedings in the Forty-fourth Judicial Circuit Court upon the complaint of the Mayor and Clerk of the City. The institution of such proceedings shall not be a bar to the arrest, prosecution and conviction of any person violating subsection (a) hereof or to any suit to recover such penalty.

(c) The provisions of this section shall not apply to the discharge into the open air of vapors, smoke, dirt or soot by the use of any fuel and fuel burning device located and used in single residences occupied and used solely for residential purposes.

(Ord. 147. Passed 12-9-52.)

(d) In the event of a conflict between any of the provisions of this section and a provision of any State or Federal statute or regulation, the State or Federal statute or regulation shall prevail.

### **622.02 TREES AND VEGETATION.**

(a) Cutting and Removal. No owner, lessee or occupant, or any agent, servant, representative or employee of such owner, lessee or occupant, having control of any occupied or unoccupied lot or land or any part thereof in the City, shall permit or maintain on any such lot or land, or on or along the sidewalk, street or alley adjacent to the same between the property line and the curb, or between the property line and the middle of the alley up to twenty feet outside the property line if there is no curb, any growth of weeds, grass or other rank vegetation to a greater height than eight inches, or any accumulation of dead weeds, grass or brush. No person shall cause, suffer or allow poison ivy, ragweed or other poisonous plants, or plants detrimental to health, to grow on any such lot or land in such a manner that any part of such ivy, ragweed or other poisonous or harmful weed extends upon, overhangs or borders any public place (including the public sidewalk), or allow seed, pollen or other poisonous particles or emanations therefrom to be carried through the air into any public place.

No person shall allow or maintain upon any portion of such lot or land any growth of grass, brush, weeds so as to create a nuisance due to unsightliness, an unhealthy or unsafe condition, or traffic hazard, or fire hazard.

No person shall neglect to cut, remove or destroy weeds, grass or other vegetation as directed in this section, or fail, neglect or refuse to comply with the provisions of any notice herein provided for or violate any of the provisions in this section, or resist or obstruct the City Manager or his or her authorized agent in the cutting and removal of weeds, grass and other vegetation.

(b) Trees. No tree or other vegetation by virtue of disease, damage or insect infestation which presents a hazard to persons or vegetation on public property shall be maintained on private property.

(c) Obstructing Vision. Whenever any tree, shrub, bush or plant is located on or adjacent to a street right of way such as to obstruct the view of a driver of a vehicle entering or driving upon that street, the vegetation in question shall be cut or trimmed so as to eliminate such obstruction, provided that the written approval of the City Manager must be obtained before any tree with a trunk diameter of greater than one inch is removed or radically trimmed. No shrub, bush or plant shall be permitted to grow to a height of greater than three feet if it is located so as to provide such obstruction.

(d) Duty of Owner Lessee or Occupant The owner, lessee or occupant of any lot or land shall cut and remove or cause to be cut and removed or destroyed by other lawful means, all such weeds, grass or other rank, poisonous or harmful vegetation as often as may be necessary to comply with subsection (a) hereof, provided that cutting, removing or destroying such weeds and vegetation at least once in every four weeks between May 15 and September 15 shall be deemed to be in compliance with this section.

(Ord. 187. Passed 9-21-59.)

(e) Noncompliance; Remedy of City. If the provisions of the foregoing subsections are not complied with, the City Manager or his or her duly authorized representative shall serve notice upon the owner, lessee or occupant or any person having the care or control of any such lot or land to comply with the provisions of this section. Such notice shall be given verbally to any of such persons or in writing. If in writing, it shall be sent first class mail to the owner of record of the lot or land in question with a copy sent to the occupant of such lot or land if other than the owner of record thereof. If the person upon whom the notice is served fails, neglects or refuses to cut, remove or destroy, or to cause to be cut, removed or destroyed, such weeds, grass, trees, or other vegetation within five business days from the date of such notice, or if no person can be found in the City who either is or claims to be the owner of such lot or land or who either represents or claims to represent such owner, the City Manager shall cause such weeds, grass, trees and other vegetation to be removed or destroyed and the actual cost of such cutting, removal or destruction, plus an administrative fee of seventy-five dollars (\$75.00) for inspection and other additional costs in connection therewith, shall be certified to by the City Manager or his or her duly authorized representative and shall become and be a lien upon the property on which such weeds, grass, trees and other vegetation were located. A statement for such actual costs plus administrative fee shall thereupon be sent by first class mail to the property owner or his or her representative to whom the original notice was given. Should the obligation as described by this statement remain unpaid after forty-five days from the date of the statement, the City Manager or his or her representative may then certify the delinquent amount, after first adding a penalty of ten percent, to the Assessor. At the discretion of the City Manager, this amount shall either be incorporated into a special assessment roll, to be processed in the manner prescribed by the City Charter and ordinances of the City, or shall be entered upon the next tax roll as a charge against such premises and be collected and the lien thereof enforced in the same manner as general City taxes against such premises are collected and liens enforced. In general, the decision as to whether the obligation shall be made a part of a special assessment roll or certified directly to the assessing officer for collection as a City tax shall depend upon the number and magnitude of such outstanding delinquent statements. (Ord. 676. Passed 6-22-98.)

(f) Hardship. Under proof of financial hardship the City Manager may authorize charges under subsection (d) herein to be paid in installments or to be reduced subject to City Council approval.

(g) Exemptions. Exempted from the provisions of this section, except subsection (b) hereof, are flower gardens, plots of shrubbery, vegetable gardens and small grain plots. An exemption under this subsection cannot be claimed unless the land has been subjected to adequate cultivation. (Ord. 187. Passed 9-21-59.)

(Ord. 812. Passed 7-14-08; Ord. 869. Passed 5-20-13.)

### **622.03 NOXIOUS ODORS; FILTHY ACCUMULATIONS; POLLUTING AND DIVERTING WATERCOURSES.**

No person shall erect, continue, use or maintain a dwelling, building, structure or place for a residence or for the exercise of a trade, employment or business, or for the keeping or feeding of an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public. No person shall cause or allow offal, filth or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public. No person shall unlawfully obstruct or impede the passage of a navigable river, harbor or collection of water, or corrupt or render unwholesome or impure, a watercourse, stream or water, or unlawfully divert such watercourse, from its natural course or state to the injury or prejudice of others.

### **622.04 ACCUMULATIONS OF JUNK.**

(a) No person shall allow, permit or maintain a public nuisance.

(b) No person owning, occupying or otherwise having charge or control of any property shall place or permit to be placed on such property any paper, dirt, ashes, cartons, boxes or any scrap or waste material unless such person takes reasonable

steps to secure such matter from being blown or carried onto any street, sidewalk, alley, park, public ground or property of another person.

(c) As used in this section:

(1) "Public nuisance" means the accumulation, storage or disposition of garbage or refuse in any manner other than as provided in these Codified Ordinances or the accumulation or storage of junk at any place except in a wholly enclosed building or structure, provided that this paragraph shall not apply to a junk yard lawfully operated by one customarily engaged in and having facilities for processing junk.

(2) "Junk" means old or scrap rope, rags, batteries, paper, rubber, lumber, pipe and copper, brass, iron, steel or other ferrous or nonferrous materials which are not held for sale for remelting purposes by a person customarily engaged in such business and having facilities for processing such materials, as well as used building and roofing materials.

(3) "Garbage" means all putrescible wastes, except wastes of the human body, and other water-carried wastes, and includes all vegetable and animal wastes resulting from the handling, preparation, cooking or consumption of foods. Containers that contained food or liquids for consumption by humans or other beings shall also be classified as garbage.

(4) "Refuse" means ashes, crockery, bottles, cans, paper and other wood pulp products, boxes, rags, grass clippings and other cut vegetation, old or discarded clothing, bedding, mattresses, furniture, appliances, rubbish, stone, sand, dirt, nails, pieces of glass and oil and all other similar nonputrescible wastes other than those included in the definition of garbage.

(5) "Person" means the owner, occupant, user or other in control of the premises.

(d) In addition to the penalties provided in Section 622. 99, following conviction and while the nuisance continues, the City Manager shall cause written notice to abate such public nuisance to be served upon the person convicted and the owner of the premises, if other than the person convicted. Such notice shall be served personally or by certified mail, return receipt requested, and shall state the nature of the public nuisance and the time, not less than ten days following service of the notice, within which the public nuisance shall be abated. If, by the time stated, the public nuisance has not been abated, the City Manager shall cause it to be abated and shall certify the cost thereof to the City Treasurer, who shall certify the same to the County Auditor to be placed upon the tax duplicate of the owner of the property involved to be collected as taxes.

#### **622.05 STORAGE OF CERTAIN MOTOR VEHICLES.**

(a) No person in charge or control of any property within the City, whether as owner, tenant, occupant, lessee or otherwise shall store on, place on, permit to be stored or placed on or allow to remain on any private property in the City a dismantled, partially dismantled, inoperable motor vehicle, any part of a motor vehicle, untitled motor vehicle or unregistered motor vehicle except in a completely enclosed building or upon the premises of an authorized junk yard or impound yard, as may be permitted under the Howell City Zoning Code. Placement of a tarpaulin or other covering over a motor vehicle described in this chapter shall not be deemed to be in compliance herewith.

(b) No person in charge or control of any property within the City, whether as owner, tenant, occupant, lessee or otherwise shall dismantle, cut up, remove parts from otherwise disassemble a motor vehicle, except in a completely enclosed building or upon the premises of an authorized junk yard, as may be permitted under the Howell City Zoning Code.

(c) This section shall not be constructed to permit the parking or placing of dismantled, partially dismantled, inoperable motor vehicles, any part of a motor vehicle, untitled motor vehicles or unregistered motor vehicles on any street area in the City of Howell or in any front yard, as defined in the Howell City Zoning Code.

(d) The Chief of Police, or the Code Enforcement Officer, as designated in Section 208.03 of the Howell City Code, may remove or cause to be removed any dismantled, partially dismantled or inoperative motor vehicle, untitled motor vehicle or unregistered motor vehicle or part thereof, from private property in the City after having notified, in writing, the owner or occupant of such property of the intended removal at least ten days prior to such removal. Such notice shall be served personally upon a person in charge or control, whether as owner, tenant, occupant or lessee, of the property, if occupied, or may be posted in a conspicuous place upon vacant or unoccupied property, and such vehicles or parts thereof, so removed, shall be disposed of according to law.

(e) As used in this section:

(1) "Dismantled and partially dismantled motor vehicles" means motor vehicles from which a part which is ordinarily a component of such a motor vehicle has been removed or is missing. Exempt from this definition are motor vehicles which are undergoing regularly scheduled maintenance or mechanical repairs, and which otherwise do not meet any criteria of this section.

(2) "Enclosed building" shall mean a garage or other permanent structure which has four walls, a roof and a means of access for ingress and egress, i.e., doors large enough to accommodate ingress and egress.

(3) "Inoperable motor vehicles" means motor vehicles which, by reason of dismantling, disrepair or other causes, are incapable of being propelled under their own power.

(4) "Motor vehicles" means wheeled vehicles which are self-propelled or intended to be self-propelled.

(5) "Unregistered motor vehicle" is a motor vehicle which has not been registered pursuant to the Michigan State Motor



Vehicle Code which is Act 300 of the Public Acts of 1949, as amended, being M.C.L. 257.1 et seq. and is not registered to the owner, tenant, occupant or lessee of the property wherein the motor vehicle is stored or placed.

(6) "Untitled motor vehicle" is a motor vehicle which has not been titled pursuant to the Michigan State Motor Vehicle Code which is Act 300 of the Public Acts of 1949, as amended, being M.C.L. 257.1 et seq. and is not titled to the owner, tenant, occupant or lessee of the property wherein the motor vehicle is stored or placed.

(f) The presence of a dismantled, partially dismantled, inoperable motor vehicle, part of a motor vehicle, untitled motor vehicle or unregistered motor vehicle on a platted or unplatted parcel of land in violation of any of the provisions of this section is hereby declared to be a public nuisance.

(Ord. 724. Passed 3-11-02.)

#### **622.06 UNENCLOSED WELLS, CISTERNS, EXCAVATIONS.**

(a) No person shall cause, allow, permit or suffer to exist an open unenclosed well, cistern, cellar, hole or excavation, which may be dangerous to small children roaming on lots not so enclosed as to prevent their so doing, or a cellar or excavation containing water under an old building or a pool of standing stagnant water, or a dangerous approach on a street or unenclosed lot. A violation of this subsection is hereby declared to be a public nuisance.

(b) Upon complaint made in writing to the Chief of Police, the Chief shall give written notice to the owner of the lot in question or, if the owner is unknown or absent, then to the occupant of such lot, to abate the nuisance complained of within one week after receipt of such notice. At the end of such period, the Chief shall investigate such nuisance and if he or she finds that it has not been abated by having been placed in a safe and sanitary condition, then he or she shall make a complaint or cause the same to be done for the purpose of prosecuting the owner or occupant for a violation of this section.

(Ord. 31. Passed 5-17-1898.)

#### **622.07 SLAUGHTERHOUSES.**

No person shall keep, use or maintain a slaughterhouse or other place for the slaughtering of animals in the City. No person shall slaughter any animal in the City.

(Ord. 9. Passed 1-6-1896.)

#### **622.08 PLAYING GAMES IN STREETS; THROWING MISSILES; COASTING.**

(a) No person shall play baseball, football or any other game played with a ball or a ball and a club, or bat any ball, on any of the public streets in the City. No person shall throw any baseball, football, snowball or any other kind of ball, or any stone or other hard substance, in any of the public streets and alleys of the City.

(b) No person shall coast on any of the sidewalks of the City with a sled or any other article or thing.

(Ord. 10. Passed 1-13-1896.)

#### **622.09 BARBED WIRE; OBSTRUCTION OF STREET RIGHTS OF WAY.**

(a) No person shall place or maintain any barbed wire fencing or any strand of barbed wire along the line of, or in, any public street, alley or public place in the City. No person shall place or allow such barbed wire to remain between any premises owned or occupied by him or her and the adjoining premises, or place or allow to remain any barbed wire fencing or barbed wire in the City in any place where it will expose a person to injury on account thereof, provided that it shall not be unlawful to place such barbed wire at the top of a legal fence when placed not less than six feet from the ground.

(b) No person shall place or maintain a fence, tree, shrub or other obstacle in any portion of a street right of way except by permission of the Chief of Police.

#### **622.10 (RESERVED FOR FUTURE LEGISLATION)**

#### **622.11 ABANDONED REFRIGERATORS.**

(a) No person shall leave outside of any building or dwelling, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or container having airtight doors which when closed cannot be opened from the inside.

(b) No person shall leave outside of any building or dwelling, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container of any kind which has an airtight snap-lock or other device thereon without first removing such snap-lock or the doors from such ice box, refrigerator or container.

#### **622.99 PENALTY.**

Whoever violates any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99.

## Nuisances

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- 652.01 Nuisance defined and prohibited.
- 652.02 Abatement.
- 652.03 Legal and equitable remedies.
- 652.04 Waterways.
- 652.05 Littering and distribution of handbills.
- 652.06 Noise control.
- 652.99 Penalty.

### **CROSS REFERENCES**

Nuisances generally - see M.C.L. Secs. 600.3801 et seq.

Barking and howling dogs - see GEN. OFF.606.03

Health, safety and sanitation - see GEN. OFF.Ch. 622

Assessments for nuisances - see B.R. & T.892.20

Violations of industrial wastewater pretreatment regulations as nuisances; abatement - see S.U. & P.S. 1043.99

Zoning Code nuisances - see P. & Z.Chapter 1240 (Zoning Code)

### **652.01 NUISANCE DEFINED AND PROHIBITED.**

As used in this chapter, "nuisance" means anything that annoys, injures or endangers the safety, health, comfort or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, highway, navigable lake or stream; or in any way renders the public insecure in life or property. Public nuisances include, but are not limited to, whatever is prohibited by any provision of this chapter. No person shall commit, create or maintain any nuisance. Nuisance shall include the possession, shelter, keeping, harboring or maintaining any animal which, under such conditions or in such a manner, creates a nuisance by way of noise, odor, menace to health or otherwise. The Police Department, Livingston County Animal Director or its designee or any other person designated by resolution of the Council may impound, or if unable to apprehend the same, may destroy any sick, diseased or abandoned animal which is either running at large and/or creating a nuisance by way of noise, odor, menace to health or otherwise.

(Ord. 732. Passed 10-21-02.)

### **652.02 ABATEMENT.**

Where no other procedure is made specifically applicable by another provision of this chapter, any structure, condition or activity prohibited by this chapter may be abated by the City Manager in accordance with the following procedure. The City Manager shall first investigate the existence of the alleged nuisance to determine whether or not a nuisance, as defined in Section 652.01, exists and to further determine the person who has created or is committing or maintaining such nuisance. He or she shall then give written notice to the person responsible for the creation, commission or maintenance of such nuisance, specifying in particular the nature thereof, the corrective action to be taken to abate the same and the time limit for abatement of such nuisance, which shall be a reasonable time, but not to exceed fifteen days from the time the notice is served. Such notice shall be served verbally to such person or in writing. If in writing, it shall be sent certified, return receipt requested. If, at the expiration of the time limit in such notice, the person responsible for the commission, creation or maintenance of the nuisance has not complied with the requirements thereof, the City Manager shall carry out the requirements of such notice. The cost of such abatement shall be a debt owed the City by the person responsible for the commission, creation or maintenance of such nuisance.

### **652.03 LEGAL AND EQUITABLE REMEDIES.**

Any action taken by the City to abate a nuisance under Section 652.02 or any other provision of this chapter shall not affect the right of the City to institute proceedings against the person committing, creating or maintaining the nuisance in violation of this chapter nor affect the imposition of the penalty prescribed for such violation. As an additional remedy, upon application by the City to any court of competent jurisdiction, the court may order the nuisance to be abated and/or the violation or threatened violation to be restrained and enjoined.

### **652.04 WATERWAYS.**

(a) Obstruction and Encroachment Prohibited. No person shall place piers, pilings, abutments or structures of any kind in or upon any waterway without first obtaining approval therefor by resolution of Council. No person shall place, or permit or suffer to be placed, any structure, material, earth, debris or property of any kind within any waterway so as to constitute an

obstruction or encumbrance in, or encroachment upon, such waterway.

(b) Removal of Encroachments, Obstructions and Encumbrances. The Department of Public Works shall maintain a survey map of the waterways of the City, showing all authorized structures, obstructions and encumbrances thereon, and shall remove from any waterway any unauthorized encroachment, encumbrance or obstruction. All costs pertaining to the removal or demolition of such an encroachment, encumbrance or obstruction shall be billed to the owner of the property adjacent thereto from which the encroachment, obstruction or encumbrance has developed. If such costs are not paid within thirty days, they shall be certified to the County Auditor for collection as taxes.

(c) Violations a Nuisance. Any unauthorized encroachment, obstruction or encumbrance which is placed, erected or maintained in any waterway in violation of this section is hereby declared to be a nuisance per se. Upon application to any court of competent jurisdiction, the court may order the nuisance to be abated and/or the violation or threatened violation to be restrained or enjoined. The taking of any action for the abatement of any such nuisance shall not prevent prosecution of the person who placed or maintained the obstruction, encroachment or encumbrance in violation of this section, and the converse shall also be true.

## **652.05 LITTERING AND DISTRIBUTION OF HANDBILLS.**

(a) Definitions. As used in this section:

(1) "Commercial handbill" means any printed or written matter, sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copy of any matter or literature, which:

A. Advertises for sale any merchandise, product, commodity or thing;

B. Directs attention to any business, mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;

C. Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profit; or

D. While containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

(2) "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

(3) "Litter" means garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

(4) "Newspaper" means any newspaper of general circulation, as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer, as provided by general law. In addition thereto, "newspaper" means and includes any periodical or current magazine published in not less than four issues per year and sold to the public.

(5) "Noncommercial handbill" means any printed or written matter, sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter or literature not included in the aforesaid definitions of commercial handbill or newspaper.

(6) "Park" means a park, reservation, playground, beach, recreation center or any other public area in the City owned or used by the City and devoted to active or passive recreation.

(7) "Private premises" means any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and including any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

(8) "Refuse" means all putrescible and nonputrescible solid wastes, except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned vehicles and solid market and industrial wastes.

(9) "Rubbish" means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

(b) Litter in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the City except in public receptacles, in authorized private receptacles for collection or in official City dumps.

(c) Placement of Litter in Receptacles. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(d) Sweeping Litter Into Gutters; Duty to Keep Sidewalks Clean

(1) No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall

keep the sidewalk in front of their premises free of litter.

(2) No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep the sidewalks in front of their business premises free of litter.

(e) Litter Thrown by Persons in Vehicles. No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City or upon private property.

(f) Truck Loads Causing Litter. No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any part of the load, contents or litter from being blown or deposited upon any street, alley or other public place, nor shall any person drive or move any vehicle or truck within the City the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

(g) Litter in Parks. No person shall throw or deposit litter in any park within the City except in public receptacles and in such a manner that the litter will not be carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

(h) Litter in Lakes, Streams and Fountains. No person shall throw or deposit litter in any fountain, pond, lake, stream or other body of water in a park or elsewhere within the City.

(i) Distributing Handbills. No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the City, nor shall any person hand out, distribute or sell any commercial handbill in any public place. However, it shall not be unlawful on any sidewalk, street or public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

(j) Placing Handbills on Vehicles. No person shall throw or deposit any commercial or noncommercial handbill in or upon a vehicle. However, it shall not be unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

(k) Handbills on Uninhabited or Vacant Premises. No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(l) Distributing Handbills at Inhabited Private Premises. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises.

(m) Exemption for Mail and Newspapers. The provisions of subsections (a) through (l) hereof and subsections (n) through (s) hereof shall not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(n) Dropping Litter from Aircraft. No person in an aircraft shall throw out, drop or deposit within the City any litter, handbill or any other object.

(o) Posting Notices Prohibited. No person shall post or affix any notice, poster or other paper device, calculated to attract the attention of the public, to any lamppost, public utility post or shade tree, or upon any public structure or building, except as may be authorized or required by law.

(p) Litter on Occupied Private Property. No person shall throw or deposit litter on any occupied private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will not be carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(q) Responsibility of Owners and Occupants. The owner, as well as the occupant, which includes the person in control of any private property, shall at all times maintain the premises free of litter. However, this subsection does not prohibit the storage of litter in authorized private receptacles for collection. It shall be the responsibility of the owner, as well as the occupant or person in control of such premises, to provide for the emptying of such private receptacle at least once each week.

(r) Litter on Vacant Lots. No person shall throw or deposit litter upon any open or vacant private property within the City, whether owned by such person or not.

(s) Clearing of Litter from Private Property by City. The presence of litter on any property or premises in the City that is not in compliance with this section is hereby declared to be a nuisance, and the City Manager is authorized to abate the same in accordance with Section 652.02. The cost thereof may be assessed against the property and collected according to law. Where any premises or property is occupied and investigation reveals the arrangements for the disposal of litter from such premises fail to comply with the requirements of this section, the City Manager is hereby authorized, after notice as provided in Section 652.02, to arrange for the regular disposal of litter from such premises at least once each week during such periods of time as such premises are occupied, and the cost of such removal shall be assessed against the property and collected according to law.

(Ord. 828. Passed 11-9-09.)

#### **652.06 NOISE CONTROL.**

(a) Purpose: General Prohibition. In order to preserve and protect the public peace, health and safety, no person shall make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the City.

(b) Specific Noises Prohibited. Each of the following acts is hereby declared to be unlawful and is prohibited, but this enumeration shall not be deemed to be exclusive:

(1) Horns and signal devices. The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time;

(2) Radios and musical instruments. The playing of any television set, radio, phonograph or any musical instrument in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m. of the following day, or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type of residence, or of any person in the vicinity;

(3) Shouting and whistling. Yelling, shouting, hooting, whistling or singing or the making of any loud noise on the public streets between the hours of 11:00 p.m. and 7:00 a.m. of the following day, or the making of any such noise at any time so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type of residence, or of any person in the vicinity;

(4) Hawking. The hawking of goods, merchandise or newspapers in a loud and boisterous manner;

(5) Animal and bird noises. The keeping of any animal or bird which, by causing frequent or long continued noise, disturbs the comfort or repose of any person in the neighborhood;

(6) Whistles and sirens. The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire or danger;

(7) Engine exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorcycle, watercraft, boats or motor vehicle, except through a muffler or other device which effectively prevents loud or explosive noises therefrom;

(8) Construction noises. The erection (including excavating), demolition, alteration or repair of any building, or the excavation of streets and highways, other than between the hours of 7:00 a.m. and 6:00 p.m., unless a permit is first obtained from the Department of Public Works;

(9) Handling merchandise. The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers; and

(10) Devices to attract attention. The use of any drum, loudspeaker, amplifier or other instrument or device for the purpose of attracting attention for any purpose.

(c) Exceptions. None of the provisions of subsections (a) and (b) hereof shall apply to or be enforced against:

(1) Emergency vehicles. Any police or fire vehicle of the City or ambulance while engaged in necessary public emergency business;

(2) Highway maintenance and construction. Necessary excavations or repairs of bridges, streets or highways by or on behalf of the City or the State during the night, when the public safety, welfare and convenience render it impossible to perform such work during the day;

(3) Public addresses. The reasonable use of stationary amplifiers or loudspeakers in the course of public addresses which are noncommercial in character;

(4) Christmas music and chimes by permit. The use of stationary amplifiers or loudspeakers by any person for the transmission of Christmas music and chimes when authorized by a permit issued upon the authority of the City Council; all permits so issued shall specify the hours and dates upon which the use of any amplifier or loudspeaker is authorized, and the use thereof shall be limited to the times specified in the permit; and

(5) Amplifiers. The use of amplifiers primarily for the transmission of music when a permit has been granted by authority of the City Commission on a finding that such transmission contributes to the amenities of the commercial area in which it originates and is not audible in any residential area.

(Ord. 907. Passed 8-8-16.)

#### **652.99 PENALTY.**

Whoever violates any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99.

## CHAPTER 656

### Offenses Relating to Persons

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656.01 Minor's curfew.

656.02 Definitions.

656.03 Selling, giving, or furnishing tobacco products, alternative nicotine product or vapor product to minor prohibited; misdemeanor; penalty; sign required, copies of sign; affirmative defense; notice; rebuttal testimony; notice of rebuttal; exception.

656.04 Noninterference with right of parent or guardian.

656.99 Penalty.

656.99A Prohibited conduct by minor; violation as misdemeanor; penalty; participation in health promotion and risk reduction assessment program; costs; community service; exceptions; other violations.

656.99B Selling cigarette separately prohibited; exception; violation as misdemeanor; penalty.

#### **CROSS REFERENCES**

Malicious destruction of property by minors - see M.C.L. Sec. 600.2913

Playing games in streets - see GEN. OFF.622.08

False alarms - see GEN. OFF.658.02

Disorderly conduct - see GEN. OFF.662.01

#### **656.01 MINOR'S CURFEW.**

(a) No minor under the age of sixteen years shall loiter, idle or congregate in or on any public street, highway, alley or park located within the City between the hours of 10:00 p.m. and 6:00 a.m., unless the minor is accompanied by a parent or guardian or an adult delegated by the parent or guardian to accompany the child.

(b) Every member of the Police Department is hereby authorized to take any child under the age of sixteen years, who is found violating any of the provisions of this section, to the home of such child and there inquire from the parent, guardian or other person having the legal custody and control of such child whether or not the child has been locked out or is compelled to be upon the streets by reason of lack of home or home restraint, and, if such child has a home where he or she can be properly cared for, to leave such child at his or her home and report the fact of such parent's, guardian's or other person's negligence, if such is found, to the Juvenile Court Judge for the County.

(Ord. 657. Passed 9-29-97.)

#### **656.02 DEFINITIONS.**

(a) "Alternative Nicotine Product" means a noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed or ingested by any other means. FDA approved cessation products containing nicotine, when properly procured either via a prescription or a medical doctor's recommendation, to control an alternative nicotine problem or addiction, shall be a defense to liability under this sub-section, 656.02(a).

(b) "Minor" means an individual under 18 years of age.

(c) "Person who sells tobacco products at retail" means a person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products subject to state sales tax.

(d) "Public place" means a public street, sidewalk, or park or any area open to the general public in a publicly owned or operated building or public place of business.

(e) "Tobacco product" means a product that contains tobacco and is intended for human consumption, including, but not limited to, cigarettes, noncigarette smoking tobacco, or smokeless tobacco, as those terms are defined in section 2 of the Tobacco Products Tax Act, 1993 PA327; MCL 205,422, and cigars.

(f) "Use a tobacco product" means to smoke, chew, suck, inhale, or otherwise consume a tobacco product.

(g) "Vapor Product" means a noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. Vapor Product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device and a vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(Ord. 855. Passed 4-9-12; Ord. 919. Passed 10-8-18.)

**656.03 SELLING, GIVING, OR FURNISHING TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCT OR VAPOR PRODUCT TO MINOR PROHIBITED; MISDEMEANOR; PENALTY; SIGN REQUIRED, COPIES OF SIGN; AFFIRMATIVE DEFENSE; NOTICE; REBUTTAL TESTIMONY; NOTICE OF REBUTTAL; EXCEPTION.**

(1) A person shall not sell, give or furnish a tobacco product, alternative nicotine product or vapor product to a minor. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each violation.

(2) A person who sells a tobacco product, alternative nicotine product or vapor product at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign produced by the department of community health that includes the following statement:

"The purchase of a tobacco product, alternative nicotine product or vapor product by a minor under 18 years of age and the provision of tobacco products to a minor are prohibited by law. A minor unlawfully purchasing or using a tobacco product, alternative nicotine product or vapor product is subject to criminal penalties."

(3) If the sign required under subsection (2) is more than 6 feet from the point of sale, it shall be 5-1/2 inches by 8-1/2 inches and the statement required under subsection (2) shall be printed in 36-point boldfaced type. If the sign required under subsection (2) is 6 feet or less from the point of sale, it shall be 2 inches by 4 inches and the statement required under subsection (2) shall be printed in 20-point boldfaced type.

(4) The department of community health shall produce a sign required under subsection (2) and have adequate copies of the sign ready for distribution to licensed wholesalers, secondary wholesalers, and unclassified acquirers of tobacco products free of charge. Licensed wholesalers, secondary wholesalers, and unclassified acquirers of a tobacco product, alternative nicotine product or vapor product shall obtain copies of the sign from the department of community health and distribute them free of charge, upon request, to persons who are subject to subsection (2) who do not purchase their supply of a tobacco product, alternative nicotine product or vapor product from wholesalers, secondary wholesalers, and unclassified acquirers of tobacco products licensed under the Tobacco Products Tax Act, 1993 PA 327, MCL 205.421 to 205.436.

(5) It is an affirmative defense to a charge under subsection (1) that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of a tobacco product, alternative nicotine product or vapor product to persons under 18 years of age and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file and serve notice of the defense, in writing, upon the court and the prosecuting attorney. The notice shall be served not less than 14 days before the date set for trial.

(6) A prosecuting attorney who proposes to offer testimony to rebut the affirmative defense described in subsection (5) above, shall file and serve a notice of rebuttal, in writing, upon the court and the defendant. The notice shall be served not less than 7 days before the date set for trial and shall contain the name and address of each rebuttal witness.

(7) Subsection (1) does not apply to the handling or transportation of a tobacco product, alternative nicotine product or vapor product by a minor under the terms of that minor's employment.

(Ord. 855. Passed 4-9-12; Ord. 919. Passed 10-8-18.)

**656.04 NONINTERFERENCE WITH RIGHT OF PARENT OR GUARDIAN.**

This act does not interfere with the right of a parent or legal guardian in the rearing and management of his or her minor children or wards within the bounds of his or her own private premises.

(Ord. 855. Passed 4-9-12.)

**656.99 PENALTY. (REPEALED)**

(EDITOR'S NOTE: Section 656.99 was repealed by Ordinance No. 855, passed April 9, 2012. See Sections 656.99A and 656.99B for penalty provisions.)

**656.99A PROHIBITED CONDUCT BY MINOR; VIOLATION AS MISDEMEANOR; PENALTY; PARTICIPATION IN HEALTH PROMOTION AND RISK REDUCTION ASSESSMENT PROGRAM; COSTS; COMMUNITY SERVICE; EXCEPTIONS; OTHER VIOLATIONS.**

(1) Subject to subsection (3) below, a minor shall not do any of the following:

- (a) Purchase or attempt to purchase a tobacco product, alternative nicotine product or vapor product.
- (b) Possess or attempt to possess a tobacco product, alternative nicotine product or vapor product.
- (c) Use a tobacco product, alternative nicotine product or vapor product in a public place.
- (d) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product, alternative nicotine product or vapor product.

(2) An individual who violates subsection (1) is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each violation. Pursuant to a probation order, the court may also require an individual who violates subsection (1) to participate in a health promotion and risk reduction assessment program, if available. An individual who is ordered to participate in a health promotion and risk reduction assessment program under this subsection is responsible for the costs of participating in the program. In addition, an individual who violates subsection (1) is subject to the following:

(a) For the first violation, the court may order the individual to do one of the following:

- (i) Perform not more than 16 hours of community service in a hospice, nursing home, or long-term care facility.
- (ii) Participate in a health promotion and risk reduction program, as described in this subsection.

(b) For a second violation, in addition to participation in a health promotion and risk reduction program, the court may order the individual to perform not more than 32 hours of community service in a hospice, nursing home, or long-term care facility.

(c) For a third or subsequent violation, in addition to participation in a health promotion, and risk reduction program, the court may order the individual to perform not more than 48 hours of community service in a hospice, nursing home, or long-term care facility.

(3) Subsection (1) does not apply to a minor participating in any of the following:

(a) An undercover operation in which the minor purchases or receives a tobacco product, alternative nicotine product or vapor product under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(b) An undercover operation in which the minor purchases or receives a tobacco product, alternative nicotine product or vapor product under the direction of a state police or a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of a tobacco product, alternative nicotine product or vapor product by the minor was not under the direction of the state police or the local police agency and was not part of the undercover operation.

(c) Compliance checks in which the minor attempts to purchase a tobacco product, alternative nicotine product or vapor product for the purpose of satisfying federal substance abuse block grant youth tobacco access requirements, if the compliance checks are conducted under the direction of a substance abuse coordinating agency as defined in section 6103 of the Public Health Code, 1978 PA 368, MCL 333.6103, and with the prior approval of the state police or a local police agency.

(4) Subsection (1) does not apply to the handling or transportation of a tobacco product, alternative nicotine product or vapor product by a minor under the terms of that minor's employment.

(5) This section does prohibit the individual from being charged with, convicted of, or sentenced for any other violation of law arising out of the violation of subsection (1).

(Ord. 855. Passed 4-9-12; Ord. 919. Passed 10-8-18.)

#### **656.99B SELLING CIGARETTE SEPARATELY PROHIBITED; EXCEPTION; VIOLATION AS MISDEMEANOR; PENALTY.**

(1) Except as otherwise provided in subsection (2) below, a person who sells tobacco products at retail shall not sell a cigarette separately from its package.

(2) Subsection (1) hereof does not apply to a person who sells tobacco products at retail in a tobacco specialty retail store or other retail store that deals exclusively in the sale of tobacco products and smoking paraphernalia.

(3) A person who violates subsection (1) hereof is guilty of a misdemeanor, punishable by a fine of not more than \$500.00 for each offense.

(Ord. 855. Passed 4-9-12; Ord. 919. Passed 10-8-18.)

## **CHAPTER 658**

### **Offenses Relating to Property**

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- 658.01 Injury or destruction of public property.
- 658.02 False alarms; tampering with alarm boxes.
- 658.03 Trespassing.
- 658.04 Skateboarding, in-line skates and rollerskates.
- 658.99 Penalty.



## **CROSS REFERENCES**

Real estate generally - see M.C.L. Secs. 554.1 et seq.

Malicious destruction of property by minors - see M.C.L. Sec. 600.2913

Theft generally - see M.C.L. Secs. 750.356 et seq.

Malicious destruction of property - see M.C.L. Secs. 750.377a, 750.377b

Damage to City sewer system - see S.U. & P.S. 1042.07

Tampering with meters - see S.U. & P.S. 1042.10

Obstructions on government property - see GEN OFF. 662.01(b)(18)

Tampering with cable television equipment - see B.R. & T. 803.28

### **658.01 INJURY OR DESTRUCTION OF PUBLIC PROPERTY.**

No person shall use, destroy, injure, tamper with, convert, deface or remove any real or personal property of the City without first being authorized to do so by a proper City official.

### **658.02 FALSE ALARMS; TAMPERING WITH ALARM BOXES.**

(a) No person shall give any false alarm of fire or other emergency or ring any bell of the City for the purpose of giving any false alarm of fire or other emergency.

(Adopting Ordinance)

(b) No person shall tamper with, unlock or break the glass of the boxes or appliances of the fire alarm system of the City for the purpose of communicating any false fire alarm.

(c) No person shall in any way cut, mutilate, deface, cover or obstruct any of the fire alarm boxes of the City with any sign, notice, announcement or otherwise.

(Ord. 73. Passed 1-11-21.)

### **658.03 TRESPASSING.**

(a) No person shall:

(1) Willfully enter or remain upon the lands or premises of another, without lawful authority, after having been forbidden to do so by the owner or occupant, or agent or servant of the owner or occupant. No person being upon the land or premises of another, upon being notified to depart therefrom by the owner or occupant, or his or her agent or servant, shall neglect or refuse, without lawful authority, to depart therefrom.

(2) Willfully enter or remain upon the lands or premises of another, without lawful authority, after having been warned of the owner's regulations governing access to and use of the property through the conspicuous posting of informational signs which state "WARNING -- THESE PREMISES ARE PROVIDED FOR THE BENEFIT OF PATRONS AND EMPLOYEES OF THIS ESTABLISHMENT. USE OF PARKING AREA IS ONLY PERMITTED WHILE THE EMPLOYEE OR PATRON IS INSIDE THE ESTABLISHMENT. VIOLATORS WILL BE SUBJECT TO TRESPASSING CHARGES."

(3) Stand, idle or sit, either in person or within a motorized vehicle, in or about any store, shop, business or commercial establishment, and/or its premises and private parking lot, if such standing, idling or sitting causes interference or disorder with the normal course of business of the store, shop, business or commercial establishment, or in any way tends to hinder or impede the passage of pedestrians or vehicles enroute to or from the establishment or premises.

(b) The judge of appropriate jurisdiction may impose community service for a violation of this section, in addition to the penalty provided in Section 658.99.

(Ord. 497. Passed 4-25-88.)

### **658.04 SKATEBOARDING, IN-LINE SKATES AND ROLLERSKATES.**

(a) Definitions:

(1) "Rollerskates," "in-line skates" and "street skates" are defined as a recreational piece of equipment with small wheels near the toe and near the heel of a shoe, boot or frame that would attach to a shoe, which are used for gliding on a hard surface such as a floor, sidewalk, concrete and the like.

(2) "Skateboards" are defined as a recreational piece of equipment consisting of a short, oblong board with small wheels at each end, that is to be ridden on a hard surface such as a floor, sidewalk, concrete and the like. Rollerskating or skateboarding is the act of using rollerskates, street skates, in-line skates and skateboards.

(b) No person shall rollerskate, in-line skate, skateboard or use any other type of skating artifice or device within the City without complying with the terms of this section.

(c) Whenever any person is rollerskating, in-line skating, street skating or skateboarding upon a sidewalk or other paved surface intended for use by pedestrians, such person shall yield the right of way to any pedestrian and shall not approach, overtake or pass such pedestrian in a reckless or careless manner, and shall not pass such pedestrian except in single file if such person is rollerskating, in-line skating, street skating or skateboarding with other such skaters or riders.

(d) No person shall rollerskate, in-line skate, street skate or skateboard on any bench, plant or wall, retaining wall, porch, steps or other device or structure which is located on public property, or jump or step on or off such device or structure in the process of using rollerskates, in-line skates, street skates or skateboards.

(e) In-line skating and skateboarding shall be prohibited at all times within the Central Business District. For purposes of this section, the Central Business District is defined by the following street locations, which when intersected is the area to be enforced: the west boundary of the area shall be Center Street; the east boundary of the area shall be Court Street; the south boundary of the area shall be Sibley Street; and the north boundary of the area shall be Clinton Street.

(f) The City Council may, in its discretion, by resolution, authorize the City Manager to erect signs on any other City owned property or in any other place of the City prohibiting the use of rollerskates, in-line skates, street skates and skateboards thereon. It shall be unlawful to perform such acts on any such City owned property or within such City area when the same is posted. No person shall rollerskate, in-line skate, street skate or skateboard on any sidewalk or other paved surface intended for pedestrians in a reckless or careless manner or in a manner which is likely to result in injury or harm to any person or property.

(g) If an individual violates this section, the Police Department may impound the skateboard, in-line skates or street skates for not more than thirty days in lieu of instituting a civil infraction action. In the case of temporarily impounding the skateboard, in-line skates or street skates of a minor pursuant to this section, written notice within a reasonable time period from the date of the impoundment shall be given to the minor's parent or legal guardian by first class mail.

(Ord. 690. Passed 5-10-99.)

#### **658.99 PENALTY.**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

Whoever violates Section 658.04 is responsible for a civil infraction and shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The judge of appropriate jurisdiction may impose community service in addition to the required fine.

(Ord. 497. Passed 4-25-88.)

## **CHAPTER 662**

### **Peace Disturbances**

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662.01 Disorderly conduct.

662.99 Penalty.

#### **CROSS REFERENCES**

Disorderly conduct generally - see M.C.L. Secs. 750.167 et seq.

Gambling - see M.C.L. Secs. 750.301 et seq.

Prostitution - see M.C.L. Secs. 750.448 et seq.

Barking and howling dogs - see GEN. OFF. 606.03

Noise control - see GEN. OFF. 652.06

Noise as a performance standard in zoning - see P. & Z. Chapter 1240 (Zoning Code)

#### **662.01 DISORDERLY CONDUCT.**

(a) Definitions. As used in this section:

(1) "Public place" means any street, alley, park, public building, public lakes, public waterways, or place of business or assembly open to or frequented by the public; any place to which the public or a substantial group of persons has access; highways; transportation facilities; and places of amusement.

(2) "Private premises" means any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and including any yard, grounds, walk, driveway, porch, steps, vestibule, lobby, hallway, or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

(3) "Property" means any money, personal property, real property, thing in action, evidence of debt or contract or article of value of any kind.

(b) Offenses. The offense of disorderly conduct is committed if a person:

(1) Disturbances.

A. Generally. Makes or excites any disturbance or contention in or upon any tavern, store, grocery, manufacturing establishment or other business place, or in any street, lane, alley, highway, public building, public lakes, public waterways, grounds or park, public place, private premises, or at any election or other public meeting where citizens are peaceably and lawfully assembled.

(2) Prostitute. Is a common prostitute;

(3) Window peeper. Is a window peeper;

(4) Illegal occupation or business. Engages in an illegal occupation or business;

(5) Public intoxication. Is under the influence of alcohol, a controlled substance, other drugs or a combination thereof in a public place and is either directly endangering the safety of another person or of property or is acting in a manner that causes a public disturbance;

(6) Indecent conduct. Is engaged in indecent or obscene conduct in a public place;

(7) Vagrant. Is a vagrant;

(8) Begging. Is found begging in a public place;

(9) Loitering.

A. Prostitution house. Is found loitering in a house of ill fame or prostitution, or in a place where prostitution or lewdness is practiced, encouraged or allowed;

B. Illegal business. Knowingly loiters in or about a place where an illegal occupation or business is being conducted;

C. Public building. Loiters in or about a police station, police headquarters building, county jail, hospital, court building or other public building or place for the purpose of soliciting employment or legal services, or the services of sureties upon criminal recognizances;

D. School buildings. Loiters or remains in or about a school building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil, or any other specific, legitimate reason for being there, and not having written permission from a school administrator; or

E. Controlled substances. Knowingly loiters or remains in any place where the use of controlled substances is practiced, encouraged or allowed;

(10) Jostling. Is found jostling or roughly crowding people unnecessarily in a public place;

(11) Malicious Use of Telephone. Maliciously uses any service provided by a communication's common carrier with the intent to terrorize, frighten, intimidate, threaten, harass, molest or annoy any other person, or to disrupt the peace and quiet of any other person, by any of the following:

A. Threatening physical harm or damage to any person or property in the course of a telephone conversation;

B. Falsely and deliberately reporting by telephone or telegraph message that any person has been injured, has suddenly taken ill, has suffered death or has been a victim of a crime or of an accident;

C. Deliberately refusing or failing to disengage a connection between a telephone and another telephone or between a telephone and other equipment provided for the transmission of messages by telephone, thereby interfering with any communication service; or

D. Using any vulgar, indecent, obscene or offensive language or suggesting any lewd or lascivious act in the course of a telephone conversation;

(12) False fire alarms. Raises a false alarm of fire at any gathering or in any public place; rings any bell or operates any mechanical apparatus, electrical apparatus or combination thereof for the purpose of creating a false alarm of fire; or raises a false alarm of fire orally, by telephone or in person;

(13) False police reports. Willfully and knowingly makes a false report of the commission of any crime or other emergency, including, but not limited to, a bombing, an attempted bombing or a threat to bomb, knowing the same to be false;

(14) Fireworks. Fires, discharges, displays or possesses any fireworks, except those which are permitted by State law;

(15) Admitting person for prostitution. Is seventeen years of age or older and receives or admits, or offers to receive or admit, any person into any place, structure, house, building or vehicle for the purpose of prostitution, lewdness or assignation, or knowingly permits any person to remain in any such place for any such purpose;

(16) Soliciting prostitution. Is seventeen years of age or older and accosts, solicits or invites another in any public place or in or from any building or vehicle, by word, gesture or any other means, to commit prostitution or to do any other lewd or immoral act;

(17) Offering prostitution. Engages or offers to engage the services of a female person, not his spouse, for the purpose of prostitution, lewdness or assignation by the payment in money or other forms of consideration;

(18) Obstructions on government property. Intentionally obstructs, impairs or hinders the performance of a governmental function or the use of government property by using or threatening to use violence, force, physical interference or an obstacle.

For purposes of this paragraph, "government" includes any principal subdivision or agency of the United States, the State, the City or any agency of local government operating within the City. "Governmental function" includes any activity which a public agency or public servant is legally authorized to undertake.

(19) Obscene material. Publishes, sells, offers for sale, gives away, exhibits or possesses for such purposes any obscene book, pamphlet, paper, picture, statuary, image or representation; or

(20) Crowds. Engages, encourages or abets the collection of persons and crowds in a public place for an illegal purpose.  
(Ord. 536. Passed 3-25-91; Ord. 908. Passed 8-8-16.)

#### **662.99 PENALTY.**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

## **CHAPTER 668**

### **Railroads**

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668.01 Speed limit.

668.99 Penalty.

#### **CROSS REFERENCES**

Notice of hearing of municipal planning commission re master plan - see M.C.L. Sec. 125.38

Railroad crossings - see M.C.L. Secs. 253.1 et seq., 253.51 et seq., 469.1 et seq.

Railroads generally - see M.C.L. Secs. 462.2 et seq., 463.1 et seq., 750.511 et seq.

Railroad property - see M.C.L. Secs. 469.1 et seq.

#### **668.01 SPEED LIMIT.**

(a) No railroad engine, car or train of cars shall be run or operated on any railway in the City, at any street crossing, at a greater rate of speed than thirty-five miles per hour.

(b) The Chief of Police of the City and all State Police Officers are hereby also authorized to enforce this section.

(Ord. 221. Passed 8-31-64.)

#### **668.99 PENALTY.**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

## **CHAPTER 688**

### **Weapons and Explosives**

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688.01 Discharge of firearms.

688.99 Penalty.

#### **CROSS REFERENCES**

Storage and transportation of explosives - see M.C.L. Sec. 29.3a

Arson - see M.C.L. Secs. 750.71 et seq.

Construction or possession of explosive devices - see M.C.L. Sec. 750.211a

Fireworks - see GEN. OFF. 662.01(b)(14)

#### **688.01 DISCHARGE OF FIREARMS.**

No person shall discharge any rifle, shotgun, pistol, revolver, air rifle, air compression gun or any other firearm in the City.  
(Ord. 111. Passed 11-22-43.)

#### **688.99 PENALTY.**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

## **PART EIGHT - BUSINESS REGULATION AND TAXATION CODE**

### TITLE TWO - Business Regulation

- Chap. 802. Alcoholic Beverage Sales.
- Chap. 803. Cable Television Franchises.
- Chap. 804. Cable Television Rates.
- Chap. 806. Commercial Recreational Establishments.
- Chap. 810. Business Licenses and Regulations.
- Chap. 860. Oil and Gas Wells.
- Chap. 862. Precious Metal and Gem Dealers.
- Chap. 868. Secondhand and Junk Dealers.
- Chap. 872. Street Vendors and Peddlers.
- Chap. 873. Transient Merchants.
- Chap. 876. Taxicabs.

### TITLE FOUR - Taxation

- Chap. 890. General Regulations.
- Chap. 892. Special Assessments.
- Chap. 894. Real Estate Tax.
- Chap. 896. Tax Increment Finance Authority.
- Chap. 898. Local Development Finance Authority.
- Chap. 899. Brownfield Redevelopment Authority.

## **TITLE TWO - Business Regulation**

### **CHAPTER 802**

#### **Alcoholic Beverages Sales**

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- 802.01 Application for new licenses.
- 802.02 Restrictions on issuance of licenses.
- 802.03 Terms of licenses.
- 802.04 Reservation of authority.
- 802.05 License hearing; statement of findings and determination.
- 802.06 One-day licenses.
- 802.07 Objections to renewals and requests for revocation.

**CROSS REFERENCES**

Intoxicating liquors generally - see M.C.L. Secs. 436.1 et seq.

Sales on Sundays and municipal election days - see M.C.L. Sec. 436.19e

**802.01 APPLICATION FOR NEW LICENSES.**

(a) Applications for a license to sell beer and wine or spirits, whether an existing license is being transferred or a new license is to be issued, shall be made to Council, in writing, on the form provided by Council, signed by the applicant, if an individual, or by duly authorized agent thereof, if a partnership or corporation, verified by oath or affirmation, and shall contain the following statements and information:

(1) The name, age and address of the applicant, in the case of an individual, or, in the case of a co-partnership, of all general and limited partners, or, in the case of a corporation, the names and addresses of the officers, directors and each shareholder;

(2) The citizenship of the applicant, his or her place of birth and, if a naturalized citizen, the date and place of his or her naturalization;

(3) The character of business of the applicant and, in the case of a corporation, the object for which it was formed. If the applicant is a corporation, copies of its Articles of Incorporation, a Certificate of Good Standing from the State and the three most recent Michigan Annual Reports shall be attached.

(4) The period of time the applicant has been in business;

(5) The location and description of the premises or place of business which is to be operated under such license, including seating capacity, if a license is granted, and current seating capacity, if applicable;

(6) A statement as to whether or not the applicant has made application for a similar or other license on premises other than those described in the application and the disposition of such application;

(7) A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this chapter or the laws of the State;

(8) A statement that the applicant will not violate any of the laws of the State or of the United States or any ordinance of the City in the conduct of its business;

(9) A statement showing the costs of improvements or construction, accompanied by a current financial statement for an individual applicant, partnership or corporation, certified by a certified public accountant and/or a commitment letter from a lending institution, if funds for construction or improvement will come from borrowing;

(10) A statement showing the date the applicant applied to the Liquor Control Commission for a license, with a copy of the application made to the Commission attached;

(11) A statement showing the business experience of the applicant, including experience in the liquor business, and the names and addresses of establishments where the experience was obtained. If the applicant does not have the necessary experience in the operation of an establishment licensed to sell alcoholic beverages for consumption on the premises, then the type and number of employees who will be hired who do possess that background and experience, including the names and addresses of establishments where the experience was obtained, shall be described. If the business will be conducted by a manager or agent, information regarding the experience of that manager or agent, including the names and addresses of establishments where the experience was obtained, which must be commensurate with that of the applicant, shall be set forth.

(12) A list of business references;

(13) A statement showing the hours of operation contemplated, if a license is granted, and showing the current hours of operation, if applicable;

(14) A statement showing the number of persons (new or additional) who would be employed if the license is issued, describing the types of positions to be

held by such employees, and a statement as to whether they would be working full-time or part-time;

(15) A statement showing the straight line distance of the establishment from residential areas on all sides and also existing establishments serving alcoholic beverages for consumption on the premises, or selling packaged beer, wine or liquor, that are located within one-half mile of the applicant's proposed location;

(16) A statement indicating that if approval of the license is granted by Council, the applicant will file a cash bond in the principal amount of two thousand dollars (\$2,000), the condition of such bond being that the applicant for such license will commence the liquor business within six months after final approval and issuance of such license by the State Liquor Control Commission, if the applicant already has a building, or, if the applicant will construct a building in which to use the liquor license, that the applicant will immediately commence construction and begin the liquor business within six months of issuance or as soon thereafter as possible;

(17) A statement that the applicant will appear for a personal interview with Council if the applicant is selected as a finalist for issuance of the license, and if Council so requests; and

(18) A certification that the information contained in the application, together with its attachments and enclosures, is true, to the best of the applicant's knowledge and belief, and that all information prepared by agents of the applicant is likewise true, to the best of the applicant's knowledge. The applicant shall also consent to allow the Chief of Police to conduct a routine investigation into the applicant's background and shall acknowledge that any false statement made in the application or its attachments or enclosures constitutes grounds for denial of the application.

(b) The application shall be accompanied by complete sealed building drawings and site plans, showing the entire structure and premises (including the area (in square feet) and elevations) and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for visual landscaping and screening of the refuse disposal facilities from adjacent parcels, and for noise control.

(Res. 84-1. Passed 2-6-84.)

#### **802.02 RESTRICTIONS ON ISSUANCE OF LICENSES.**

No license referred to in Section 802.01 shall be issued to:

(a) A person whose license issued by the Liquor Control Commission has been revoked for cause, in this or in any other community;

(b) A person who, at the time of the application for, or renewal of, any license issued hereunder, would not be eligible for such license upon a first application under this chapter or any statute or administrative rule of the Liquor Control Commission;

(c) A co-partnership, unless all of the general and limited partners of such copartnership qualify to obtain a license;

(d) A corporation, if any officer, manager or director thereof, or a shareholder thereof, would not be eligible to receive a license hereunder for any reason;

(e) A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee;

(f) A person who has been convicted of a violation of any Federal or State law involving moral turpitude, embezzlement or fraud, or concerning the manufacture, consumption, possession or sale of alcoholic liquor or narcotics, controlled substances or drugs which are prohibited by Act 368 of the Public Acts of 1978, as amended, being M.C.L. 333.1101 et seq.;

(g) A person who does not own the premises for which a license is sought or does not have a lease therefor for the full period for which the license is to be issued, or a person who or which does not have sufficient financial assets to carry on or maintain the business;

(h) Any law enforcing public official or any member of Council, and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor, either as an owner, employer or employee;

(i) Premises where there exists a violation of applicable building, electrical, mechanical, plumbing or fire codes, zoning regulations, public health regulations or any other applicable law;

(j) Premises where the sale of beer, wine or spirits is not shown to be incidental and subordinate to other permitted business uses upon the site, such as, but not limited to, food sales, motel operations or recreational activities;

(k) Premises where it is determined, by a simple majority of Council, that adequate parking, lighting, refuse disposal facilities, screening and noise and nuisance control do not exist or will not exist within a reasonable period following commencement of operations;

(l) Premises where a nuisance does exist or will exist;

(m) Premises determined by Council, by a simple majority vote, to be inappropriate, considering the desirability of establishing a site in developed, commercial areas, in preference to isolated, undeveloped areas; the attitude of adjacent residents and property owners; traffic safety; accessibility to the site from abutting roads; capability of abutting roads to accommodate the commercial activity; distance from public or private schools for minors; proximity of inconsistent zoning classifications; and accessibility from primary roads or State highways; and

(Res. 84-1. Passed 2-6-84.)

(n) Any person who or which is in default to the City for any reason, whether because of nonpayment of any moneys due the City or because of the nonperformance of any act required of the applicant for the benefit of the City. Council may, at its discretion, grant a reasonable time extension for compliance when it is deemed appropriate.

(Res. 84-20. Passed 7-9-84.)

#### **802.03 TERMS OF LICENSES.**

Approval of a license shall be for the period of continued compliance with this chapter. Any applicant/licensee who fails to continue to meet the criteria contained in this chapter shall be the subject of a hearing pursuant to this chapter in order to determine whether the City should file objections to the renewal or request revocation by the Liquor Control Commission. Approval of a license shall be with the understanding that any necessary remodeling or new construction for the use of the license shall be commenced immediately after approval by the Liquor Control Commission. Any unusual delay in the completion of such remodeling or construction shall be considered just cause for revocation of the license.

(Res. 84-1. Passed 2-6-84.)

#### **802.04 RESERVATION OF AUTHORITY.**

No applicant for a liquor license has the right to the issuance of such license to him, her or it, and Council reserves the right to exercise reasonable discretion to determine who, if anyone, shall be entitled to the issuance of such license. Additionally, no applicant for a liquor license has the right to have such application processed, and Council further reserves the right to take no action with respect to any application filed with it. Council further reserves the right to maintain a list of all applicants and to review the same when, at its discretion, it determines that the issuance of an additional liquor license is in the best interests of the City and will meet the needs and convenience of its residents.

(Res. 84-1. Passed 2-6-84.)

#### **802.05 LICENSE HEARING; STATEMENT OF FINDINGS AND DETERMINATION.**

Council shall grant a public hearing upon a license application when, at its discretion, it determines that the issuance of an additional liquor license is in the best interests of the City and will meet the needs and convenience of its residents. Following such hearing, Council shall submit to the applicant a written statement of its findings and determination as to whether or not issuance of the license would be in the best interest of the City. Such determination shall be based upon satisfactory compliance with the restrictions set forth in Section 802.02 and consideration of all information contained in the application.

(Res. 84-1. Passed 2-6-84.)

#### **802.06 ONE-DAY LICENSES.**

The City Manager may waive any of the provisions of this chapter that are unreasonable or burdensome in the case of charitable, fraternal or religious organizations that are making application for a one-day liquor license.

(Res. 84-1. Passed 2-6-84.)

#### **802.07 OBJECTIONS TO RENEWALS AND REQUESTS FOR REVOCATION.**

(a) Procedure. Before filing an objection to a renewal or request for revocation of a license with the Liquor Control Commission, Council shall serve the license holder, by first class mail, mailed not less than ten days prior to the hearing, with notice of the hearing, which notice shall contain the following information:

- (1) A notice of the proposed action;
- (2) Reasons for the proposed action;
- (3) The date, time and place of the hearing; and
- (4) A statement that the licensee may present evidence and testimony and confront adverse witnesses.

Following the hearing, Council shall submit to the license holder and the Commission a written statement of its findings and determination.

(b) Criteria for Nonrenewal or Revocation. Council shall recommend nonrenewal or revocation of a license upon a determination by it that, based upon a preponderance of the evidence presented at the hearing, either of the following is true:

- (1) There is a violation of any of the restrictions set forth in Section 802.02; or
- (2) A nuisance is being maintained upon the premises.

(Res. 84-1. Passed 2-6-84.)

#### **802.99 PENALTY.**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

## **CHAPTER 803**

### **Cable Television Franchises**

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- 803.01 Purpose.
- 803.02 Definitions.
- 803.03 Franchise required.
- 803.04 Application for and issuance of franchises; duties of grantees.
- 803.05 Construction timetable.
- 803.06 Competition.
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- 803.18 Maps, records and reports.
- 803.19 Transfer of rights.
- 803.20 Construction, performance bond and letter of credit.
- 803.21 Review, renewal, termination and cancellation.
- 803.22 Purchase option.
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- 803.24 Continuity of service.
- 803.25 Guaranty of parent.
- 803.26 Right of privacy.
- 803.27 Rights of residents.
- 803.28 Tampering with cable equipment.
- 803.29 Cable Television Commission. (Repealed)
- 803.30 Liability of grantees in libel actions.
- 803.31 Waiver.
- 803.32 Acceptance of agreement and incorporation of application and chapter by reference.
- 803.33 Severability.
- 803.99 Penalty.

**CROSS REFERENCES**

Encroachments on highways and roads - see M.C.L. Secs. 247.1 et seq.

Construction and maintenance of facilities - see M.C.L. Secs. 247.183 et seq.

Television and radio generally - see M.C.L. Secs. 484.301 et seq., 750.507 et seq.

Cables improperly located; insurance - see M.C.L. Sec. 500.3123

Cable television rates - see B.R. & T.Ch. 804

Television tower - see Zoning Code

Wireless communication facilities - see P. & Z. Chapter 1240 (Zoning Code)

### **803.01 PURPOSE.**

The purposes of this chapter are to regulate the construction, maintenance and operation of cable television systems in the City of Howell and to provide for the granting of franchises for the construction, maintenance and operation of cable television systems.

(Ord. 615. Passed 9-5-95.)

### **803.02 DEFINITIONS.**

As used in this chapter:

- (a) "Basic cable service" means any service tier which includes the retransmission of local television broadcast signals.
- (b) "Cable Television Commission" means the advisory body created by this chapter to recommend measures in connection with the enforcement and development of this chapter.
- (c) "Cable television service" means the delivery to subscribers, via a cable system, of video programming, data services and ancillary audio and data signals and any associated upstream or downstream data or polling information directly or incidentally related to the delivery of such programming, and any upstream or downstream institutional programming.
- (d) "City" means the City of Howell.
- (e) "Community antenna television system," "CATV system" or "cable system" means a system of cables or other electrical or optical conductors and equipment used or to be used primarily to receive television and/or radio signals directly or indirectly from the atmosphere and to transmit such signals via cable or other equipment to subscribers in the City.
- (f) "Council" means the City Council of the City of Howell.
- (g) "Federal Communications Commission" or "FCC" means the present Federal agency of that name as constituted by the Communications Act of 1934, or any successor agency created by the United States Congress.
- (h) "Franchise" means a nonexclusive, limited authorization awarded by ordinance for the construction, maintenance, upgrade and operation of a CATV system in the City.
- (i) "Grantee" means any holder of a CATV franchise granted pursuant to this chapter.
- (j) "Gross revenues" means any and all receipts and revenues, including revenue from advertising or data services, received directly or indirectly from all sources and/or users other than transactions related to the sale or lease of real property by a grantee, not including any taxes on services furnished by a grantee and imposed on any subscriber or user by any governmental unit, and collected by a grantee. Revenues that are derived as a portion of a national or regional service shall be computed on a per subscriber basis if such determination cannot be achieved by other means.
- (k) "Person" means any individual, firm, partnership, association, corporation, company or organization.
- (l) "Subscriber" means any person who contracts with the grantee for, or is in any manner lawfully provided with, cable services.
- (m) "User" means any person who is provided the use of the grantee's CATV system, channels, equipment or facilities.

(Ord. 615. Passed 9-5-95.)

### **803.03 FRANCHISE REQUIRED.**

No person shall install, construct, maintain or otherwise operate a CATV system in the City without first having obtained a franchise.

(Ord. 615. Passed 9-5-95.)

### **803.04 APPLICATION FOR AND ISSUANCE OF FRANCHISES; DUTIES OF GRANTEEES.**

- (a) Council may grant one or more franchises for the construction and operation of a CATV system in the City after consideration of the applicants for such franchise as may be before it. Any franchise shall be granted subject to this chapter and the City Charter.
- (b) The City specifically reserves the right to grant, at any time, such additional franchises for a CATV system as it deems appropriate. Additional franchises shall not be deemed to modify, revoke, terminate or damage any rights previously granted to any other grantee.
- (c) In the event a franchise application is filed proposing a franchise territory which overlaps in whole or in part an existing area, a copy thereof shall be served by the applicant by registered mail upon the current franchised grantee or grantees. Proof that a copy of the franchise application has been served upon the current grantee(s) shall be provided to the City. No application for overlapping franchise territory shall be processed until proof of service has been furnished by the applicant and no such application shall be granted without full public hearing on the request. Notwithstanding any other provisions of this chapter, it is not the intent of this chapter to either require or prohibit overbuilding.
- (d) Applications for a new, renewed or amended franchise shall be made in such form as the City may prescribe by

resolution and shall be accompanied by a nonrefundable application review fee as the City may prescribe by resolution.

(e) Any franchise, and the rights, privileges, authority, and responsibilities established, shall take effect and be in force from and after final approval by Council, and shall continue in force and effect for a period established by the franchise not to exceed fifteen years from the date of approval, only if, within thirty days after the date of the granting of the franchise, the grantee files with the City Clerk its unconditional acceptance of the franchise, all required letters of credit, construction bonds and insurance certificates, and pays to the City Clerk all reasonable costs incurred by the City in preparing, considering and awarding the franchise, including legal, engineering, technical, publication and other expenses. If a grantee fails to comply with this subsection, it shall acquire no rights, privileges or authority whatsoever.

(f) Grantees shall, within sixty days after the execution of a franchise, apply to the Federal Communications Commission, any State agency and any appropriate utility companies for all necessary pole line agreements, authorizations or registrations for the construction of a cable system, and for all permits then normally available. The failure of a grantee to timely apply for such pole lease agreements, authorizations or registrations shall render the franchise null and void and forfeit the grantee's security.

(Ord. 615. Passed 9-5-95.)

### **803.05 CONSTRUCTION TIMETABLE.**

Grantees shall insure that 100 percent of the homes in the City, except where prohibited by private property owners, are capable of receiving the services of the CATV system within eighteen months from the execution of the franchise, in accordance with the terms of the application submitted by the grantee. If, for any reason, a grantee shall fail or neglect to complete the required installation and be unprepared to furnish cable service by the specified date, the franchise shall be null and void and have no force or effect.

(Ord. 615. Passed 9-5-95.)

### **803.06 COMPETITION.**

Believing that competition between providers of telecommunications services will result in lower rates, better service and greater innovation, it is the intent of the City to create an environment which supports fair and open competition between providers of telecommunications services. Franchises issued after the effective date of this section shall contain and/or be subject to the following provisions:

(a) Near-Universal Service. A franchise shall be required to serve all persons requesting service in the City currently served by other franchises.

(b) Franchise Fee. For use of the public rights of way required to provide the service identified in subsection (a) hereof, a franchisee shall be required to pay the same level of franchise fee paid by other providers of similar services up to the maximum franchise fee permitted to be collected by Federal or State law or regulation.

(c) Customer Standards. A franchisee shall comply with the more stringent of the customer service standards of the franchise: those from time to time adopted by the franchisee and revealed publicly or those from time to time adopted by the FCC. A franchisee shall be required to purchase the equipment necessary to measure such compliance and shall produce reports at least quarterly to demonstrate compliance with the applicable standard.

(d) PEG Support. A franchisee shall donate use of the public, educational and governmental ("PEG") channels for use by the City or its designees. A franchisee shall also provide financial support for the use of the PEG channels and the development of programming for those channels. Minimally, a franchisee shall donate the number of channels that corresponds to the same number of channels donated by other providers of similar services in the year preceding the issuance of a franchise to such franchisee. A franchisee shall further provide financial support for the operation of the PEG channels in an amount equal to the same level of financial support provided by other providers of similar service in the year immediately preceding issuance of the franchise; provided that in no event shall the level of financial support paid by a franchisee be less than any other franchise. If, owing to adequate financial support for PEG channels by existing franchisees, the City determines that additional PEG funding is not required, then the City, upon a determination by its Council, may direct the expenditure of equivalent funds provided hereunder for public purposes it deems proper.

(e) Fair Competition. If more than one franchise is granted in the City to provide video telecommunications services, then each holder of a franchise to provide similar services shall have the option, on thirty days written notice to the City, to adopt and comply with all the terms of the franchise subsequently granted to another provider.

(f) Utility Rate Payor Protection. If the person requesting a franchise to deliver video or other types of programming and/or information services also provides telephone or other public utility service to residents of the City, the grantor shall require the submission of all detailed information and financial projections from the person requesting the new franchise reasonably necessary to ensure that revenue from the public utility operation is not proposed to be used as a subsidy for delivery of video services. The grantor shall further require that the new franchisee is a separately established company, that all financial records be separately maintained and auditable by the grantor and that all necessary assurances of financial performance be provided by an entity other than that which offers such public utility service to the residents of the City. Cross subsidization of services by a franchisee shall be considered a material breach of the franchise agreement.

(g) Utility Easements and Rights of Way. No person shall use City utility easements and public rights of way without the issuance of a permit therefor and except in accordance with the provisions of this chapter, the rules and regulations adopted

pursuant to this chapter and the engineering construction standards of the City.

Each application for a permit shall be accompanied by plans and specifications for the proposed construction. Plans and specifications for proposed utilization of City utility easements and public rights of way shall be submitted to the City Planning Department for processing and review. No plans and specifications shall be approved and no permit shall be issued unless the following conditions are met:

- (1) A franchise has been awarded to the applicant by the City.
- (2) Adequate space is reserved in the City utility easements and public rights of way for competitors offering the same services as the applicant.
- (3) The applicant agrees to indemnify and hold harmless the City and existing users of City utility easements and public rights of way from all costs and expenses incurred in strengthening poles, replacing poles, rearranging attachments and placing underground facilities, and all other incidental costs, including those incident to administration, inspections, engineering and legal review, incurred by the City or other users of City utility easements and public rights of way.
- (4) The plans and specifications have been reviewed by all other users of City utility easements and public rights of way.
- (5) A franchisee shall file pole attachment agreements with the City.
- (6) A. Arbitrator: The applicant has executed separate agreements relating to conflict resolution with each other user of affected City utility easements and/or public rights of way, which agreements shall include provisions related to damage of facilities, restoration of service and payments of costs. Council shall appoint a telecommunications arbitrator for the purpose of resolving disputes between franchisees regarding the construction, maintenance, repair or replacement of facilities. The arbitrator shall be employed on a consulting basis with all fees, costs and expenses incurred by the City in connection with referral of a dispute to the arbitrator, to be born by the franchisees as provided herein. The Chief Executive Officer shall, upon written request by any franchisee, direct the telecommunications arbitrator to resolve a dispute. Each franchisee shall deposit with the City an amount equal to 110 percent of the fees estimated by the arbitrator to be incurred in connection with the matter. The decision of the arbitrator shall be binding on the franchisees. The arbitrator shall require the losing party to pay 100 percent of the arbitrator's fees and costs and such additional reasonable sum calculated to reimburse the winning franchisee for costs of repair or replacement of damaged facilities for lost revenue and for the expenses incurred in connection with the arbitration.

B. Changes to approved plans shall be made only with the prior approval of the City. Detailed "as built" plans shall be submitted for all new construction or installations in City utility easements and public rights of way.

All franchisees shall be subject to the dispute resolution provisions of this chapter.

(h) Open Markets. If any person requesting a franchise for the provision of competing telecommunications services currently offers telephone service to any resident in the City, then the grantor may condition the new franchise on an agreement by such person that:

- (1) It will waive any rights that may be held under the law to object to other telecommunications services providers offering telephone service within the franchise area; and
- (2) It will negotiate in good faith with other franchisees on issues necessary to ensure effective competition in providing telephone service, including, without limitation, telephone number portability, interconnection to facilities and equal access to emergency 911 service.

(Ord. 615. Passed 9-5-95.)

### **803.07 RATES AND CHARGES.**

- (a) Subscribers and users shall be notified of all increases in rates and service charges at least thirty days before the effective date thereof. Notice of such actions shall promptly be filed with the City Clerk.
- (b) Grantees shall not discriminate in the assessment, levy, charge, imposition or collection of rates and service charges on the basis of age, race, creed, color, religion, national origin, sex or marital status. This subsection shall not be construed to prohibit establishing discounts as provided in subsection (j) hereof.
- (c) Nothing in this chapter shall be construed to prohibit the reduction or waiving of charges in conjunction with City-wide promotional campaigns for the purpose of attracting subscribers or users.
- (d) Grantees shall provide subscribers with itemized bills. Grantees may not require subscribers to pay for any cable service more than one month in advance. Grantees shall require no other advance payment. This subsection shall not be construed to prohibit an advance payment for installation of services or for security deposits.
- (e) In the event that a subscriber fails to pay a rate or service charge when the same is properly due and owing, a grantee may disconnect the subscriber's service outlet upon giving ten days written notice.
- (f) If a grantee collects a deposit or advance charge on any service or equipment requested by a subscriber or user, the grantee shall provide such service or equipment within five days of the collection of the deposit or charge or it shall refund such deposit or charge within two days. Nothing in this subsection shall be construed:

(1) To relieve a grantee of any responsibility to subscribers or users under any agreements into which it enters with them; or

(2) As limiting a grantee's liability for fines or penalties which may be imposed pursuant to this chapter or any franchise for violation or breach of any provision thereof; or

(3) As limiting a grantee's liability for damages because of its failure to provide the service for which the deposit or charge was made.

(g) In the event that a subscriber terminates any cable service prior to the end of a pre-paid period, the pro-rata portion of any pre-paid rate which represents payment for services which are no longer to be rendered shall be refunded promptly, but in no case more than forty-five days after receipt of the request for termination.

(h) A grantee shall not charge a security deposit greater than the equipment's actual cost to the grantee. Any security deposit collected by a grantee shall be returned to the subscriber upon the termination of service by the subscriber and return of such equipment undamaged, with allowances for reasonable wear and tear, and the payment of any outstanding balance due and payable.

(i) The City expressly reserves the right, upon reasonable notice and opportunity for comment by a grantee, to regulate whatever rates for the provision of cable services and service charges that the City is authorized to regulate by law. The City may adopt, by resolution, procedural guidelines for regulating rates subject to the Federal Cable Communications Policy Act of 1984, as amended or as amended in the future.

(j) A grantee shall reduce the rates for its basic service tier ("BST," defined as that tier which includes local television broadcast signals and public, educational and governmental channels, if any) by not less than ten percent. This discount shall be made available to all subscribers choosing to purchase the basic service tier only. A grantee may, at its option, recoup reductions in revenue occasioned by the discount reduction by increasing rates on other service tier offerings; provided, however, that the grantee's adjustment of its rates on tiers other than the BST shall not in the aggregate be greater than the actual level of revenue lost through the discount reduction. A grantee shall be under no obligation to reduce any rate pursuant to this subsection if any cable programming service tier becomes subject to rate regulation or if the grantee is otherwise prohibited from recouping revenue reductions on the BST through rate adjustments on other programming tiers.

(k) The grantee may not deny, delay, interrupt or terminate existing cable service or the use of existing channels, facilities and equipment to subscribers or users because the City denies a request for a rate or service charge increase, unless such delay, interruption or termination is approved by the City.

(l) No rate or service charge of any kind that the City lawfully regulates shall be charged or collected from subscribers or users by the grantee without the express or implied consent of the City.

(m) Grantees may request rate or service charge increases at any time.

(n) Grantees shall file with the City on or before December 31 of each year a full schedule of all subscriber and user rates and service charges.

(Ord. 615. Passed 9-5-95.)

### **803.08 FRANCHISE FEE PAYMENTS BY GRANTEES.**

(a) A grantee shall pay to the City for the use of its streets, public places and other facilities, as well as for the City's maintenance, improvement and supervision, a monthly franchise fee in an amount equal to five percent of the gross revenue received by the grantee. Payments due the City under the terms of this subsection shall be paid quarterly on or before the twenty-fifth day following the end of the quarter. The City shall be furnished a certificate with each payment reflecting the gross revenue, the deductions and the computations for the period covered by the payment.

(b) Franchise fee payments shall be in addition to any other tax, charge, fee or payment due the City by a grantee.

(c) Not less than annually, a grantee shall provide the City with an unqualified opinion of an independent certified public accountant certifying the accuracy of the monthly franchise fee payments paid within the preceding twelve months. Said certification shall be prepared in accordance with generally accepted accounting standards as established by the Financial Accounting Standards Board (FASB).

(Ord. 615. Passed 9-5-95.)

### **803.09 INSURANCE.**

(a) A grantee shall at all times during the life of a franchise carry and require its contractors and subcontractors to carry Federal and/or State personal and public liability insurance in an amount as shall be reasonably determined by the City.

(b) All required insurance coverage shall provide for thirty days notice to the City in the event of material alteration or cancellation of such coverage prior to the effective date of such material alteration or cancellation. Failure of the grantee to provide appropriate insurance certificates to the City within sixty days after the execution of a franchise shall render the franchise null and void.

(Ord. 615. Passed 9-5-95.)

### **803.10 INDEMNIFICATION.**

(a) By acceptance of a franchise granted herein, the grantee agrees to indemnify, defend and hold harmless the grantor, its officers, boards, commissioners, agents and employees, from any and all actions, claims, suits, penalties and judgments for damages at law or in equity of any nature whatsoever relating to, arising out of or through, or alleged to arise out of or through:

- (1) The acts or omissions of the grantee, its servants, employees and agents;
- (2) The conduct of its business as a cable television communications service; and
- (3) The granting of a franchise to a grantee pursuant to this chapter.

(b) A grantee shall defend in the name of the grantor, and shall pay all expenses incurred in defending the grantor, with regard to all damages and penalties the City may legally be required to pay as a result of the license granted hereunder. Damages and penalties shall include, but not be limited to, damages arising out of the construction, installation, operation or maintenance of its cable communications system, whether or not any such act or omission is authorized, allowed or prohibited by this chapter or the license granted hereunder. Expenses shall include all incidental expenses, including attorney's fees, and shall also include a reasonable value of any services rendered by the office of the City Attorney, whether such services were rendered to the City or in cooperating with counsel selected by the grantee.

In all instances where a grantee may be required to indemnify the grantor, the grantor shall give prompt notification of any claims to the grantee and shall cooperate with the grantee in the defense thereof.

(Ord. 615. Passed 9-5-95.)

(c) The grantor shall indemnify and hold the grantee harmless from any damage resulting from any such acts of the grantor or its officials, boards, commissions, agents or employees in utilizing any PEG access channels, equipment or facilities, and for any such acts committed by the grantor in connection with work performed by the grantor and permitted by the franchise on or adjacent to the CATV system. Furthermore, the grantor shall indemnify and hold the grantee harmless from any claims, losses or damages arising from the use of the emergency broadcast system by the grantor or the use of a grantee's facilities during an emergency, including, but not limited to, the transportation and delivery of emergency information such as the dispatching of police, fire and/or ambulance/rescue crews.

(Ord. 620. Passed 10-30-95.)

### **803.11 NEW DEVELOPMENTS.**

(a) A grantee may improve, upgrade and expand its telecommunications service/cable television system and cable television services in order to incorporate new developments in the state of the art. A grantee shall not implement or provide services other than cable television services without the express prior consent and approval of the City; provided, however, that such approval will not be required where State or Federal law preempts the authority of the City.

(b) In addition to those matters required in a franchise, grantees recognize that a franchise is a bilateral contract between the grantee and the City. To the extent that the franchise is an exercise of the police power of the City, it may be changed or modified without a grantee's consent, to the extent that the modification does not materially alter or affect the rights granted hereunder to the grantee.

(c) A grantee shall at all times comply with all laws and regulations of the State and Federal government or any administrative agency, unless released by law. However, if such State or Federal law or regulation shall require a grantee to perform any service, permit a grantee to perform any service or prohibit a grantee from performing any service, in conflict with the terms of the franchise or of any law or regulation of the City, a grantee shall notify the City of the point of conflict believed to exist between such regulation or law and the laws or regulations of the City or the franchise.

(d) If any provision of the franchise is held by any court of competent jurisdiction to be invalid as conflicting with any Federal or State law, rule or regulation now or hereafter in effect, or is held by such court to be modified in any way in order to conform to the requirements of any law, rule or regulation, said provision may be considered a separate, distinct and independent part of the franchise, and such holding shall not affect the validity and enforceability of all other provisions. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed, so that the provision which has been held invalid or modified is no longer in conflict with such law, rule or regulation, said provision shall return to full force and effect and shall be binding on all parties.

(e) If the City determines that a material provision of a franchise is affected by action of a court or of the State or Federal Government, the City shall have the right to modify any of the provisions to such reasonable extent as may be necessary to carry out the full intent and purpose of the franchise.

(f) For new housing developments in the City, a grantee shall provide cable service to the development within six months of the completion of the first owner-occupied housing unit.

(g) For existing business and new commercial construction, service will be installed by a grantee as long as the same is economically feasible for the grantee, or there is aid in construction to the business or commercial enterprise. The grantee may also take into account its ability to recoup its investment within a reasonable time when installing its service into an existing or new business or commercial setting.

(Ord. 615. Passed 9-5-95.)

### **803.12 GENERAL CAPABILITY.**

(a) In furtherance of the general policy that the services provided be innovative and modern, a grantee will actively pursue a continuous policy of incorporating new technical developments into the system to reflect the state of the art. Further, should a grantee, its parent, its subsidiary or a related company provide a service to any other community which it or they service within the State of Michigan, the same service shall be provided in the City, exclusive of pilot/test services. The City may waive this requirement upon an affirmative demonstration by the grantee that such service would be impractical or infeasible within the City due to population, density, technical considerations, economic feasibility or other relevant factors.

(b) Each CATV system shall, at minimum:

(1) Distribute in color and in stereo all television signals which it so receives.

(2) Make available to subscribers, upon request and at a reasonable cost, an RF switch (A-B switch) permitting conversion from cable to antenna reception.

(3) Have a 550 megahertz bandwidth which shall be capable of carrying seventy-seven television channels or a combination of video, FM, audio or digital information downstream, and clarify and define any and all upstream capabilities.

(4) Use fiber optic technology whenever operationally, economically and technically practical in the subscriber and institutional networks.

(5) Provide public, educational and governmental access channels.

(6) Make installations of its CATV system, maintain such system and provide basic service to the City Hall, police stations, fire stations, other public and governmental buildings, each public school, charter school, college, technological school and parochial school, and each public library in the City, without charge. Installations, including up to five outlets per building, shall be made at reasonable locations in each building as shall be required by the City and the schools.

(7) In the event of an emergency or other urgent community need and upon the request of the City, make available its facilities to the City for the duration of the emergency. Each cable television system shall include an emergency alert capability which will permit the City, in times of emergency, to override by remote control the audio and video of all channels simultaneously. Each cable television system shall include the capability to activate the emergency override at the City's headquarters for civil defense, disaster and emergency services.

(Ord. 615. Passed 9-5-95.)

### **803.13 SERVICE TO CUSTOMERS.**

(a) A CATV system shall be designed for operation twenty-four hours per day and shall endure service interruptions only for good cause and for a reasonable time. Interruptions of service shall be for the shortest time possible.

(b) A grantee shall maintain an office within Livingston County which shall be open to the general public during normal business hours. Office hours shall be no less than 8:30 a.m. to 5:00 p.m., Monday through Friday, with extended hours one evening per week and Saturdays, if the demand and use so warrant.

(c) A grantee shall have a publicly listed local telephone number. A grantee shall employ an operator, maintain a telephone answering device or otherwise be able to receive subscriber telephone calls twenty-four hours per day, each day of the year. A log shall be maintained by a grantee listing all subscriber complaints, their disposition and all service interruptions affecting five or more subscribers. Said log shall be available for inspection by the City upon reasonable notice.

(d) A grantee shall maintain installation and repair service capable of making installations within seven days and repairs within forty-eight hours after a request.

(e) Upon failure of a grantee to remedy a loss of service within twenty-four hours of receipt of notification of such loss from a subscriber, the grantee shall automatically rebate one-thirtieth of the regular monthly charge to each subscriber so affected, for each twenty-four hours or fraction thereof, until service is restored, unless restoration is prevented by a cause beyond the control of the grantee.

(f) A grantee shall not deny, delay or otherwise burden cable service or use of access facilities or otherwise discriminate against subscribers or users on the basis of age, race, creed, color, sex, national origin or marital status. This subsection shall not be construed to prohibit establishing discounts, as provided in Section 803.07(j).

(g) Any change made by a grantee in its programming (channels carried), except those of an emergency nature beyond the grantee's control, shall not become effective until the grantee notifies the City Clerk and its subscribers at least thirty days in advance. Notification must be made in writing to each subscriber.

(h) Every cable television system franchise issued pursuant to this chapter shall provide for not less than three channels, one each for the public, educational and City access channels, capable of carrying digital, video and audio transmissions pursuant to the provisions of the Cable Communications Policy Act of 1984, Section 611 (47 USC 531).

(i) This chapter shall not be construed to limit the authority of a grantee to make payments in support of the use of public, educational and governmental access channels.

(j) Use of facilities and equipment for public access upon the cable television system shall be made available at a reasonable location as specified by the grantee and based upon reasonable notice, without rental or other like charges whatsoever, for use twenty-four hours per day, seven days a week, in connection with the production of public access programming to be cablecast upon the cable television system. Personnel for training and assistance shall be available during normal business hours. First-time users shall not be required to make a deposit; however, the grantee may charge any user its cost of repairing any equipment damaged by abuse or negligence and may demand payment and a deposit of an equal amount prior to re-issuing equipment to the same user. A grantee shall establish reasonable rules and procedures designed to promote the utilization of such public, educational and governmental access programming, subject to the approval of the City, which approval shall not be unreasonably withheld.

(k) A grantee shall make all reasonable efforts to coordinate the cablecasting of public, educational and/or governmental access programming upon the CATV system at the same time and upon the same channel designations as such programming is cablecast upon other cable television systems within the area.

(l) To the extent that it is technically and economically feasible, the cable system shall be interconnected with other cable systems within or contiguous to the City so as to enable each cable system to carry and cablecast the public, educational and governmental access programming of the other cable systems. Interconnection of cable systems may be done by direct cable connection, microwave link, satellite or other appropriate method. The cost of such interconnection shall be equally shared by each grantee.

(Ord. 615. Passed 9-5-95.)

#### **803.14 PARENTAL LOCK-OUT.**

The grantee shall make available to all subscribers, at a reasonable charge and upon written request, a device which provides "parental guidance" or "lock-out" features permitting the subscriber, at his or her option, to eliminate comprehensible video and audio reception of any channel.

(Ord. 615. Passed 9-5-95.)

#### **803.15 OTHER BUSINESS ACTIVITIES.**

Neither a grantee nor any shareholder of a grantee shall engage in the business of selling, repairing or installing television or radio receivers within the City during the life of a franchise. This section shall not prohibit the installation of special devices or appliances by a grantee which are not normally available.

(Ord. 615. Passed 9-5-95.)

#### **803.16 CONDITIONS OF STREET OCCUPANCY.**

(a) The poles, wires and appurtenances of a grantee's system shall be located, erected and maintained upon existing utility facilities wherever feasible. A grantee shall use underground equipment where other utilities are underground and where City ordinance requires underground installation.

(b) A grantee shall be allowed, subject to appropriate regulations, to set its own poles, anchors, guys and similar facilities within public rights of way within the City when necessary and upon the securing of permits from the City.

(c) All facilities erected by a grantee within the City shall be so located as to cause minimum interference with the proper use of public rights of way and public places and to cause minimum interference with the rights and conveniences of adjoining property owners.

(d) In case of disturbance or damage to any street, sidewalk, alley, public way, other public property or private property, a grantee shall, at its own expense, promptly and in a manner acceptable to the City or to a private property owner, replace, repair and otherwise restore such disturbance of damage.

(e) If, at any time during the term of a franchise, the City shall properly elect to undertake public building or construction, altering the grade, alignment or location of any street, sidewalk, alley or public way, a grantee shall, upon reasonable notice from the City, promptly remove and relocate its facilities at its own expense and in a manner acceptable to the City.

(f) A grantee shall at all times employ ordinary care and shall install and maintain industry standards and services for preventing failures and accidents which would cause damage, injury or nuisance to the public.

(g) A grantee shall not erect or otherwise install any poles, buildings, underground or above-ground facilities, anchors, guys or any other type of structure or equipment on private property without first obtaining appropriate easements from the private property owners.

(Ord. 615. Passed 9-5-95.)

#### **803.17 TECHNICAL STANDARDS.**

(a) Each grantee shall construct, install and maintain its cable television system in a manner consistent and in compliance with all applicable laws, ordinances, construction standards, governmental requirements and technical standards equivalent to those established by the Federal Communications Commission.

(b) Each grantee shall at all times comply with the National Electrical Safety Code (National Bureau of Standards); the



National Electrical Code (National Fire Protection Association); applicable Federal, State and local regulations; and codes and other applicable ordinances of the City. If any codes conflict, the grantee shall comply with the most protective.

(c) The CATV system shall not endanger or interfere with the safety of persons or property within the City where the grantee may have equipment located.

(d) All working facilities, conditions, and procedures used or occurring during construction of the cable television system shall comply with the standards of the Michigan Occupational Safety and Health Administration.

(e) Construction, installation and maintenance of a cable television system shall be performed in an orderly and workmanlike manner and in close coordination with public and private utilities serving the City, following accepted industry construction procedures and practices and working through existing committees and organizations.

(f) All cable and wires shall be installed, where possible, parallel with electric and telephone lines, and multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering consideration.

(g) Any antenna structure used in a cable television system shall comply with the standards of construction, marking and lighting of antenna structures that are required by the United States Department of Transportation.

(h) RF leakage (ingress and egress) shall be checked on an ongoing basis at reception locations for emergency radio services to prove that no harmful interference signal combinations are possible. Radiation shall be measured adjacent to any existing or proposed aeronautical navigation licensed radio service or any other communication radio site to prove no harmful interference.

(i) A grantee shall develop an adequate preventive maintenance policy. Such policy shall be available for inspection by the City.

(j) The system will have upstream capability for audio and video origination from Howell City Hall, from a location at Howell public schools and from the Livingston Educational Service Agency, to be distributed system-wide on the assigned channel.

(k) Fiber optic or other suitable connections between all City and County government, educational and library facilities within the City, with capability to provide for full two-way audio, video and data communications, shall be provided by a grantee without cost, so long as the City can prove reasonable need for the interconnect. This interconnect shall be done at any review of the franchise pursuant to this chapter.

(l) The system shall be capable of two-way data communication, or shall be easily upgradeable thereto.

(Ord. 615. Passed 9-5-95.)

### **803.18 MAPS, RECORDS AND REPORTS.**

(a) Upon request, a grantee shall provide the City with current maps of its existing and proposed installations.

(b) Annually, a grantee shall file with the City Clerk a copy of its annual financial reports, including its annual income statement applicable to its Michigan operations, which include the City, a balance sheet and a statement of its properties devoted to CATV operations. A grantee shall submit such other reasonable information as may be requested by the City with respect to its property and its revenues, expenses or operations within the City.

(c) Annually, a grantee shall furnish to the City a current listing of its users, officers, owners, partners, shareholders, bondholders and any guarantor who holds five percent or more of the shares therein.

(d) An accurate and comprehensive file shall be kept by the grantee of all subscriber and user complaints regarding the cable system. A procedure shall be established by the grantee by the time of installation of the system to quickly and reasonably remedy such complaints. Complete records of the grantee's actions in response to all complaints shall be kept. Each customer's files and records shall be made available for inspection upon request by the customer during normal business hours.

(e) A current, independent polling service opinion survey report, which identifies satisfaction and dissatisfaction among subscribers and users with cable services, facilities, equipment and personnel offered by the grantee, shall be submitted to the City on or before the first anniversary of the franchise agreement and every third year thereafter. Surveys shall also require reports on additional services that subscribers would like to see added to the then-existing cable service.

(f) A grantee shall submit to the City such other information or reports in such form as are maintained by such grantee and at such times as the City may reasonably request.

(g) A grantee shall allow the City to make inspections of any of the grantee's facilities and equipment at any time upon one day's notice or, in case of emergency, upon demand without notice.

(h) Subject to the privacy rights of Section 803.26 and to Federal and State laws and regulations, the City shall have the right to inspect, at any time during normal business hours, all books, records, maps, plans, income tax returns, financial statements, service complaint logs, performance test results and other like materials of the grantee which relate to the operation of the CATV system. Access to the aforementioned records shall not be denied by the grantee on the basis that the records contain proprietary information.

(i) All records and reports required under this section, except as otherwise provided, are to be provided to the City and

shall be available for public inspection in the City Clerk's office during normal business hours.

(j) Willful refusal, failure or neglect of the grantee to provide any of the records or reports required to be provided to the City under this section, after thirty days notice by the City of such willful refusal, failure or neglect, shall be deemed to be a material breach of the franchise and shall subject the grantee to all penalties and remedies, legal or equitable, which are available to the City under the franchise or this chapter.

(k) Any materially false or misleading statement or representation knowingly made by a grantee in any report required under the franchise shall be deemed a material breach of the franchise and shall subject the grantee to all penalties and remedies, legal or equitable, which are available to the City.

(Ord. 615. Passed 9-5-95.)

### **803.19 TRANSFER OF RIGHTS.**

(a) Prior approval of the City shall be required where ownership or control of more than twenty-five percent of the right of control of a grantee is acquired by a person or group of persons acting in concert, none of whom already owns or controls twenty-five percent or more of the right of control, singularly or collectively, of the grantee.

(b) No franchise or portion of a franchise may be sold, transferred or assigned, nor may more than twenty-five percent of the right of control of a grantee be transferred, to a person or group of persons acting in concert, none of whom already owns or controls twenty-five percent or more of the right of control, singularly or collectively, until such sale, transfer or assignment of a franchise or transfer of a right of control shall first have been offered to the City. Such offer shall be made at a price not greater than, and on terms equivalent to, that made to the offer or by a bona fide bidder for such franchise or right of control. The City maintains the right to have any such franchise, part or portion, or the right of control sought to be transferred, appraised to determine said equivalency. The City shall accept or reject the offer within ninety days. This subsection shall not be deemed to restrict a transfer by bequest or descent of stock of the grantee, nor shall this subsection restrict the franchise from being assigned for security for loans.

(c) A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons acting in concert of twenty-five percent of a grantee.

(d) A grantee shall not transfer, sell or assign any portion of its interest in the franchise or in its CATV system without prior approval of the City, such approval not to be unreasonably withheld. The grantee shall have the responsibility:

(1) To show to the satisfaction of the City whether the proposed purchaser, transferee or assignee (the proposed transferee), which, in the case of a corporation, shall include all officers, directors and persons having a legal or equitable interest in five percent or more of its voting stock, or any of the proposed transferee's principals:

A. Has ever been convicted of or held liable for acts involving moral turpitude (including, but not limited to fraud, misrepresentation to any Federal or State agency, or the violation of any securities law), or is presently under an indictment, investigation or complaint charging such acts;

B. Has ever had a judgment in an action for fraud, deceit or misrepresentation entered against it, her, him or them by any court of competent jurisdiction;

C. Has pending any legal claim, lawsuit or unusual administrative proceeding arising out of or involving a CATV system.

(2) To establish to the reasonable satisfaction of the City the financial solvency of the proposed transferee by submitting all current financial data for the proposed transferee and such other data as the City may request.

(3) To establish to the reasonable satisfaction of the City that the financial standing of the proposed transferee is such that the proposed transferee shall be able to maintain and operate the cable system for the remaining term of the franchise.

(e) Any proposed transferee shall execute an agreement, in a form and containing conditions approved by the City, that it will assume and be bound by all of the provisions, terms and conditions of the franchise and all applicable Federal, State and local laws, and, further, that the transferee shall be liable and obligated under said documents.

(f) Nothing in any approval by the City of an authorization of any transfer or assignment of any ownership interest shall be construed to waive or release any rights of the City in and to the streets, public ways and public places of the City, or as a release of any of the City's police powers, or as an exercise of eminent domain. Notwithstanding the above, neither the City nor the grantee shall use any request for transfer or transfer of control procedure or process to renegotiate the terms and conditions of the franchise.

(g) The occurrence of any event which constitutes either an act of bankruptcy by the grantee, as defined in the Federal Bankruptcy Act, or placement of the grantee into receivership; or the issuance of any order to the grantee or any of its stockholders by a government agency or court of competent jurisdiction to divest any interest relating to the CATV system; or the entry of any judgment against the grantee which, in the opinion of the City, impairs the grantee's credit; or the grantee's failure to meet its financial obligations on a continuing basis, shall be deemed an unauthorized transfer and assignment under the provisions of this subsection and shall:

(1) Be deemed a material breach and default of the franchise; and

(2) Subject the grantee to all penalties and remedies prescribed in the franchise and to all other remedies, legal and

equitable, which are available to the City.

(h) The occurrence of an unauthorized transfer or assignment may, at the option of the City, terminate the franchise and accelerate all of the obligations and rights thereunder, including, but not limited to, the right of the City to purchase the cable system. The grantee shall notify the City of any occurrence which constitutes an unauthorized transfer and of the entry of any judgment against it within twenty-four hours of knowledge of such occurrence. From and after any of the occurrences enumerated, the grantee shall not make, execute or enter into any deed, deed of trust, mortgage, contract, conditional sales contract loan, lease, pledge, sale, pole agreement or any other agreement or hypothecation concerning any of the facilities or property, real or personal, of the CATV system, without the written approval of the City, such approval not to be unreasonably withheld.

(Ord. 615. Passed 9-5-95.)

### **803.20 CONSTRUCTION, PERFORMANCE BOND AND LETTER OF CREDIT.**

(a) A grantee shall, within thirty days of the execution of the franchise, file with the City Clerk an irrevocable bank letter of credit, from a bank approved by the City, in the amount of one hundred thousand dollars (\$100,000), and the grantee shall also obtain and maintain, at its cost and expense, a corporate surety bond with a company authorized to do business in the State of Michigan and acceptable to the City, in an amount equal to the estimated cost of the project. The purpose of the irrevocable bank letter of credit and the corporate surety bond is to guarantee the timely construction and full activation of the CATV system. The letter of credit and the corporate surety bond shall be for the purpose of allowing recovery by the City of any and all damages, losses or costs suffered by the City resulting from the failure of the grantee to satisfactorily complete and fully activate the CATV system throughout the City.

(b) When the CATV system is completed to the satisfaction of Council, the corporate surety bond may be reduced to ten thousand dollars (\$10,000) and maintained for the duration of the franchise to secure the grantee's obligations under the franchise.

(c) The construction bond shall contain the following endorsement:

"It is hereby understood and agreed that this bond may not be canceled by the surety nor the intention not to renew be exercised by the surety until sixty days after receipt by the City of Howell, by registered mail, of a written notice of such intent to cancel or not to renew."

(Ord. 615. Passed 9-5-95.)

### **803.21 REVIEW, RENEWAL, TERMINATION AND CANCELLATION.**

(a) To provide for technological, economic and regulatory changes in the state of the art of cable communications, to facilitate renewal procedures, to promote the maximum degree of flexibility in the CATV system and to achieve a continuing advanced, modern system for the City, the City and the grantee shall comply with the following review provisions:

(1) The City, at its sole discretion, may hold franchise or grantee performance review hearings upon resolution by the Council and thirty days public notice. All such review hearings shall be open to the public and notice shall be given by advertisement twice in a newspaper of general circulation at least one week before each session, at the sole expense of the grantee. In addition, the grantee shall announce the date and time of each such session on each of at least five days immediately preceding each session at a minimum of six regularly scheduled intervals daily on the CATV system.

(2) Topics for discussion and review at review hearings shall include, but shall not be limited to, services, rate structure, free or discounted services, the application of new technologies, system performance, services provided, programming, subscriber complaints, user complaints, rights of privacy, amendments to the franchise, underground processes and developments in the law. Either the City or the grantee may select additional topics for discussion at any regular or special review hearing.

(3) There shall be a review of capital funding for interconnections for schools, government access and other issues as set forth above, every five years, during the term of the franchise, for purposes of reviewing those items as set forth in paragraph (a)(2) hereof. Where there are disputes between the City and the grantee that cannot be resolved, the arbitration procedure outlined in Section 803.06(g)(6)A. shall be followed, except that the costs for such arbitration shall be borne equally between the City and the grantee.

(b) The procedure for considering the renewal or termination of a franchise shall be as follows:

(1) Pre-proposal procedure. During the six-month period which begins with the thirty- sixth month before the franchise expiration date, the City may, on its own initiative, and shall, at the request of the grantee, commence proceedings which shall afford the public in the City appropriate notice and participation for the purpose of identifying future cable-related community needs and interests and reviewing the performance of the grantee under the franchise during the then current franchise term. Upon completion of these proceedings, the grantee seeking renewal of the franchise may, on its own initiative or at the request of the City, submit a proposal for renewal.

(2) Information required. Any such proposal shall contain such material as the City may require, including proposals for an upgrade of the cable system. The City may establish a date by which such proposal shall be submitted.

(3) Post-proposal procedure. Upon submittal by a grantee of a proposal to the City, the City shall provide prompt public notice of such proposal and shall, during the four-month period which begins on the completion of any proceeding held

pursuant to paragraph (b)(1) hereof, renew the franchise or issue a preliminary assessment that the franchise should not be renewed and, at the request of the grantee or on its own initiative, commence an administrative proceeding, after providing prompt public notice of such proceeding to consider whether:

A. Compliance with the franchise. The grantee has substantially complied with the material terms of the existing franchise and applicable law.

B. Evaluation of service. The quality of the grantee's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix of programming, programming quality or the level of cable services or other services provided over the system, has been reasonable in light of community needs.

C. Capabilities of grantee. The grantee has the financial, legal and technical ability to provide the services, facilities and equipment as set forth in the grantee's proposal.

D. City's future needs. The grantee's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

(4) Fair hearing; notice. In any proceeding under paragraph (b)(3) hereof, the grantee shall be afforded adequate notice, and the grantee and the City, or its designee shall be afforded a fair opportunity for full participation, including the right to introduce evidence (including evidence related to issues raised in the proceedings held pursuant to paragraph (b)(1) hereof), to require the production of evidence and to question witnesses. A transcript shall be made of any such proceeding. At the completion of the proceeding, the Council shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding and transmit a copy of such decision to the grantee. Such decision shall state the reasons therefor.

(5) Denial of renewal. Any denial of a proposal for renewal shall be based on one or more adverse findings made with respect to the factors described in paragraphs (b)(3)A. through D. hereof, pursuant to the record of the proceedings required in paragraph (b)(4) hereof. The Council may not base a denial of renewal on the factors described in paragraph (b)(3)A. or B. hereof without first providing the grantee with notice describing the infraction and providing the grantee a reasonable opportunity to correct the deficiency. The City is prohibited from denying a request for renewal in any case in which it is documented that the City has waived its right to object or has effectively acquiesced, unless this prohibition is changed or amended by the prevailing Federal or State law in effect during this renewal proceeding.

(6) Optional procedure. Notwithstanding the provisions of paragraphs (b)(1) through (5) hereof, a grantee may submit a proposal for open renewal of a franchise pursuant to this paragraph at any time, and the City may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after proceedings held pursuant to this section have commenced). The provisions of paragraphs (b)(1) through (5) hereof shall not apply to a decision to grant or deny a franchise renewal under this paragraph. The denial of a renewal pursuant to this paragraph shall not affect action on a renewal proposal that is submitted in accordance with paragraphs (b)(1) through (5) hereof.

(Ord. 615. Passed 9-5-95.)

### **803.22 PURCHASE OPTION.**

The City may exercise an option to purchase the CATV system within a period of ninety days after the expiration, termination or revocation of the franchise. The purchase price to be paid by the City shall be the fair market value of the cable system as a going concern. Should the grantee and the City not agree on the purchase price, such value shall be determined by a three-member board to be selected under the rules of the American Arbitration Association. The cost of such arbitration shall be equally shared by the grantee and the City. Notwithstanding anything herein to the contrary, the grantee does not waive any rights or defenses to this provision that a grantee would have pursuant to law.

(Ord. 615. Passed 9-5-95.)

### **803.23 REMOVAL.**

(a) Upon expiration, termination or revocation of a franchise, if the franchise is not renewed and if neither the City nor an assignee purchases the CATV system, the grantee may remove any underground cable from the streets which has been installed in such a manner that it can be removed without trenching or other opening of the streets along the extension of cable to be removed. The grantee shall not remove any underground cable or conduit which requires trenching or other opening of the streets along the extension of cable to be removed, except as hereinafter provided. The grantee shall remove, at its sole cost and expense, any underground cable or conduit, by trenching or opening of the streets along the extension thereof or otherwise, which cable or conduit is ordered to be removed by the City based upon a determination, in the sole discretion of the City, that removal is required in order to eliminate or prevent a hazardous condition or to promote future utilization of the streets for public purposes. Any order by the City to remove cable or conduit shall be mailed to the grantee not later than thirty calendar days following the date of expiration of the franchise. A grantee shall file written notice with the City Clerk not later than thirty calendar days following the date of expiration, termination or revocation of the franchise of its intention to remove the cable intended to be removed and a schedule for removal by location. The schedule and timing of removal shall be subject to approval and regulation by the City. Removal shall be completed not later than twelve months following the date of expiration of the franchise. Underground cable and conduit in the streets which is not removed shall be deemed abandoned, and title thereto may be vested in the City, at the sole option of the City.

(b) Upon expiration, termination or revocation of a franchise, if the franchise is not renewed and if neither the City nor an assignee purchases the system, the grantee, at its sole expense, shall, unless relieved of the obligation by the City, remove

from the streets all above-ground elements of the cable television system, including, but not limited to, amplifier boxes, pedestal-mounted terminal boxes and cable attached to or suspended from poles, which are not purchased by the City or its assignee.

(c) The grantee shall apply for and obtain such encroachment permits, licenses, authorizations or other approvals and pay such fees and deposit such security as are required by applicable ordinances of the City. The grantee shall conduct and complete the work of removal in compliance with all such applicable ordinances and shall restore the streets to the same condition they were in before the work of removal commenced. The work of removal shall be completed not later than one year following expiration of the franchise.

(Ord. 615. Passed 9-5-95.)

#### **803.24 CONTINUITY OF SERVICE.**

It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the grantee are honored. In the event that the grantee elects to overbuild, rebuild, modify or sell the CATV system, or the City terminates, revokes or fails to renew the franchise within a reasonable time, or the City elects to purchase the CATV system, the grantee shall do everything in its power to ensure that the subscribers receive continuous, uninterrupted service regardless of the circumstances, provided, however, that such obligation shall not continue for a period in excess of eighteen months and that the right and obligations herein provided for shall continue for a like period. In the event of purchase by the City or a change of grantee, the current grantee shall cooperate with the City in maintaining continuity of service to all subscribers. In the event that an interruption of service is required by the grantee for modification, repairs or the like, the interruption shall be as brief as possible and at times when the viewing audience is at a minimum. Records of such interruptions shall be kept.

(Ord. 615. Passed 9-5-95.)

#### **803.25 GUARANTY OF PARENT.**

The effectiveness of a franchise is expressly conditioned upon the execution and delivery to the City by each parent of the grantee of an unconditional guaranty of the timely performance of all obligations of the grantee, said guaranty to be in a form acceptable to the City.

(Ord. 615. Passed 9-5-95.)

#### **803.26 RIGHT OF PRIVACY.**

(a) No personally identifiable subscriber information shall be made public without the specific written permission of the subscriber.

(b) A grantee shall not transmit any signal to or from any dwelling or any other building without the express authorization of the owner of said dwelling or other building. Where said owner has leased said dwelling or other building or a portion thereof, said express authorization shall be obtained from the lessee and not from the owner.

(Ord. 615. Passed 9-5-95.)

#### **803.27 RIGHTS OF RESIDENTS.**

(a) An owner or operator of an apartment building, condominium, nursing home or any other rental facility shall not interfere with or charge a fee for the installation of cable facilities for the use of a lessee of such property or premises, except that such owner or operator may require:

(1) Installation to conform to reasonable conditions necessary to protect the safety, appearance and functioning of the premises;

(2) The grantee, occupant or tenant to pay for the installation, operation or removal of such facilities; or

(3) The grantee, occupant or tenant to agree to indemnify the owner or operator for any damage caused by the installation, operation or removal of such facilities.

(b) No grantee shall reimburse or offer to reimburse any person, nor shall any person demand or receive reimbursement from a grantee, for the placement upon the premises of such person of those facilities of the grantee that are necessary to connect such person's premises to the distribution lines of the grantee to provide cable service to said premises.

(c) A grantee may not take any action which would diminish or interfere with the privilege of any tenant or other occupant of any such building to use or avail himself or herself of master or individual antenna equipment.

(Ord. 615. Passed 9-5-95.)

#### **803.28 TAMPERING WITH CABLE EQUIPMENT.**

(a) A person who willfully or maliciously damages or causes to be damaged any wire, cable, conduit, apparatus or equipment of a grantee, or who commits any act with intent to cause damage to any wire, cable, conduit, apparatus or equipment of a grantee, or who taps, tampers with or connects any wire or device to a wire, cable, conduit or equipment of a grantee with intent to obtain a signal or impulse therefrom without authorization of the grantee, shall be guilty of a

misdemeanor.

(b) This section shall not prevent a grantee from removing, disconnecting or otherwise rendering inoperable any of the grantee's apparatus or equipment attached or in any way connected to such person's facilities, if done for reasonable cause.

(c) The prohibitions, penalties and remedies set forth in this section and in Section 803.99 are in addition to the penalties and remedies for theft of cable service provided by Federal and State law.

(Ord. 615. Passed 9-5-95.)

### **803.29 CABLE TELEVISION COMMISSION. (Repealed)**

(EDITOR'S NOTE: Section 803.29 was repealed by Ordinance 899, passed December 21, 2015.)

### **803.30 LIABILITY OF GRANTEEES IN LIBEL ACTIONS.**

A grantee or its agents shall not, in an action for slander or for publishing a libel, be held liable in damages for or on account of any defamatory matter uttered, telecast, cablecast or published over the facilities of the grantee by any person whose utterance, telecast, cablecast or publication is not, under the provisions of any law of the United States or any regulation, ruling or order of the Federal Communications Commission, subject to censorship or control by the grantee.

(Ord. 615. Passed 9-5-95.)

### **803.31 WAIVER.**

A grantee shall agree not to oppose intervention by the City in any suit or proceeding to which the grantee is a party. A grantee shall agree to abide by all provisions of this chapter and its franchise and shall further agree that it will not at any future time set up as against the City any claim that the provisions of this chapter or its franchise are unreasonable, arbitrary or void.

(Ord. 615. Passed 9-5-95.)

### **803.32 ACCEPTANCE OF AGREEMENT AND INCORPORATION OF APPLICATION AND CHAPTER BY REFERENCE.**

Upon execution of a franchise by a grantee, the grantee agrees to be bound by all of its terms and conditions, accepts unconditionally the franchise and promises to comply with and abide by all of its terms, provisions and conditions. The grantee also agrees to provide all services set forth in its application and proposal and to provide cable television services within the confines of the City of Howell, and, by its acceptance of the franchise, the grantee specifically grants and agrees that its application and proposal is thereby incorporated by reference and made a part of the agreement. In addition, the grantee specifically agrees that this chapter is incorporated by reference and made a part of the franchise. In the event of a conflict between the application and proposal of the grantee, this chapter and the franchise, that provision which provides the greatest benefit to the City, in the opinion of the Council, shall prevail.

(Ord. 615. Passed 9-5-95.)

### **803.33 SEVERABILITY.**

(a) If any section, subsection, sentence, clause, phrase or word of the franchise or this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(b) If a material provision of a franchise is affected by action of a court or of the State or Federal Government, the City and the grantee may modify any such provision to such reasonable extent as may be necessary to carry out the full intent and purpose of the franchise.

(Ord. 615. Passed 9-5-95.)

### **803.99 PENALTY.**

Whoever violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall be subject to the penalty provided in Section 202.99.

(Ord. 615. Passed 9-5-95.)

## **CHAPTER 804**

### **Cable Television Rates**

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804.01 Adoption of FCC rules; file copy.

804.02 Public notice of rate schedules or increases; filing of written comments; file copies.

804.03 Adoption of proprietary information procedures; file copy.

804.04 Conflicts with franchises.

804.05 Violation of rate decisions or refund orders; adoption of federal procedures; monetary forfeiture.

### **CROSS REFERENCES**

Encroachments on highways and roads - see M.C.L. Secs. 247.1 et seq.

Construction and maintenance of facilities - see M.C.L. Secs. 247.183 et seq.

Television and radio generally - see M.C.L. Secs. 484.301 et seq., 750.507 et seq.

Cables improperly located; insurance - see M.C.L. Sec. 500.3123

Cable television franchises - see B.R. & T.Ch. 803

Television tower - see P. & Z. Chapter 1240 (Zoning Code)

Wireless communication facilities - see P. & Z. Chapter 1240 (Zoning Code)

### **804.01 ADOPTION OF FCC RULES; FILE COPY.**

The City hereby adopts by reference rules of the Federal Communications Commission (FCC) as set forth in 47 CFR Chapter 1, Part 76, Subpart N, regarding the regulation of cable television rates for basic service and associated equipment, as amended. A copy of such rules is available in the office of the City Clerk for public inspection and copying during normal business hours.

(Ord. 596. Passed 2-7-94.)

### **804.02 PUBLIC NOTICE OF RATE SCHEDULES OR INCREASES; FILING OF WRITTEN COMMENTS; FILE COPIES.**

After a cable operator has submitted for review its existing rates for the basic service tier and associated equipment costs or a proposed increase in these rates, the City Clerk shall publish a public notice of the rates and costs, giving interested parties, including the cable operator, a reasonable opportunity to file written comments, which shall be available in the office of the City Clerk for public inspection and copying during normal business hours.

(Ord. 596. Passed 2-7-94.)

### **804.03 ADOPTION OF PROPRIETARY INFORMATION PROCEDURES; FILE COPY.**

The City hereby adopts by reference procedures set forth in 47 CFR Section 0.459 regarding confidential business information submitted by the cable operator in a rate regulation proceeding. A copy of such procedures is available in the office of the City Clerk for public inspection and copying during normal business hours.

(Ord. 596. Passed 2-7-94.)

### **804.04 CONFLICTS WITH FRANCHISES.**

In the event of a conflict between this chapter and a cable television franchise, the provisions of this chapter shall control.

(Ord. 596. Passed 2-7-94.)

### **804.05 VIOLATION OF RATE DECISIONS OR REFUND ORDERS; ADOPTION OF FEDERAL PROCEDURES; MONETARY FORFEITURE.**

A cable operator who willfully or repeatedly fails to comply with a rate decision or refund order directed specifically at the cable operator shall be subject to a monetary forfeiture not to exceed twenty-five thousand dollars (\$25,000) for each violation or each day of a continuing violation, not to exceed two hundred fifty thousand dollars (\$250,000), as determined by Council, in accordance with the procedures set forth in 47 USC 503(2)(D), (3)(A) and (B), and (4)(A), (B) and (C), which the City hereby adopts by reference. A copy of such procedures is available in the office of the City Clerk for public inspection and copying during normal business hours.

(Ord. 596. Passed 2-7-94.)

## **CHAPTER 806**

### **Commercial Recreational Establishments**

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806.01 Definitions.

806.02 License required.

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- 806.04 Effective period and revocation of license
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- 806.06 Exemptions.
- 806.07 Minors in billiard or pool halls, pinball arcades and electronic or video arcades.
- 806.08 Revocation of licenses.
- 806.99 Penalty.

### **CROSS REFERENCES**

Coordinated collection of State license fees - see M.C.L. Sec. 205.1

Ordinances re bowling alleys, pool and billiard rooms - see M.C.L. Sec. 750.141

Children in pool and billiard rooms - see M.C.L. Sec. 750.141

Discrimination - see M.C.L. Secs. 750.146, 750.147

### **806.01 DEFINITIONS.**

As used in this chapter:

(a) "Billiard hall, pool hall" and "pinball arcade" mean an establishment whose principal business is the sale of the commodities indicated or the use of the facilities furnished for the aforesaid purposes.

(Ord. 382. Passed 7-16-79.)

(b) "Bowling alley" means a place open to the public which is fitted up with bowling alleys for the playing at which alleys a fee is charged.

(c) "Skating rink" means a place open to the public which is fitted up and made suitable for roller skating and for which a fee is charged.

(d) "Electronic or video arcade" means an establishment whose principal business is the sale or use of electronic and/or video games of any kind and by whatever name known.

(e) "Any other commercial recreational establishment" means an indoor or outdoor recreational operation or facility which is open to the public and for which a fee is charged.

### **806.02 LICENSE REQUIRED.**

No person shall operate, maintain or keep a pool or billiard hall, a pinball arcade, a bowling alley, a skating rink, an electronic or video arcade or other commercial recreational establishment without first obtaining a license therefor as provided in this chapter.

### **806.03 LICENSE APPLICATION; FEE.**

Any person desiring to operate or maintain a pool or billiard hall, a pinball arcade, a bowling alley, a skating rink, an electronic or video arcade or other commercial recreational establishment in the City, shall make an application to the City Manager or his or her authorized representative, in writing, for a license therefor, which application shall state the name of the owner of such business and where it is to be located, including a site plan and the character of the business, within the provisions of this chapter, which he or she proposes to operate. Each application shall be accompanied by a license fee of one hundred dollars (\$100.00). Such applications shall be referred to by the Manager or his or her representative to Council at its next regular meeting, and all licenses granted hereunder shall be granted only upon a majority vote of Council. No license shall be granted unless a majority of Council finds that such business operation is in a proper zone under the Zoning Code and will not be a nuisance in the area where it is to be located or constitute a detriment in any way to such area.

### **806.04 EFFECTIVE PERIOD AND REVOCATION OF LICENSE.**

Upon a majority vote as herein provided for, Council shall grant licenses to operate pool and billiard halls, pinball arcades, bowling alleys, skating rinks, electronic or video arcades and other commercial recreational establishments in the City upon the payment of the license fee of one hundred dollars (\$100.00). Each license so granted shall be for a period of not to exceed one year, shall expire on May 1 of each year and may be revoked by Council upon a majority vote at any time.

(Ord. 201. Passed 3-20-61.)

### **806.05 ISSUANCE OF LICENSE.**

If favorable action is had by Council upon an application for a license under this chapter, the City Manager or his or her authorized representative shall forthwith issue and grant a written license to the applicant whose application received the favorable action of Council.



## **806.06 EXEMPTIONS.**

The provisions of this chapter shall not apply to operations of public institutions, such as schools, or to municipal corporations, service clubs and religious organizations.

(Ord. 201. Passed 3-20-61.)

## **806.07 MINORS IN BILLIARD OR POOL HALLS, PINBALL ARCADES AND ELECTRONIC OR VIDEO ARCADES.**

(a) No owner, manager or employee of a pool hall, billiard hall, pinball arcade or electronic or video arcade shall allow any person under the age of seventeen years to enter and remain upon the premises of such pool hall, billiard hall, pinball arcade or electronic or video arcade, except in the following manner:

(1) Minors who are fourteen, fifteen or sixteen years old may be upon the premises until the hour of 9:00 p.m. if accompanied by a parent or legal guardian.

(2) Minors who are fourteen, fifteen or sixteen years old may be upon the premises unaccompanied by a parent or legal guardian until the hour of 9:00 p.m., provided that the owner, manager or employee of any establishment subject to this section has upon the premises and available for lawful inspection a permission slip signed by the parent or legal guardian of such unaccompanied minor, duly notarized, granting such minor permission to be upon the premises, unaccompanied, until the curfew hour.

(3) Permission slips obtained pursuant to this section shall be maintained upon the business premises at all times and shall be made available for inspection by police officers upon request.

(4) The curfew for minors who are fourteen, fifteen or sixteen years old shall be extended to 10:00 p.m. on Friday and Saturday nights only.

(5) Minors under the age of fourteen years may be permitted to enter and remain upon the premises until the hour of 6:00 p.m. only if accompanied at all times by a parent or legal guardian.

(Adopting Ordinance)

(b) The provisions of this section shall not apply to any nonprofit organization, private club or religious, fraternal, municipal, educational or other organization which maintains billiard tables or pinball machines for the use of its members, nor to any enterprise where the use of such machines and equipment is merely incidental to the principal activity of such business.

(Ord. 382. Passed 7-16-79.)

## **806.08 REVOCATION OF LICENSES.**

Upon certification from a court of competent jurisdiction that the owner or operator of a particular business has been convicted three times for violations of any of the provisions of this chapter occurring within a twelve-month period, the City shall revoke the license of such owner or operator issued under this chapter.

(Ord. 382. Passed 7-16-79.)

## **806.99 PENALTY.**

(EDITOR'S NOTE: See Section 202. 99 for general Code penalty if no specific penalty is provided.)

# **CHAPTER 810**

## **Business Licenses and Regulations**

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810.01 Adoption by reference.

### **810.01 ADOPTION BY REFERENCE.**

The City Business Licenses and Regulations Ordinance, Articles 1 through 6, is hereby adopted. The full text of the City Ordinance is attached to Ordinance No. 811, passed May 19, 2008, and is hereby incorporated as Appendix A to this Chapter 810.

(Ord. 811. Passed 5-19-08.)

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## **ARTICLE 1**

### **TITLE, PURPOSE, SCOPE, CONSTRUCTION, VALIDITY, AND SEVERABILITY**

#### **Section 1.01 Title.**

The ordinance codified in this Chapter shall be known and cited as the "Business Licenses and Regulations Ordinance" of the City of Howell.

#### **Section 1.02 Purpose.**

The purpose of this Chapter is to assist the City with information to provide more adequate police and fire protection; more comprehensive and informed planning and zoning for uses of land and structures within the City; to ensure the proper operation of businesses within City boundaries; to establish regulations and requirements related to operation of certain businesses in the City; to ensure the habitability of dwelling units being leased to others or otherwise being occupied by others than the owner and/or persons related to the owner; and to establish a registry of businesses operating within the City for the general information for the public and for the promotion of the City and to protect the public health, safety and welfare.

#### **Section 1.03 Severability.**

If any part of the requirements of this Chapter is found by a court of competent jurisdiction to be void or unenforceable, all remaining parts of this Chapter shall remain fully valid and enforceable.

## **ARTICLE 2**

### **DEFINITIONS FOR BUSINESS LICENSES AND REGULATIONS**

#### **Section 2.01 Definitions.**

As used in this Chapter, the following terms have the following meanings:

(1) **"Business"** means any trade, occupation, profession, privilege, work, commerce or other activity owned or operated for a profit, or with the intent to produce a profit, by any person within the City. "Business" shall also include the offering to others for purposes of occupancy through rental or lease agreements, or by other mutually acceptable agreements leading to occupancy, the occupancy of dwelling units in any form to other than the owner and/or persons related to the owner.

(2) **"Cause" defined.**

Cause means the doing or omitting of any act, or permitting any condition to exist in connection with any business for which a license is granted under the provisions of this Chapter, or upon any premises or facilities used in connection therewith, which act, omission or condition is:

- a. Contrary to the health, morals, safety or welfare of the public;
  - b. Unlawful, irregular or fraudulent in nature;
  - c. The arrest and conviction of the licensee for any crime involving moral turpitude;
  - d. Unauthorized or beyond the scope of the license granted;
  - e. Forbidden by the provisions of this Code or any other duly established rule or regulation of the City applicable to the business for which the license has been granted;
  - f. Nonpayment of personal property taxes, real property taxes or any other obligation due and payable to the City relating to the licensed premises;
  - g. Maintenance of a nuisance upon or in connection with the licensed premises, including, but not limited to, any of the following:
    1. An existing violation(s) of building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory codes or ordinances,
    2. A pattern of patron conduct in the neighborhood of licensed premises which is in violation of the law and/or disturbs the peace, order and tranquility of the neighborhood,
    3. Failure to maintain the grounds and exterior of the licensed premises free from litter, debris or refuse blowing or being deposited upon adjoining properties;
    4. Failure to maintain the grounds and exterior of the licensed premises in accordance with an approved site plan.
  - h. Failure by the licensee to permit the inspection of the licensed premises by the City's agents or employees in connection with the enforcement of this Code.
- (3) **"City Clerk"** and **"City Council"** mean, respectively, the City Clerk and the City Council of the City of Howell.
- (4) **"Licensing agent"** means the City Clerk or, in the absence of the Clerk, the acting Clerk or other such City official or employee as may be designated by resolution of the City Council.
- (5) **"Person"** means any individual, partnership, association or corporation.

## **ARTICLE 3**

### **BUSINESS LICENSES GENERALLY**

#### **Section 3.01 Licenses Required.**

No person shall engage, or be engaged, in the operation, conduct or carrying on of any business for which any license is required by any provision of this Chapter without first obtaining a license from the City in the manner provided for in this Article.

#### **Section 3.02 Multiple Businesses.**

Any person operating, conducting or carrying on any business which requires a license by this Chapter shall obtain an individual license for each business being conducted. The grant of a license for one trade, profession, business or privilege requiring a license shall not relieve the person from the necessity of securing individual licenses or permits for each such business. In the event the business is a rental building containing more than one dwelling unit, only one license is required for each individual rental building, although multiple dwelling units occupied by multiple tenants may be contained within the individual building.

#### **Section 3.03 Licensed Businesses.**

The fact that a license or permit has been granted to any person by Livingston County or the State of Michigan to engage in the operation, conduct or carrying on of any business shall not exempt such person from the necessity of securing a license or permit from the City if such license or permit is required by this Chapter.

#### **Section 3.04 License Application.**

Unless otherwise provided in this Chapter, every person required to obtain a license from the City to engage in the operation, conduct or carrying on of any business, shall make application for said license to the City Clerk upon forms provided by the City Clerk and shall state under oath or affirmation such facts, as may be required for, or applicable to, the granting of such license.

#### **Section 3.05 License Year.**

Except as otherwise herein provided as to certain licenses, the license year shall begin January 1 of each year and shall terminate at midnight on December 31st of that year. Original licenses shall be issued for the balance of the license year at the full license fee. License applications for license renewals shall be applied for sixty (60) days prior to the annual expiration date, and issued at least fifteen (15) days prior to the annual expiration date.

### **Section 3.06 Conditions of Issuance; Issuance.**

(a) No license or permit required by this Chapter shall be issued to any person who is required to have a license or permit from Livingston County, the State of Michigan, or any other regulatory agency, until such person shall submit evidence of such state license or permit and proof that all fees pertaining thereto have been paid. No license shall be granted to any applicant therefore until such applicant has compiled with all of the provisions of this Code applicable to the business for which application for license is made.

(b) All business licenses shall be issued by the City Clerk upon the recommendation of the Howell City Police Chief, Building Official, and any other City Official who shall be responsible for the investigation of any business license application.

### **Section 3.07 Where Certification Required.**

No license shall be granted where the certification of any officer of the City is required prior to the issuance thereof until such certification is made.

### **Section 3.08 Certificate of other Governmental Agencies.**

In all cases where the certification of any other governmental agency, including but not limited to the Livingston County Health Department, is required prior to the issuance of any license by the City Clerk, such certification shall be submitted at the time of application for a license to the City. No license shall be issued by the City until other required governmental approvals are obtained and proof of such approval presented to the City Clerk.

### **Section 3.09 Howell City Police Chief's Certificate.**

Certification of the Howell City Police Chief is required prior to the issuance of any license by the City Clerk. Such certification shall be based upon an actual inspection and a finding that the premises in which the person making application for such licenses proposed to conduct or is conducting the business complies with all the fire regulations and other applicable regulations of the State of Michigan, County of Livingston, other applicable regulatory agencies, and of the City.

### **Section 3.10 Building Official's Certificate.**

In all cases where the carrying on of a business involves the use of any structure or land, a license therefore shall not be issued until the Building Official shall certify that the proposed use is not prohibited by Ordinance No. 722 of this Code (the Zoning Ordinance), and that the business premises or structures are in compliance with all applicable codes and regulations.

### **Section 3.11 Compliance.**

(a) No license shall be issued to any person unless he has complied with all of the provisions of this Code and with all of the provisions of all other laws, provisions of other ordinances, and rules and regulations applicable to the business, including but not limited to all building, health and fire codes, and the same is in full compliance with the Zoning Ordinance.

(b) No license shall be issued to any applicant whose business use, either alone or in combination with other businesses on the same property, violates any terms of the site plan or other approvals granted by the City governing the property. Any business which expands operations beyond its existing site plan, subdivides its business premises or sublets its business facilities shall be subject to a new site plan review or other required use approvals, unless waived by the City, and shall comply with any additional site plan requirements or other require approvals as mandated by the City Zoning Ordinance before a business license or renewal thereof is granted.

(c) A license is required for every business entity within the City and for each business entity on a singular property. Any business entity conducting multiple operations within the City on noncontiguous lots or parcels shall obtain a license for each site. No business license shall be issued to any business utilizing a street address which has not been approved by state or local authorities.

### **Section 3.12 Suspension and revocation.**

The City Council may suspend or revoke for cause any license issued by the City in the manner provided in this Chapter.

### **Section 3.13 Procedure for suspension or revocation of license.**

(a) If the Building Official and/or Howell City Police Chief determines that any licensee has committed a violation of this Chapter, the Building Official or Howell City Police Chief shall prepare a report in writing specifying (1) the specific factual details of such violation(s), and (2) the particular Code subsection(s) violated.

(b) The Building Official or Howell City Police Chief shall file the original report so prepared with the City Manager. The City Manager shall conduct an investigation of the facts contained in such report, and upon belief that such facts provide evidence of a violation of this Title, shall provide a copy to City Council, and serve a copy of such report upon the licensee or

its authorized agent or employee personally or by registered mail.

(c) Within twenty (20) days from the date such report has been filed with the City Council, the City Clerk shall set a date for a hearing before council on the alleged violation(s) for a determination by City Council as to whether or not City Council shall suspend or revoke the license. Notice of the hearing shall be served by the City Clerk upon the licensee or its authorized agent or employee personally or by registered mail not less than seven (7) days before a scheduled hearing date, and such notice shall advise the licensee of its right to be represented by legal counsel at the hearing before the City Council.

(d) At all such hearings, the licensee shall have the legal right to defend against the allegations made by way of confronting any adverse witnesses, by being able to present witnesses in its own behalf, by being allowed to present arguments, personally or through legal counsel in its own behalf.

(e) The City Council shall prepare a written statement of its findings within thirty (30) days of the conclusion of all such hearings and shall serve such findings with the licensee either personally or by registered mail. If the City Council decided that the license shall be suspended or revoked, the licensee shall forthwith surrender the same to the licensing agent and shall not thereafter conduct, operate or carry on the business for which the license was granted unless and until the license is restored and a new license issued to him.

### **Section 3.14 License renewal.**

Unless otherwise provided in this Code, an application for renewal of a license shall be considered in the same manner as an original application. Should an application for a new license or a renewal of an existing license be denied by the City, the denied applicant may utilize the procedure set forth in Section 3.13 of this Article as an appellate process by filing with the City Clerk a written request for a hearing before the City Council. Such request must be served upon the City Clerk within ten (10) days of the applicants receipt of the denial notice.

### **Section 3.15 Financial Assurances.**

Where the provisions of this Code require that the applicant for any license or permit furnish a financial assurance, such financial assurance shall be furnished in an amount deemed adequate by the proper City officer, or, whether the amount thereof is specified in this Code or by resolution of City Council, in the amount so required. The form of such financial assurance shall be acceptable to the City Attorney. In lieu of a financial assurance, an applicant for a license or permit may furnish one or more policies of insurance in the same amounts providing the same protection as called for in any such financial assurance; and such policies of insurance shall be approved as to substance by the City official issuing said license or permit and as to form by the City Attorney.

### **Section 3.16 Late Renewals.**

All fees for the renewal of any license which are not paid at the time said fees shall be due, shall be paid as "late fees" with an additional twenty-five (25%) percent of the license fee required for such licenses for the first fifteen (15) days that such license fee remains unpaid, and thereafter the license fee shall be that stipulated for such licenses, plus fifty (50%) percent of such fee.

### **Section 3.17 Right to Issuance.**

If the application for any license is approved by the proper officers of the City, as provided in this Code, said license shall be granted and shall serve as a receipt for payment of the fee prescribed for such license.

### **Section 3.18 Fees - When Paid.**

The fees required by this Chapter for any license or permit shall be paid at the Finance Department/Treasurer's Office before the granting of said license or permit. License Fees shall be those set by resolution of the City Council. In the event the business is a rental building containing more than one dwelling unit, even though only one license is required for each individual building, a fee shall be paid for each individual dwelling unit contained within each licensed establishment to cover the costs associated with the inspection of each individual dwelling unit.

### **Section 3.19 Exhibition of License.**

No licensee shall fail to carry any license issued in accordance with the provisions of this Code upon his person at all times when engaged in the operation, conduct or carrying on of any business, or maintain the license where the business is operated at a fixed place in the establishment. Said license shall be exhibited at all times in some conspicuous place in the place of business. Every licensee shall produce its license for examination when applying for a renewal thereof or when requested to do so by a City police officer or by any person representing the City.

### **Section 3.20 Exhibition on Vehicle and Machine.**

No licensee shall fail to display conspicuously on each vehicle or mechanical device or machine required to be licensed by this Code such tags or stickers as are furnished by the City Clerk.

### **Section 3.21 Displaying Invalid License.**

No person shall display any expired license or any license for which a duplicate has been issued.

### **Section 3.22 Transferability; Misuse.**

No license or permit issued under the provisions of this Code shall be transferable unless specifically authorized by the provisions of this Code. No licensee or permittee shall, unless specifically authorized by the provisions of this Code, transfer or attempt to transfer his/her license or permit to another nor shall he/she make any improper use of the same.

### **Section 3.23 Misuse-Automatic Revocation.**

In addition to the general penalty provision for violation thereof, any attempt by a licensee or permittee to transfer his/her license or permit to another, unless specifically authorized by the provisions of this Chapter, or to use the same improperly shall be void and result in the automatic revocation of such license or permit.

## **ARTICLE 4**

### **SEXUALLY ORIENTED BUSINESS**

#### **Section 4.01 Purpose and Intent.**

The purpose of this Article is to carry out the intent of Article 6 of the Howell Zoning Code as it relates to the licensing of sexually oriented businesses. The purpose and intent of Article 6 of the Howell Zoning Code, specifically Section 6.25(a), is hereby adopted by reference in this Section as though the same were fully set forth herein.

#### **Section 4.02 License required for sexually oriented business; penalty for violation of article.**

It shall be unlawful for any owner to operate a business without a valid license, issued by the City for the particular type of business. For purposes of this Chapter, "sexually oriented business" shall mean an adult arcade, adult bookstore or adult video store, adult novelty or retail store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center or similar establishment or any place that permits patrons to be filmed or photographed performing sexually explicit activities or displaying specific anatomical areas for electronic transmission over the World Wide Web, as each of those terms are further defined under Title Six, Chapter 1240 (the Zoning Ordinance). The definition of "sexually oriented business" shall not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the State engages in medically-approved and recognized sexual therapy.

#### **Section 4.03 Application.**

(a) Any owner desiring to operate a sexually oriented business, as defined in Article 2 of the Howell Zoning code for which a license is required, shall first make application to the City Clerk for a license on a form provided by the City Clerk. The application shall contain the following information:

- (b) A description of services to be provided.
- (c) The location, mailing address and all telephone numbers for the sexually oriented business.
- (d) The name and permanent residence address of the applicant(s).

1. If the applicant is a corporation, the names and permanent residence addresses of each of the officers, directors and resident agents of said corporation and of each stockholder owning more than ten (10) percent of the stock of the corporation, the address of the corporation itself, if different from the address of the proposed sexually oriented business, and the name and address of a resident agent in Livingston County, Michigan.

2. If the applicant is a partnership, the names and permanent residence addresses of each of the partners and of the partnership itself, if different from the address of the proposed sexually oriented business, and the name and address of a resident agent in Livingston County, Michigan.

- (e) The applicant's two (2) immediately preceding addresses.
- (f) Proof that each applicant is at least eighteen (18) years of age.
- (g) Copy of identification such as driver's license which bears a date of birth for each individual or partnership applicant(s), officers, directors, stockholders and resident agent.
- (h) One front face current portrait photograph of the applicant(s) at least two inches by two inches (2" x 2") and a complete set of applicant(s) fingerprints which shall be taken by the Howell City Police Chief or his/her agent. If the applicant is a corporation, one front face current portrait photograph at least two inches by two inches (2" x 2") of all officers and resident agents of said corporation and a complete set of the same officers', directors' and resident agents' fingerprints which shall be taken by the Howell City Police Chief or his/her agent. If the applicant is a partnership, one front-face current portrait photograph at least two inches by two inches (2" x 2") in size of each partner, including a limited partner in said partnership, and a complete set of each partner or limited partner's fingerprints which shall be taken by the Howell City Police Chief or his/her agents.
- (i) Business, occupation, or employment of the applicant(s) for the three (3) years immediately preceding the date of application.

(j) Statement of whether or not the applicant(s) has previously operated a sexually oriented business in this or another municipality or state;

(k) Statement of whether or not the applicant(s) has had a business license of any kind revoked or suspended and the reason therefore;

(l) All criminal convictions other than misdemeanor traffic violations not involving a controlled substance or alcohol, including the dates of conviction(s), nature of the crime(s) and court or tribunal.

(m) The names, addresses, birth dates and drivers license numbers of each employee or independent contractor, who is or will be employed in said proposed sexually oriented business.

(n) The name, address, birth dates and driver's license number of each individual who will be a manager, acting manager or in charge of each facility.

(o) The name and addresses of any sexually oriented business or other facility owned or operated by any person whose name is required to be given in subsection (c).

(p) A description of any other business(es) to be operated on the same premises or on adjoining premises owned or controlled by the applicant(s)

(q) Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant(s) for the permit including a LEIN records check of all applicants, employees, officers, directors, resident agents or stockholders.

(r) Such other identification and information necessary to discover the truth of the matters herein before specified as required to be set forth in the application.

(s) The names, current addresses and written statements of at least three (3) bona fide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the City of Howell, then the County of Livingston, then the State of Michigan and lastly from the rest of the United States. These references must be persons other than relatives and business associates.

(t) Evidence of current valid General Liability Insurance with minimum limits of One Million (\$1,000,000.00) Dollars per occurrence, and Workers Compensation Insurance to comply with all State of Michigan statutory requirements.

(u) A community impact statement. The community impact statement shall contain, at a minimum:

1. A detailed description of the proposed business, including the names and addresses of the applicant for the license, the street address and legal description of the proposed business location, a description of the building and facilities, a description of the merchandise and services to be offered to the public, a statement of the proposed hours of operation, a profile of the expected customers, a projection of the market area, and a list of similar operations for comparison purposes in Michigan.

2. A detailed analysis of the existing business community within one thousand (1000) feet of the proposed location, including the following information:

i. The name of all other businesses within one thousand (1000) feet of the proposed location;

ii. A description of the type of business within the limits;

iii. A profile of the customers or patrons of the businesses within the limits;

iv. A profile of the market area of the other businesses;

v. A description of the trend of economic growth and/or deterioration of the existing business community within the limits;

vi. A signed statement from a qualified property appraiser registered with the American Institute of Real Estate Appraisers or the Society of Real Estate Appraisers as to the projected impact of the sexually oriented business on commercial property values within one thousand (1000) feet of the proposed location.

vii. A detailed analysis of the existing residential community within one thousand (1000) feet of the proposed location, including the following information:

A. A description of the type of residential housing within one thousand (1000) feet;

B. A demographic analysis of the persons living within one thousand (1000) feet of the proposed location, including an analysis of the ages, occupations and attitudes of persons living within the area toward the proposed location of the sexually oriented business;

C. A statement as to the proximity of schools, churches, public facilities, rest homes, convalescent homes and licensed foster care facilities, and an analysis of the impact of the proposed use upon those uses;

D. An analysis of the impact of the proposed business upon the social environment of the City;

E. A signed statement from a qualified property appraiser registered with the American Institute of Real Estate Appraisers or the Society of Real Estate Appraisers as to the projected impact of the sexually oriented business on



residential property values within one thousand (1000) feet of the proposed location.

viii. A detailed analysis of the zoning within one thousand (1000) feet of the proposed location with an analysis of the impact of the proposed use on existing and projected principal permitted uses and existing and projected permitted uses subject to special approval within those limits, including:

- A. A list of alternative locations for the proposed business;
- B. A list of alternative uses at the proposed location.

ix. The community impact statement shall also contain:

A. A detailed statement setting forth the statistical procedures and methods used to compile and prepare the community impact statement;

B. The names, addresses and telephone numbers of the person or persons who prepared the community impact statement.

x. All information required by this section shall be provided at the applicant's expense.

(v) Upon the full completion of the application form and the furnishing of all foregoing information and documentation, the City shall accept the application for the necessary investigations. The holder of a sexually oriented business license shall notify the City of each change in any of the data required to be furnished by this section within ten (10) days after such change occurs.

(w) At the time the application is filed, a nonrefundable application fee, as set forth by City Council resolution, shall be remitted to the City Clerk and shall be in addition to any other fee required by this Code.

(x) If an owner who wishes to operate a sexually oriented business is an individual, he or she must sign the application for a license as the applicant. If an owner who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten (10%) percent or greater interest in the business must sign the application for a license as an applicant. Each applicant must meet all requirements set forth in this article, and each applicant shall be considered a licensee if a license is granted.

(y) At the time the completed application for a sexually oriented business is submitted, the City Clerk will check the application for completeness of information within ten (10) business days of the date of the application is submitted. If the application is determined to be incomplete, it shall within ten (10) business days be returned to the applicant with a written statement identifying all deficiencies or missing information prior to resubmission to the City Clerk.

(z) The applicant must acknowledge that all information provided to the City is true and accurate, and must further agree to be liable for the payment of the City's legal fees in the event the City is successful in any administrative or judicial proceedings alleging a violation of these provisions.

#### **Section 4.04 Review process; bases for denial.**

(a) Following the determination of completeness of the license application by the City Clerk, the City Clerk will within fourteen (14) business days forward the application to the City Council who shall, within forty-five (45) business days of having received the application from the City Clerk, make a decision to approve or deny a license to operate a sexually oriented business.

(b) Within the aforementioned forty-five (45) business day period, written reviews shall be prepared by the Howell City Police Chief, fire department, department of public services, and building department. As part of the review process, representatives of the respective City departments may inspect the proposed premises to determine compliance with the requirements herein.

(c) The following may constitute the basis for denial of a license to operate a sexually oriented business:

1. An applicant is under eighteen (18) years of age.
2. An applicant is overdue in his or her payment to the City of taxes, fees, fines, or penalties assessed against or imposed in relation to a sexually oriented business.
3. An applicant has failed to provide information reasonably necessary for the issuance of the license or has falsely answered a question or request for information on the application forms.
4. An applicant has been convicted of a violation of a provision of this section, other than the offense of operating a sexually oriented business without a license, within two (2) years immediately preceding the filing of the application. The fact that a conviction is being appealed shall have no consideration.
5. The premises to be used for the sexually oriented business has not been approved by the Livingston County Health Department, Howell City Police Chief, department of public services, fire department, or building official; or the premises is not in compliance with applicable laws and ordinances.
6. The license fee required by this section has not been paid.
7. An applicant has owned, operated or been employed in a sexually oriented business in a managerial capacity within the preceding twelve (12) months and has demonstrated an inability to operate or manage a sexually oriented business

premises in a peaceful and law abiding manner.

8. An applicant has a record of conviction for an offense involving gambling, narcotics, prostitution, pandering, pornography, public indecency, sexual assault, or any violation of any provision of this article within the preceding two (2) years. The fact that a conviction is being appealed shall be of no consideration.

9. The applicant is not in compliance with applicable Zoning Ordinances.

(d) A license may also be denied if the Howell City Police Chief determines that the applicant is presently unfit to operate a sexually oriented business due to the applicant's overall criminal record, regardless of the date of any criminal conviction. In determining present fitness or unfitness under this section, the Howell City Police Chief shall consider the following factors:

1. The extent and nature of past criminal activities;
2. The age at the time of the commission of the crime;
3. The amount of time that has elapsed since the last illegal activity;
4. The conduct and work activity prior to and following the illegal activity;
5. Evidence of any rehabilitation or rehabilitative effort while incarcerated or following release; and

6. Other evidence of present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for that person, the sheriff and chief of police in the community where the applicant resides, and any other persons in contact with the applicant. It is the responsibility of the applicant, to the extent reasonably possible, to secure and provide necessary and reliable evidence required to determine present fitness.

#### **Section 4.05 License expiration; renewal; application and renewal fees; continued right to inspection premises.**

(a) A license under this article shall expire on December 31st of the year of issuance.

(b) A licensee under this article shall be entitled to a renewal of the license after: the Howell City Police Chief has completed a criminal record check; except when the license has been suspended or revoked, upon presentation of the previous license or presentation of an affidavit as to its loss or destruction to the City Clerk; filing of a completed renewal form provided to the City Clerk; payment of a nonrefundable renewal fee as provided in Section 4.02(a); and review and approval of the renewal application by the City Council. Application for renewal must be made at least sixty (60) days prior to the expiration of the existing license to allow adequate time for review and decision by the City.

(c) The license fees for a sexually oriented business shall be set by resolution of the City Council, and such fees may from time to time be changed by resolution of the City Council.

(d) An applicant or licensee shall permit representatives of the Howell City Police Department, Livingston County Health Department, fire department, department of public service and building department to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law prior to or at any time it is occupied or open for business.

#### **Section 4.06 Suspension; revocation.**

(a) The City shall suspend a license for a period of thirty (30) days or until compliance, if it determines that a licensee or any employee of a licensee has:

1. Violated or is not in compliance with this article;
2. Knowingly permitted alcohol consumption or engaged in excessive alcohol consumption on the premises of a sexually oriented business, with the exception of an adult motel;
3. Refused to allow an inspection of the sexually oriented business premises as authorized by this article;
4. Knowingly permitted gambling by a person on the sexually oriented business premises;
5. Demonstrated an inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers;
6. Allowed, authorized, conduct, or engaged in any criminal activity on the premises;
7. Provided any false information to the City on any initial or renewal application sheet;
8. Permitted a person younger than eighteen (18) years of age to enter or be on the premises; or permitted a person younger than eighteen (18) years of age to be employed or to perform any services for or on behalf of the sexually oriented business; or sold or provided any goods, merchandise or service to a person under eighteen (18) years of age.

(b) The City shall revoke a license if a basis for suspension in Section 4.05(a), above, occurs and the license has been suspended within the preceding twelve (12) months.

(c) The City shall revoke a license if it is determined that:

1. A licensee gave false or misleading information in the material submitted to the City during the application or renewal process;
  2. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
  3. A licensee or an employee has knowingly allowed prostitution on the premises;
  4. A licensee or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
  5. A licensee has been convicted of an offense listed in subsection (a) or (c) for which the time period required has not elapsed;
  6. On two or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in any of the sections above, for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed;
  7. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises;
  8. Failure to comply with subsection (a) above;
  9. The plan of operation has been changed or the premises was enlarged without approval of the City.
- (d) The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- (e) Section 4.05 does not apply to adult motels as a ground for revoking the license.
- (f) When the City revokes a license or permit, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under Subsection (c), an applicant may not be granted another license until the appropriate number of years required has elapsed since the termination of any sentence, parole, or probation.

#### **Section 4.07 Appeals.**

The applicant for a sexually oriented business license may, at any time, seek prompt judicial review of any act or failure to act by the City regarding the sexually oriented business license or application for the same.

#### **Section 4.08 Transfer of license.**

A licensee shall not transfer his license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

### **ARTICLE 5**

#### **BODY ART ESTABLISHMENTS**

##### **Section 5.01 Purpose and Intent.**

The intent of this Article is to safeguard the health, safety and welfare of the public from the spread of infectious diseases from practices which prick, pierce, or scar the skin, by regulating the operation of body art establishments in the City of Howell; to establish environmental health standards for the conduction of body arts procedure; to regulate the establishment and practice of body arts services; to authorize the City of Howell to enforce these standards and regulations by inspections; to require a license to operate a body art establishment; to require a permit, which requires the demonstration of knowledge in anatomy and body art technology, effective sterilization, sanitation, and hygienic and disease-controlling techniques, for individuals engaged in the practice of body art; and for providing licensing and permitting procedures and fees.

##### **Section 5.02 Authority.**

This Article is established by the City Council pursuant to Public Act 368 of the Public Acts of 1978, as amended.

##### **Section 5.03 Definitions.**

- a. **"Aftercare"** means written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.
- b. **"Antiseptic"** means an agent that destroys disease-causing microorganisms on human skin or mucosa.
- c. **"Body Art"** means the practice of physical body adornment by licensed establishments and permitted practitioners utilizing, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding and scarification. It does not include practices or procedures which are considered to be medical procedures by the state medical board, such

as hair or skin implants, or plastic surgery.

d. **"Body art establishments"** means any place or premise, whether public or private, transient, temporary or permanent in nature or location where the practice of body art, whether or not for profit, is carried out.

e. **"Body piercing"** means any method of piercing the skin or mucosa, except the ear, in order to place any object, including, but not limited to, rings, studs, bars, or other forms of jewelry or ornamentation, through the skin or mucosa.

f. **"City"** shall mean the City of Howell.

g. **"Contaminated waste"** means any liquid or semi-liquid blood or other potentially-infectious materials: contaminated items that would release blood or other potentially-infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially-infectious materials and are capable of releasing these materials during handling; and contaminated sharps and pathological and microbiological wastes containing blood and other potentially-infectious materials, as defined in 29 Code of Federal Regulations, Part 1910.1030 (latest edition), known as "Occupational Exposure to Blood-borne Pathogens."

h. **"Cosmetic tattooing"** means the practice of depositing pigment into the epidermis, utilizing needles, which is either permanent, semi-permanent or temporary by someone other than a state-licensed physician. Cosmetic tattooing shall also mean the same as permanent cosmetics, dermography, micro-pigmentation, permanent color technology and micro-pigment implantation.

i. **"Disinfection"** means the killing of the microorganisms on inanimate objects or surfaces which cause disease in humans.

j. **"Equipment"** means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a body art establishment.

k. **"Hand sink"** means a lavatory equipped with hot and cold running water under pressure used solely for washing hands, arms and other portions of the body.

l. **"Hot water"** means water which is at a constant temperature of at least 100 degrees Fahrenheit.

m. **"Instruments used for body art"** means hand pieces, needles, needle bars and other instruments that may come in contact with a client's body fluid during body art procedures.

n. **"Invasive"** means entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to compromise the skin or mucosa.

o. **"Jewelry"** means any personal ornament inserted into a newly-pierced area, which must be made of surgical implant-grade stainless steel; solid 14k or 18k white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.

p. **"License"** means written approval by the City of Howell to operate a body art establishment.

q. **"Minor"** means an individual under 18 years of age who is not emancipated under Section 4 of Act no. 293 of the Public Acts of 1968, being Section 722.4 of the Michigan Compiled Laws.

r. **"Operate/Operator"** means an individual who is self-employed and conducts his or her own body art establishment, or who is employed by another person to directly manage the day-to-day activities of a body art establishment.

s. **"Permit"** means the permitting of individual practitioners engaged in the practice of body art, through the demonstration of knowledge by means of the successful completion of a written examination, in anatomy and body art technology, effective sterilization, sanitation, and hygienic and disease-controlling techniques, the proper use of single-use sharps and apparatus, recognition of skin disorders and diseases and other diseases such as diabetes, which contraindicates the practice of body art, and procedures required to safely collect and dispose of contaminated waste.

t. **"Person"** means a person as defined in MCL 333.1106 or a government entity.

u. **"Practitioner"** means any person who controls, operates, manages, conducts, or practices body art activities, and who is responsible for compliance with these regulations whether or not actually currently performing body art activities. The term includes technicians and persons who assist in the actual performance of body art activities.

v. **"Procedure surface"** means any surface that contacts a client's unclothed body during a body art procedure or any associated work area that may require sanitizing.

w. **"Sanitize/Sanitization"** means a treatment of the cleanable surfaces of equipment by a product registered with the United States Environmental Protection Agency and which has been approved by the Livingston County Health Division as being effective in reducing the number of microorganisms to a safe level.

x. **"Sharps"** means any sterilized object that is used for the purpose of penetrating the skin or mucosa including, but not limited to, needles, scalpel blades, razor blades, and broken glass.

y. **"Sharps container"** means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal, and is labeled with the international "biohazard" symbol.

z. **"Single use"** means products or items that are intended for one-time, one-person use and are disposed of after use on each client including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencil ink cups, and protective gloves.

aa. **"Sterilize/Sterilization"** means destruction of all forms of microbiotic life, including spores.

bb. **"Tattooing"** means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instruments used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of cosmetic tattooing.

cc. **"Temporary body art establishment"** means any place or premise operating at a fixed location where a practitioner performs body art procedures for no more than fourteen (14) days consecutively in conjunction with a single event or celebration.

dd. **"Universal precautions"** means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public Safety Workers" in *Morbidity and Mortality Weekly Report (MMWR)*, June 23, 1989, Vol. 38, No. S-6, and as "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures", in *MMWR*, July 12, 1991, Vol. 40, RR-8. This method of infection control requires the employer and employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing, gloving, personal protective equipment, injury prevention, and proper handling and disposal of needles, other sharp instruments, and blood and body fluid-contaminated products.

#### **Section 5.04 License Required.**

a. A person shall not operate a body art establishment without an annual license from the City. Every applicant for a license to maintain, operate or conduct a body art establishment shall file an application under oath with the City Clerk's office upon a form provided by the City and pay a nonrefundable application investigation fee. Such fee shall be set by resolution of City Council. The application shall contain the following information:

1. A description of services to be provided.
2. The location, mailing address and all telephone numbers for the body art establishment(s).
3. The name and permanent residence address of the applicant(s).

i. If the applicant is a corporation, the names and permanent residence addresses of each of the officers, directors and resident agents of said corporation and of each stockholder owning more than ten (10) percent of the stock of the corporation, the address of the corporation itself, if different from the address of the body art establishment, and the name and address of a resident agent in Livingston County, Michigan.

ii. If the applicant is a partnership, the names and permanent residence addresses of each of the partners and of the partnership itself, if different from the address of the body art establishment, and the name and address of a resident agent in Livingston County, Michigan.

4. The applicant's two (2) immediately preceding addresses.
5. Proof that each applicant is at least eighteen (18) years of age.

6. Copy of picture identification such as driver's license which bears a date of birth and photograph for each individual or partnership applicant(s), officers, directors, stockholders and resident agent.

7. One front face current portrait photograph of the applicant(s) at least two inches by two inches (2" x 2") and a complete set of applicant(s) fingerprints which shall be taken by the Howell City Police Chief or his/her agent. If the applicant is a corporation, one front face current portrait photograph at least two inches by two inches (2" x 2") of all officers and resident agents of said corporation and a complete set of the same officers', directors' and resident agents' fingerprints which shall be taken by the Howell City Police Chief or his/her agent. If the applicant is a partnership, one front-face current portrait photograph at least two inches by two inches (2" x 2") in size of each partner, including a limited partner in said partnership, and a complete set of each partner or limited partner's fingerprints which shall be taken by the Howell City Police Chief or his/her agents.

8. Business, occupation, or employment of the applicant(s) for the three (3) years immediately preceding the date of application.

9. The body art or similar business history of the applicant(s).

10. Statement of whether or not the applicant(s) has previously operating a body art establishment in this or another municipality or state;

11. Statement of whether or not the applicant(s) has had a business license of any kind revoked or suspended and the reason therefore;

12. All criminal convictions other than misdemeanor traffic violations not involving a controlled substance or alcohol, including the dates of conviction(s), nature of the crime(s) and court or tribunal.

13. The names, addresses, birth dates and drivers license numbers of each employee or independent contractor, who is or will be employed in said body art establishment.

14. The name, address, birth dates and driver's license number of each individual who will be a manager, acting manager or in charge of each facility.

15. The name and addresses of any body art establishment or other facility owned or operated by any person whose name is required to be given in subsection (c) wherein the business or profession of body art is carried on.

16. A description of any other business(es) to be operated on the same premises or on adjoining premises owned or controlled by the applicant(s).

17. Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant(s) for the permit including a LEIN records check of all applicants, employees, officers, directors, resident agents or stockholders.

18. Such other identification and information necessary to discover the truth or the matters herein before specified as required to be set forth in the application.

19. The names, current addresses and written statements of at least three (3) bona fide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the City of Howell, then the County of Livingston, then the State of Michigan and lastly from the rest of the United States. These references must be persons other than relatives and business associates.

20. Evidence of current valid General Liability Insurance with minimum limits of One Million (\$1,000,000.00) Dollars per occurrence, and Workers Compensation Insurance to comply with all State of Michigan statutory requirements.

All information required by this section shall be provided at the applicant's expense. Upon the full completion of the application form and the furnishing of all foregoing information and documentation, the City shall accept the application for the necessary investigations. The holder of a body art establishment license shall notify the City of each change in any of the data required to be furnished by this section within ten (10) days after such change occurs.

The body art establishment license shall be conspicuously displayed within the reception area of the establishment. A license shall clearly indicate whom to contact or call with a complaint. A license is not transferable and shall not be issued or renewed before the full fee is paid, the premises, equipment, and operations of the establishment have been inspected, and the operator has complied with all inspection deficiencies.

a. An operator of a licensed establishment shall not allow the practice of body art procedures until the City of Howell has determined that all body art practitioners practicing body art at the operator's establishment are individually permitted.

b. A license may be revoked, suspended, or limited, or a license application denied, pursuant to the procedures set forth in Section 5.15, if after an inspection it is determined that an operator has failed to follow standard disease control techniques, or has failed to keep required records of services performed, or has provided services to an underage person without the required consent and presence of a parent or legal guardian.

c. A person shall not operate a temporary establishment for the performance of body art procedures without a license from the City of Howell and the Livingston County Health Department. The City may issue a temporary establishment license for a period of up to fourteen (14) days to provide body art services outside the physical site of a licensed establishment for the purpose of product demonstration and promotion, industry trades shows, or for educational purposes.

d. A person shall not operate a mobile body art establishment within the City of Howell. The City shall not license the use of mobile body art establishments.

e. A person whose license to operate a body art facility has been revoked, suspended, or limited, or a person whose license application has been denied, has the right to appeal to the City Council. A request for an appeal must be in writing, accompanied by the prescribed fee, and submitted to the City Council within ten (10) days of the City's action. The City Council may uphold, reverse or alter the action by a majority vote.

f. The license, permit, plan review, and hearing fee shall be set by the resolution of the City Council.

#### **Section 5.05 Inspection of Body Art Facilities.**

a. The Howell City Police Chief, or his/her designee, shall have the authority to inspect every premise and location at which the aforesaid practice is being carried on as often as deemed necessary for the enforcement of this Chapter. The Howell City Police Chief, or his/her designee, may at any reasonable time, make inspections of the body art facility to ensure compliance with this Chapter. All body art facilities within the City of Howell shall be inspected a minimum of two (2) times per year by the Director of Public Services, or his/her designee.

b. No person shall refuse to permit the Howell City Police Chief, or his/her designee, after proper identification, to inspect any body art facility at reasonable hours nor shall any person impede or impair a City representative from carrying out his or her duties as authorized under this Article.

#### **Section 5.06 Plan Review Requirement.**

a. After the effective date of this Article, no person, firm, association, corporation, or governmental entity shall construct,

install, operate, equip, or extensively alter a body art facility until plans have been submitted to, and approved in writing by, the Building Official, or his/her designee.

b. The plans and specifications shall be submitted through the plan review process for approval by the Building Official, or his/her designee, on forms provided by the City. The plan and specifications shall comply with the criteria established for the plan review before a license is issued.

#### **Section 5.07 Practitioner Permit Required.**

a. The practice of body art shall not be performed without a permit from the Livingston County Health Division and the City of Howell. The permit shall be conspicuously displayed within the reception area of any establishment in which body art is performed. The City shall issue practitioner permits to individuals who have paid the required permitting fee, met the requirements of this Article, and who have successfully passed a written examination offered by the Livingston County Health Division which demonstrates the practitioner is knowledgeable and proficient in:

1. Anatomy and body art technology.
2. Effective sterilization, sanitization, and hygienic techniques: use of single-use sharps and apparatus; and other related disease-control techniques.
3. The discovery and recognition of skin disorders and disease, and other diseases such as diabetes, which contraindicate the practice of body art.
4. Procedures required to safely collect and dispose of contaminated waste. The City may accept other certification or credentials it deems acceptable in lieu of the written examination.

b. All practitioners permitted under this Article need to complete a Hepatitis B vaccination series, or have medical evidence of immunity, or have an approved medical waiver. Exceptions for other reasons will be considered upon written submission to the City.

c. A permit may be revoked, suspended, or limited, or a license application denied, pursuant to the procedures set forth in Section 5.15, if an inspection determines that a practitioner has failed to follow standard disease control techniques, or has failed to keep required records of services performed, or has provided services to an underage person without the required written consent and presence of the parent or guardian.

#### **Section 5.08 Body Art Prohibitions.**

a. A practitioner shall not perform a body art procedure upon a person who is under the age of eighteen (18) without the written consent and presence of a parent or legal guardian of that minor, except a minor emancipated under the laws of the State of Michigan. A practitioner shall require positive proof of age from all prospective clients who reasonably appear to be less than twenty-five (25) years of age, such as driver's license or equivalent photo identification card, and shall make and keep a photocopy of that proof of age as part of the permanent client record.

b. A practitioner shall not perform a body art procedure upon any person who appears to be under the influence of alcohol or other drugs.

c. A practitioner shall not perform a body art procedure upon a person who has not completed a medical screening questionnaire. This questionnaire shall ask whether the client falls within one or more of the following risk group categories. To protect confidentiality, a client shall not be asked to specify the risk group.

1. History of jaundice or hepatitis.
2. History of AIDS, or positive HIV test.
3. History of skin disease or skin cancer at site of service.
4. History of allergies or anaphylactic reaction to pigments, dyes or other sensitivities.
5. History of Hemophilia.
6. Is taking medications which thin blood and prevent clotting.
7. History of any other known medical condition which would influence or impair the healing process.

d. The client shall sign and date a written statement, witnessed and also signed by the practitioner, that the client does/does not fall within one of the risk group categories to the client's best knowledge.

#### **Section 5.09 Exemptions.**

a. Physicians licensed to practice in the State of Michigan, who use body art procedures as part of patient treatment, are exempt from these regulations.

b. An establishment where the practice is limited to the piercing of the outer perimeter and lobe of the ear with a pre-sterilized, single use, stud-and-clasp ear-piercing system only is exempt from the licensing and permitting requirements of this article.

#### **Section 5.10 Client Notice Requirements.**

a. Before performing any body art procedure, a prospective client shall be provided with a written factual information regarding the effects, risks, and permanence of that body art procedure. This written information shall first be submitted for approval by the Livingston County Health Division and the City as to the accuracy and completeness. Before undertaking a procedure, a client shall acknowledge on a copy of the written information, that he or she has read and understands the information, and this copy shall be retained in the permanent file for that client.

b. After a procedure is completed, a client shall also be provided with written instructions, also pre-approved by the Livingston County Health Division and the City, on proper care of the body art site. These instructions, known as aftercare, shall, at a minimum, advise the client to consult a physician at the first sign of infection; shall contain the name, address and telephone number of the establishment; and shall name the Livingston County Health Division and the City and the telephone numbers to which to make a complaint. If tattooing was performed, this document shall also specify the colors applied and, when available, the manufacturer or catalogue identification number of each color applied. This document shall be executed in at least two (2) copies and signed by both the practitioner and the client. A copy shall be provided to the client and another shall be retained in the permanent record.

#### **Section 5.11 Required Records.**

a. An establishment shall maintain a record of all clients who have had body art services performed. This record shall indicate the name, address, telephone number, and date of birth of the client; a signed and dated acknowledgment by the client that they understand the pre-procedure information; a medical screening questionnaire signed and dated by the client; a description of procedures performed, and name of each practitioner performing the services; proof of age, where relevant; proof of parent or guardian consent and presence, where relevant; and a receipt signed and dated by the client acknowledging they have received a copy of the aftercare instruction and pigment identification.

b. These records shall be retained for at least five (5) years by the owner of the establishment. These records shall be made available to the Livingston County Health Division and City representatives immediately upon request, but shall otherwise be maintained in confidence.

#### **Section 5.12 Standards for Premises.**

A body art establishment shall meet the inspection criteria and standard operating procedures established by the Livingston County Health Division.

#### **Section 5.13 Required Procedures for Preparing Body Area.**

a. Before performing a procedure, the skin of and surrounding the area where the procedure is to be performed, shall be washed with antimicrobial soap or treated with iodine, as appropriate.

b. If shaving of the area is necessary, safety razors with single-use blades, or disposable razors, shall be used and discarded after each use. If safety razors with disposable blades are used, the reusable holder shall be autoclaved after each use. After shaving, the shaved area shall be washed with antimicrobial soap and the washing pad shall be discarded after a single use.

c. In the event of blood flow, all products used to check the flow or to absorb the blood shall be single-use and shall be disposed as bio-hazard waste.

#### **Section 5.14 Required Procedures for Performing Body Art.**

a. A practitioner shall maintain a high degree of personal cleanliness, conform to hygienic practices and wear clean clothing when performing body art procedures. Before performing procedures, a practitioner shall thoroughly wash hands in hot running water using liquid antimicrobial soap, scrubbing for at least one (1) minute, then rinse and dry hands with disposable paper towels. This procedure shall be repeated as often as needed to remove contaminants.

b. While performing procedures, a practitioner shall wear disposable medical gloves. The gloves shall be disposed, at a minimum, after each client.

c. If, while performing a procedure, a glove is pierced, torn, or otherwise contaminated, the glove shall be immediately discarded and hands washed thoroughly before a new glove is applied. Any item dropped on the floor or otherwise contaminated shall be immediately discarded and a new one used.

d. All reusable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an antimicrobial soap solution and hot water or by an appropriate disinfectant, to remove blood and tissue residue and placed in an ultrasonic unit which shall be operated in accord with the manufacturer's instructions.

e. After cleaning, all reusable instruments used for body art shall be packed individually in paper peel-packs and sterilized. All paper peel-packs shall be dated with an expiration date not to exceed thirty (30) days. Sterile equipment shall not be used after the expiration date without first re-packaging and re-sterilizing.

f. All reusable instruments used for body art shall be sterilized in an autoclave using procedures outlined in the inspection criteria approved by the Livingston County Health Division. The autoclave shall be used, cleaned, and maintained in accordance with the manufacturer's instructions. A copy of the manufacturer's instructions must be kept available on the premises for inspection by the Livingston County Health Division and the City of Howell.

g. Each holder of a license to operate a body art establishment shall demonstrate that the autoclave used is capable of



attaining sterilization by conducting a monthly spore test through an independent certified laboratory. The license shall not be issued or renewed until documentation of satisfactory testing is presented to the Livingston County Health Division and the City of Howell. Test records shall be kept for at least five (5) years by the establishment owner and made available to the City upon request. If the body art facility is notified by the testing entity that a test result is positive for biologic growth, the body art facility shall immediately cease all operations and notify the Livingston County Health Division. Operations in the body art facility cannot resume until test results that are negative for biologic growth have been provided to the Livingston County Division and the City of Howell by the testing entity and all reusable instruments in the body art facility have been re-sterilized.

h. After sterilization, an instrument used for body art shall be stored in a dry, clean cabinet or other tightly covered container reserved for storage of only such instruments.

i. All instruments used for body art shall remain stored in sterile packages until immediately prior to performing a body art procedure. When assembling instruments used for performing a body art procedure, a practitioner shall wear disposable medical gloves and use techniques to ensure that the instruments and gloves are not contaminated.

j. All inks, dyes, pigments and sharps shall be specifically manufactured for performing body art procedures and shall not be adulterated. Immediately before applying a tattoo, the quantity of dye to be used for the tattoo shall be transferred from the dry bottle and placed into sterile single-use paper or plastic cups. Upon completion of the tattoo, these single-use cups and all of their contents shall be discarded.

k. All sharps shall be sterilized prior to use and stored in paper peel-packs in the manner prescribed above.

l. Single-use sharps shall not be used for more than one (1) client for any reason. After use, all single-use needles, razors and other sharps shall be immediately disposed in an approved sharps container.

m. All body art stencils shall be single-use and disposable. Petroleum jellies, soaps and other products used in the applications of stencils shall be dispensed and applied to the area to be tattooed with sterile gauze or in a manner to prevent contamination of the original container and its contents. The gauze shall be used only once and then discarded.

#### **Section 5.15 Suspension or Revocation of Licenses or Permits.**

a. A license or permit issued under this Article may be suspended temporarily by the City of Howell for failure of the holder to comply with one or more requirements of this Chapter.

b. If a license or permit is to be suspended, the City of Howell shall give the holder prompt notice and the suspension shall occur immediately upon receipt of the notice.

c. If a license or permit is suspended, the holder may apply at any time for immediate reinstatement of the license.

d. After a re-inspection fee is paid, the City of Howell shall respond promptly and in no more than fourteen (14) working days to a request for reinstatement. If re-inspection determines that the holder has come into compliance with this Chapter, the license shall be promptly reinstated.

e. For serious or repeated violations of the requirements of this Article, the City of Howell may revoke a license or permit. Before issuing a permanent revocation, the City shall give notice to the holder in writing of its intent and the reasons for revocation. A person who has been denied or had a license or permit revoked as required by this Chapter, shall have the right of appeal by petition in writing to the City Clerk and such appeals shall be heard before the City Council pursuant to Section 3.13 of this Chapter.

### **ARTICLE 6**

#### **Section 6.01 Misdemeanor Penalties.**

Whoever violates any of the provisions of this Chapter shall be guilty of a misdemeanor and be subject to the penalty provided in Section 202.99 of the Howell City Code.

## **CHAPTER 860**

### **Oil and Gas Wells**

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860.01 Permit required.

860.02 Permit fee.

860.03 Permit application; bond.

860.04 Issuance of permits.

860.05 Hours of operation.

860.06 Violations as nuisances; abatement.

860.99 Penalty.

### **CROSS REFERENCES**

Oil and gas generally - see M.C.L. Secs. 319.1 et seq., 486.251 et seq.

Flammable materials and explosives - see P. & Z. Chapter 1240 (Zoning Code)

#### **860.01 PERMIT REQUIRED.**

No person shall locate and commence to sink or drill any well for oil or gas in the City without first obtaining a permit to do so from the City.

(Ord. 95. Passed 6-26-30.)

#### **860.02 PERMIT FEE.**

The fee for the permit required by Section 860.01 shall be one hundred dollars (\$100.00).

#### **860.03 PERMIT APPLICATION; BOND.**

Any person desiring to locate, sink or drill a well for oil and gas in the City shall, before beginning the sinking or drilling of such oil or gas well, file with the City Manager or his or her authorized representative a written application for permission to do so. Such application shall set forth the exact location of the well by giving the legal description of the property on which the well is to be drilled; if upon platted land, the lot number or fraction thereof and the name of the plat; if upon unplatted land, the section, fraction of section, township and range thereof; the distance of the proposed well from the nearest property lines and the distance in two directions to the nearest building or buildings; the purpose for which it is to be sunk or drilled; the intended depth of the well; and such other information as is required by Council. Such application shall be signed by the owner of the proposed well or his, her or its authorized representative. Such application shall also be accompanied by a bond in the sum of one million dollars (\$1,000,000), with a surety or sureties to be approved by Council, for the purpose of indemnifying the City and all adjacent property owners for any loss, damage or harm occasioned by the sinking or drilling of such well or its operation, whether the same is occasioned by reason of negligence of the driller or operator thereof or otherwise.

#### **860.04 ISSUANCE OF PERMITS.**

The application for the permit required by Section 860.01 shall be referred to Council at its next regular meeting and a permit to locate, sink and drill shall be granted if, in the majority opinion of Council, the location of such proposed oil and gas well is such that it will not be detrimental to the public good generally and not be detrimental to adjacent property and not tend to create a public nuisance or public hazard detrimental to the inhabitants of the City and adjacent property owners.

Council, under its general police power, shall refuse to grant permits to locate oil and gas wells in any place which would be a public nuisance and endanger the person and property of the inhabitants of the City and tend to destroy or decrease the value of private property as now used and established.

Council shall, by its refusal to grant permits, protect business and residential areas of the City from encroachment.

(Ord. 95. Passed 6-26-30.)

#### **860.05 HOURS OF OPERATION.**

Any permit to drill an oil or gas well issued by Council under this chapter shall state and fix in a reasonable manner the hours of the day during which construction, drilling or operation thereof may continue in such manner as not to destroy the peace, quiet or comfort of the residents of the neighborhood wherein the well is located.

(Ord. 95. Passed 6-26-30.)

#### **860.06 VIOLATIONS AS NUISANCES; ABATEMENT.**

The attempted location, sinking or drilling of an oil or gas well in violation of any of the provisions of this chapter is hereby declared to be a nuisance and an action for the abatement of such nuisance may be brought in the name of the City by the City Attorney in a court of competent jurisdiction. Such remedy shall be in addition to the penalty provided for in Section 860.99.

(Ord. 95. Passed 6-26-30.)

#### **860.99 PENALTY.**

(EDITOR'S NOTE: See Section 202. 99 for general Code penalty if no specific penalty is provided.)

## **CHAPTER 862**

## Precious Metal Dealers

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862.01 Definitions.

862.02 Certificates of registration.

862.03 Records of transactions.

862.04 Waiting period before sale.

862.05 Purchase of precious items from minors or criminals; identification required.

862.06 Investigation of violations.

862.99 Penalty.

Appendix I. Certificate of registration.

Appendix II. Record of transaction.

### **CROSS REFERENCES**

Usury - see M.C.L. Sec. 438.31

Transient merchants - see M.C.L. Secs. 445.371 et seq.

Pawnbrokers - see M.C.L. Secs. 445.471 et seq., 446.201 et seq.

Theft generally - see M.C.L. Secs. 750.356 et seq.

### **862.01 DEFINITIONS.**

As used in this chapter:

(a) "Agent or employee" means a person who, for compensation or valuable consideration, is employed either directly or indirectly by a dealer.

(b) "Dealer" means a person, corporation, partnership or association which, in whole or in part, engages in the ordinary course of repeated and recurrent transactions of buying or receiving precious items from the public in the State.

(c) "Gold" means elemental gold having an atomic weight of 196.967 and the chemical element symbol of Au, whether found by itself or in combination with its alloys or any other metal.

(d) "Jewelry" means an ornamental item made of a material that includes a precious gem.

(e) "Local police agency" means the Police Department.

(f) "Platinum" means elemental platinum having an atomic weight of 195.09 and the chemical element symbol of Pt, whether found by itself or in combination with its alloys or any other metal.

(g) "Precious gem" means a diamond, alexandrite, ruby, sapphire, opal, amethyst, emerald, aquamarine, morganite, garnet, jadeite, topaz, tourmaline, turquoise or pearl.

(h) "Precious item" means jewelry, a precious gem, or an item containing gold, silver or platinum. "Precious item" does not include the following:

(1) Coins, commemorative medals and tokens struck by, or on behalf of, a government or private mint;

(2) Bullion bars and discs of the type traded by banks and commodity exchanges;

(3) Items at the time they are purchased directly from a dealer registered as provided in this chapter, a manufacturer or a wholesaler who purchased them directly from a manufacturer;

(4) Industrial machinery or equipment;

(5) An item being returned to or exchanged at the dealer where the item was purchased and which is accompanied by a valid sales receipt;

(6) An item which is received for alteration, redesign or repair in a manner that does not substantially change its use and which is returned directly to the customer;

(7) An item which does not have a jeweler's identifying mark or a serial mark and which the dealer purchases for less than five dollars (\$5.00);

(8) Scrap metal which contains incidental traces of gold, silver or platinum which are recoverable as a by-product; or

(9) Jewelry which a customer trades for other jewelry having a greater value, which difference in value is paid by the customer.

(i) "Silver" means elemental silver having an atomic weight of 107. 869 and the chemical element symbol of Ag, whether

found by itself or in combination with its alloys or any other metal.

(Ord. 415. Passed 9-8-81.)

### **862.02 CERTIFICATES OF REGISTRATION.**

(a) No dealer shall conduct business in the City unless the dealer has obtained a valid certificate of registration therefor from the Police Department, a sample of which appears at the end of this chapter as Appendix I.

(b) A dealer shall apply to the Police Department for a certificate of registration, paying a fee of fifty dollars (\$50.00) to cover the reasonable cost of processing and issuing the certificate, and providing the following information:

- (1) The name, address and thumbprint of the applicant;
- (2) The name and address under which the applicant does business; and

(3) The names, addresses and thumbprints of all agents or employees of the dealer. Within twenty-four hours after hiring a new employee, the dealer shall forward to the Police Department the name, address and thumbprint of the new employee.

(c) Upon receipt of the application for registration provided for in subsection (b) hereof, the Police Department shall issue a certificate of registration in accordance with this section.

(d) Upon receipt of the certificate from the Police Department, the dealer shall post it in a conspicuous place in the dealer's place of business.

(e) Not less than ten days before a dealer changes the name or address under which he or she does business, the dealer shall notify the Police Department of the change.

(Ord. 415. Passed 9-8-81.)

### **862.03 RECORDS OF TRANSACTIONS.**

(a) A dealer shall maintain a permanent record of each transaction, a sample of which appears at the end of this chapter as Appendix II. Each such record shall be legibly written in ink in English and shall be filled out in triplicate by the dealer or an agent or employee of the dealer with one copy going to the Police Department, pursuant to subsection (c) hereof, one copy going to the customer and one copy to be retained by the dealer, pursuant to subsection (e) hereof. At the time a dealer receives or purchases a precious item, the dealer or the agent or employee of the dealer shall ensure that the following information is recorded accurately on a record of transaction form:

(1) The dealer's certificate of registration number;

(2) A general description of the precious item received or purchased, including its type of metal or precious gem. In the case of watches, the description shall contain the name of the maker and the number of both the works and the case. In the case of jewelry, all letters and marks inscribed on the jewelry shall be included in the description.

(3) The date of the transaction;

(4) The name of the person conducting the transaction;

(5) The name, date of birth, driver's license number or State personal identification card number and street and house number of the person with whom the transaction is made, together with a legible imprint of the right thumb of the person with whom the transaction is made. If that is not possible, then a legible imprint of the left thumb or a finger of that person shall be used. However, the thumbprint or fingerprint shall only be required on the record of transaction form retained by the dealer. The thumbprint or fingerprint shall be made available to the Police Department only during the course of a police investigation involving a precious item described on the record of transaction. After a period of one year from the date of the record of transaction, if a police investigation concerning a precious item described on the record of transaction has not occurred, the dealer and the Police Department shall destroy, and not keep a permanent record of, the record of transaction. A dealer who goes out of business or who changes his or her business address to another local jurisdiction, either within or outside the State, shall transmit the records of all transactions made by him or her, within one year before his or her closing or moving, to the local police agency.

(6) The price to be paid by the dealer for the precious item;

(7) The form of payment made to the customer, such as check, money order, bank draft or cash. If the payment is by check, money order or bank draft, the dealer shall indicate the number of the check, money order or bank draft.

(8) The customer's signature.

(b) The record of each transaction shall be numbered consecutively, commencing with the number one and the calendar year.

(c) Within forty-eight hours after receiving or purchasing a precious item, the dealer shall send a copy of the record of transaction form to the Police Department. Such forms received by the Police Department shall not be open to inspection by the general public. The Police Department shall be responsible for ensuring the confidentiality of the record of transaction forms and ensuring that the record of transaction forms are used only for the purpose for which they were received.

(d) The record of transaction forms of a dealer and each precious item received shall be open to an inspection by the County Prosecuting Attorney, the Police Department and the Michigan State Police, at all times during the ordinary business hours of the dealer. As a condition of doing business, a dealer is deemed to have given consent to the inspection prescribed by this subsection. The record of transaction forms of a dealer shall not be open to inspection by the general public.

(e) Except as otherwise provided in this section, each record of a transaction shall be retained by the dealer for not less than one year after the transaction to which the record pertains.

(f) The form of the record of transaction shall be provided by the dealer, shall be eight and one-half by eleven inches in size and shall be as set forth in Appendix II immediately following the text of this chapter.

(Ord. 415. Passed 9-8-81.)

**862.04 WAITING PERIOD BEFORE SALE.**

A precious item received by a dealer shall be retained by the dealer for seven calendar days after it is received, without any form of alteration other than that required to make an accurate appraisal of its value.

(Ord. 415. Passed 9-8-81.)

**862.05 PURCHASE OF PRECIOUS ITEMS FROM MINORS OR CRIMINALS; IDENTIFICATION REQUIRED.**

No dealer or agent or employee of a dealer shall knowingly receive or purchase a precious item from a person:

(a) Who is less than eighteen years of age or who is known by the dealer or agent or employee of the dealer to have been convicted of theft or receipt of stolen property within the preceding five years, whether the person is acting in his or her own behalf or as the agent of another;

(b) Unless such person presents a valid driver's license or a valid State personal identification card.

(Ord. 415. Passed 9-8-81.)

**862.06 INVESTIGATION OF VIOLATIONS.**

As soon as the Police Department discovers a violation of any of the provisions of this chapter or Public Act 95 of 1981, as amended, the Department shall immediately notify the County Prosecuting Attorney of such violation and perform such investigation as the Prosecutor directs.

(Ord. 415. Passed 9-8-81.)

**862.99 PENALTY.**

(EDITOR'S NOTE: See Section 202. 99 for general Code penalty if no specific penalty is provided.)

**APPENDIX I**

**CERTIFICATE OF REGISTRATION**

Precious Metal and Gem Dealer

In accordance with Chapter 862 of the Codified Ordinances of the City of Howell, enacted pursuant to Act 95 of the Public Acts of 1981 of the State of Michigan, this certificate, duly signed and authorized by the Police Department for the City of Howell, is issued to \_\_\_\_\_.

This certifies that such person is registered as a dealer in precious items in accordance with such chapter and statute within the City.

This certificate is not assignable and expires automatically at such time as the holder ceases to be a dealer in precious items or ceases to do business within the Howell City limits.

Howell Police Department

Dated: \_\_\_\_\_

By

Certificate Number \_\_\_\_\_

TO BE POSTED IN A CONSPICUOUS PLACE

(Ord. 415. Passed 9-8-81.)

**APPENDIX II**

**RECORD OF TRANSACTION**

Dealer certificate No. \_\_\_\_\_ No. \_\_\_\_\_

(Printed on form) (Transaction number printed  
on form)

(1) Description of property - \_\_

—  
—

(2) \_\_\_\_\_, 19\_\_\_\_ (3) \_\_\_\_\_

(Date) (Name of dealer/employee)

(4) \_\_\_\_\_, 19\_\_\_\_

(Name of customer) (Date of birth)

\_\_\_\_\_, \_\_\_\_\_

(Driver's license no./ (Street address)

Mich. personal ID no.)

\_\_\_\_\_  
(City & State) (Zip)

(5) \_\_\_\_\_

(Price paid)

(6) \_\_\_\_\_

(Check number, bank draft  
number, money order number  
or cash)

Thumbprint \_\_\_\_\_

(Signature of customer)

(Ord. 415. Passed 9-8-81.)

## CHAPTER 868

### Secondhand and Junk Dealers

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- 868.01 Secondhand and junk dealers defined.
- 868.02 License required.
- 868.03 License application; consent of adjacent property owners.
- 868.04 License fee.
- 868.05 Enclosure required.
- 868.06 Issuance of licenses; location of business; effective period and transferability of licenses.
- 868.07 Identification signs; records.
- 868.08 Responsibilities of purchasers.
- 868.09 Responsibilities of peddlers.
- 868.10 Prohibited transactions.

868.99 Penalty.

### **CROSS REFERENCES**

Usury - see M.C.L. Sec. 438.31

Secondhand dealers - see M.C.L. Secs. 445.401 et seq.

Junk yards - see M.C.L. Secs. 445.451 et seq.

Pawnbrokers - see M.C.L. Secs. 445.471 et seq., 446.201 et seq.

Accumulations of junk - see GEN. OFF.622.04

Storage of junk vehicles - see GEN. OFF.622.05

### **868.01 SECONDHAND AND JUNK DEALERS DEFINED.**

As used in this chapter, "secondhand dealer" and "junk dealer" mean a person whose principal business is that of purchasing, selling, exchanging or receiving secondhand articles of any kind, tool steel, aluminum, copper, brass, lead pipe or tools and lighting and plumbing fixtures.

(Ord. 157. Passed 7-2-56.)

### **868.02 LICENSE REQUIRED.**

No person shall carry on the business of a secondhand dealer or junk dealer in the City without first obtaining a license to do so from the City Manager or his or her authorized representative, subject to the provisions of this chapter authorizing such person to carry on such business.

### **868.03 LICENSE APPLICATION; CONSENT OF ADJACENT PROPERTY OWNERS.**

An application for the license required by Section 868.02 shall indicate the applicant's name, his or her business and residence address for the past five years and whether or not he or she has ever been convicted of a crime. At the time of filing such application, the applicant shall also file with the City Manager or his or her authorized representative the written consent of more than thirty-five percent of the property owners, within a radius of one City block of such junk business or contemplated junk business where such business is located or to be located in a residential community, consenting to the operation of such junk business in such location.

### **868.04 LICENSE FEE.**

At the time of filing the application for the license required by Section 868.02, the applicant shall deposit with the City Manager or his or her authorized representative the annual license fee of one hundred dollars (\$100.00), the same to be returned to the applicant if the license is denied.

### **868.05 ENCLOSURE REQUIRED.**

No license shall be granted to an applicant to conduct a junk business or contemplated junk business unless the location at which the business is to be carried on is completely enclosed by a tight board or solid metal fence at least ten feet in height.

(Ord. 157. Passed 7-2-56.)

### **868.06 ISSUANCE OF LICENSES; LOCATION OF BUSINESS; EFFECTIVE PERIOD AND TRANSFERABILITY OF LICENSES.**

The City Manager or his or her authorized representative may, from time to time, grant to any suitable person a license authorizing such person to carry on the business of a secondhand dealer or junk dealer, subject to the provisions of this chapter. Such license shall designate the particular place in the City where such person is to carry on such business and no person receiving such license shall carry on such business at any place other than as designated in such license. The Manager or his or her representative shall not grant a license to any person doing or desiring to do a junk business in any residential community where sixty-five percent or more of the property owners within a radius of one City block of such junk business or contemplated junk business petition the Manager not to do so. However, if a person has no regular place of business, a license shall be issued to such person to carry on the business of secondhand dealer or junk dealer either by automobile or truck. Such licenses shall be for a period of one year from the date of issuance, unless revoked for cause, and shall not be transferable.

### **868.07 IDENTIFICATION SIGNS; RECORDS.**

Secondhand dealers and junk dealers shall post in a conspicuous place in or upon their shop, store, vehicle, boat or other place of business, a sign having their name and occupation legibly inscribed thereon, and shall keep a separate book open to inspection by a member of the Police Department or other person, in which shall be written, in the English language, at the time of the purchase or exchange of such articles, a description thereof, the name, description and residence of the person from whom the same was purchased and received, and the day and hour when such purchase or exchange was made. Each entry shall be numbered consecutively, commencing with the number one.

(Ord. 157. Passed 7-2-56.)

#### **868.08 RESPONSIBILITIES OF PURCHASERS.**

Articles purchased or exchanged, as provided in this chapter, shall be retained by the purchaser thereof for at least fifteen days before disposing of them, in an accessible place in the building where such articles are purchased and received. A tag shall be attached to such articles in some visible and convenient place, with a number written thereon, to correspond with the entry number in the book required to be kept by Section 868.07. Such purchaser shall prepare and deliver, on Monday of each week, to the Chief of Police of the City, before 12:00 noon, a legible and correct copy, written in the English language, from such book, containing a description of each article purchased or received during the preceding week, the hour and day when the purchase was made, and the description of the person from whom it was purchased. Such statement shall be verified by the affidavit of the person subscribing his or her name thereto. However, this section shall not apply to old rags, waste paper and household goods. Further, nothing herein contained shall make it necessary for the purchaser to retain articles purchased from persons having a fixed place of business after such articles have been reported. (Ord. 157. Passed 7-2-56.)

#### **868.09 RESPONSIBILITIES OF PEDDLERS.**

If the purchase or receiver, by exchange or otherwise, is a peddler or goes about with a vehicle to purchase or obtain, by exchange or otherwise, any of the articles referred to in Section 868.01, and does not have a place of business in a building, he or she need not retain such articles for fifteen days before selling them, provided that on Monday of each week he or she files with the Chief of Police of the City a report showing the place of business of the person to whom such sale was made and a copy of the record, required by Section 868.07 to be kept in a separate book, of the articles purchased or received during the preceding week, including a description of such articles sold, to whom sold and his or her place of business.

(Ord. 157. Passed 7-2-56.)

#### **868.10 PROHIBITED TRANSACTIONS.**

No secondhand dealer or junk dealer shall purchase or receive, by sale, barter, exchange or otherwise, any article mentioned in this chapter from any person between the hours of 9:00 p.m. and 7:00 a.m. of the following day, nor from any person who is at the time intoxicated, nor from an habitual drunkard, nor from any person known by such secondhand dealer or junk dealer to be a thief or an associate of thieves or a receiver of stolen property, nor from any person he or she has reason to suspect of being such.

(Ord. 157. Passed 7-2-56.)

#### **868.99 PENALTY.**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

If a person is found guilty of violating any of the provisions of this chapter, the license issued to such person shall be deemed to have been revoked ipso facto and such person shall not be permitted to carry on such business in the City for a period of one year after such conviction.

(Ord. 157. Passed 7-2-56.)

## **CHAPTER 872**

### **Street Vendors and Peddlers**

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- 872.01 Definitions.
- 872.02 Licenses required.
- 872.03 License applications; issuance.
- 872.04 Health cards; furnishing of information to police.
- 872.05 License fees; exemption.
- 872.06 Rules and regulations.
- 872.07 Transferability of licenses.
- 872.08 License revocation or suspension.
- 872.09 Conduct of business under license suspension.
- 872.10 Inspection of licensed premises and vehicles.
- 872.11 Investigation of criminal record.



872.12 Exemptions.

872.13 Lighting requirements for motor vehicles.

872.14 Michigan Department of Transportation (MDOT) permit required.

872.99 Penalty.

### **CROSS REFERENCES**

Hawkers and peddlers generally - see M.C.L. Sec. 445.371 et seq.

Transient merchants generally - see M.C.L. Secs. 445.371 et seq.

Littering and distribution of handbills - see GEN. OFF. 652.05

Responsibilities of peddlers re secondhand and junk dealers see B.R. & T.868.09

Trespassing - see GEN. OFF.658.03 Loitering - see GEN. OFF.662.01(b)(9)

### **872.01 DEFINITIONS.**

As used in this Chapter, unless a different meaning is clearly indicated:

(a) "Police Department" means the Police Department of the City and the authorized officers or agents.

(b) "Street vendor" means:

(1) A person, whether a principal such as a corporation, limited liability company, partnership or an agent such as an officer, managing member, partner, employee or sub-contractor, who goes in and upon the public streets, alleys, ways, parks and places of the City, traveling from place to place or from door to door of homes, offices, stores, hotels, restaurants or other places of business, engaged in selling at retail, or offering or taking orders to sell, barter, canvass or peddle to members of the public or to regular customers, any article of food, goods, wares, merchandise or other products not produced, manufactured or made by such person. However, a merchant having an established place of business, with a stock of goods, who is engaged in making deliveries only, shall not be deemed to be a street vendor, as regulated in this chapter.

(2) A person who, in the operation and conduct of his or her business, manufactures, produces or distributes products, food, goods, wares or merchandise, in and about the streets of the City displaying and offering such goods, wares or merchandise for sale, who takes orders for such sale or who sell at retail to the public or to established customers.

"Street vendor" includes "huckster" and "peddler", as such words are commonly used.

(Ord. 231. Passed 12-6-65; Ord. 748. Passed 10-20-03; Ord. 796. Passed 3-26-07.)

### **872.02 LICENSES REQUIRED.**

No person shall use public streets or public places for the purpose of engaging in the occupation or business of street vendor in the City without first obtaining a license to do so as provided in this chapter. Further, no person shall operate as a street vendor in the City without first obtaining a license for each piece of vehicular equipment or container used in connection with such operation. A person who is a street vendor and does not use a vehicle or container in connection with their occupation or business, but who carries the merchandise being sold, or samples, facsimiles or pictures in his or her hands or pockets, is required to obtain a license as though he or she sells from a container.

(Ord. 231. Passed 12-6-65; Ord. 748. Passed 10-20-03; Ord. 796. Passed 3-26-07.)

### **872.03 LICENSE APPLICATIONS; ISSUANCE.**

Any person who desires to operate as a street vendor shall make and file with the City Clerk a written application stating the applicant's name, the name and address of the principal or owner of the business if the applicant is acting as agent, residence, federal identification number, place where he or she intends to do business, kind of business, kind and description of the articles to be sold or offered for sale, the type of vehicle equipment to be used, the number of vehicles to be licensed, proof of insurance for all vehicles, citizenship status of the applicant, whether or not the applicant has ever been convicted of violating a law of any state or of the United States or of any ordinance of this City or any other City or political subdivision of any state in the country. If so convicted, the application shall include details pertaining to such violation. The individual, primary officer, managing member, managing partner or any employee or subcontractor of the applicant must submit to an individual criminal and Michigan Secretary of State background check pursuant to Section 872.11. A copy of the applicant's Michigan sales tax license shall be attached to the application, except for an applicant selling only food for human consumption as defined in section 4g of Act No. 167 of the Public Acts of 1933, being section 205.54g of the Michigan Compiled Laws. If the applicant is acting as agent for another person, the applicant shall cause to be filed with the City Clerk a power of attorney appointing the City Clerk the agent of the principal on whom service of process may be made in any suit commenced against the principal. The applicant shall at the same time deposit five hundred dollars (\$500.00) with the City Clerk, or file a surety company bond for that amount. The applicant shall also pay the City Clerk a one hundred dollar (\$100.00) non-refundable application fee. The City Clerk shall issue to the applicant the license if satisfied that the business to be conducted by the person is not intended to cheat or defraud the public, there is written approval for issuance of the license by the Chief of Police and upon payment of a fifty dollars (\$50.00) license fee. A

license issued under this section shall expire on the December thirty-first after its issuance. Not more than ten days after issuing a license, the City Clerk shall send a copy of the license and the completed application to the State Treasurer. The license shall be displayed at the request of any police officer, member of the public, regular/established customers, or the City Clerk.

(Ord. 748. Passed 10-20-03; Ord. 796. Passed 3-26-07.)

#### **872.04 HEALTH CARDS; FURNISHING OF INFORMATION TO POLICE.**

(a) No street vendor's license shall be issued to an applicant who proposes to sell food products if such applicant has not received from the City Clerk or his or her authorized representative a health card which substantiates that the bearer of the card has had a physical examination by a reputable physician within six months of the application, has met all requirements of the City and is a suitable person to carry such a card.

(b) Before such a license is issued, information shall be furnished by the applicant to the Police Department as to the kinds, condition, ownership and place of storage of the vehicle or vehicles he or she will use in carrying on the business of street vendor, the nature and scope of his or her business, the route or routes which he or she will follow and such other similar information as may be deemed necessary to protect the general welfare of the public.

(Ord. 231. Passed 12-6-65; Ord. 748. Passed 10-20-03; Ord. 796. Passed 3-26-07.)

#### **872.05 LICENSE FEES; EXEMPTION.**

No license fee shall be charged to a person, or for any vehicle which he or she operates, for vending within the City on behalf of a nonprofit organization or corporation.

(Ord. 236. Passed 8-15-66; Ord. 748. Passed 10-20-03; Ord. 796. Passed 3-26-07.)

#### **872.06 RULES AND REGULATIONS.**

Licenses issued under this chapter shall be subject to reasonable rules and regulations of the departments of the City authorized to enforce this chapter.

(Ord. 231. Passed 12-6-65; Ord. 748. Passed 10-20-03; Ord. 796. Passed 3-26-07.)

#### **872.07 TRANSFERABILITY OF LICENSES.**

Every license issued under this chapter shall cover one person, vehicle or means of conveyance, and a new license shall be obtained by the purchaser, transferee or assignee of such equipment each time a licensed wagon, vehicle or means of conveyance is sold, transferred or assigned and is again used in a manner regulated by this chapter.

(Ord. 231. Passed 12-6-65; Ord. 748. Passed 10-20-03; Ord. 796. Passed 3-26-07.)

#### **872.08 LICENSE REVOCATION OR SUSPENSION.**

(a) Every license issued under this chapter shall be issued on the express condition that such license shall be suspended or revoked in the event of failure or refusal of the part of the licensee to comply with this chapter, which suspension or revocation shall be made as provided in subsection (b) hereof.

(b) No license shall be revoked except for cause upon proof of charges, filed with the City Clerk or his or her authorized representative, by a person in any of the departments of the City authorized to enforce this chapter or to approve the issuance of a license, specifying with reasonable detail any of the following facts, which facts are hereby declared to be grounds for suspending a license issued under this chapter:

(1) That the licensee made one or more fraudulent statements or misrepresentations or concealed material information in the application for the license;

(2) That such licensee has violated or permitted a violation of any of the provisions of this chapter which injuriously affects the public health, safety, morals or welfare;

(3) That any of the provisions of this chapter has been violated in connection with operation for which the licensee was responsible and of which the licensee was aware or, in the exercise of reasonable diligence, should have been aware;

(4) That the licensee has been convicted of any crime which was perpetrated on or in connection with the licensed vehicle or premises; or

(5) That the licensee has carried on or permitted to be carried on any unlawful or illegal act on or in connection with such licensed vehicle.

(c) Upon the filing of such charges, the person making such charges shall notify the City Clerk and the City Clerk shall suspend the license involved and shall give to such licensee a notice of such suspension together with a copy of the charges specifying the facts on which the suspension was made. The notice shall either be by personal service upon the licensee or by first class mail to the licensee's address on the application.

(Ord. 231. Passed 12-6-65; Ord. 748. Passed 10-20-03; Ord. 796. Passed 3-26-07.)

## **872.09 CONDUCT OF BUSINESS UNDER LICENSE SUSPENSION.**

No person shall conduct a business or activity or operate a vehicle for which business, activity or vehicle a license is required under this chapter, when such license has been suspended or revoked.

(Ord. 231. Passed 12-6-65; Ord. 748. Passed 10-20-03; Ord. 796. Passed 3-26-07.)

## **872.10 INSPECTION OF LICENSED PREMISES AND VEHICLES.**

A person authorized to enforce this chapter, or any authorized inspector from any department of the City whose approval must first be obtained before a license is issued under this chapter, is hereby authorized to inspect the premises and any and all vehicles and equipment, licensed or governed by this chapter, at any reasonable hour of the day or night for the purpose of enforcing this chapter or determining that any and all provisions of ordinances, codes, rules and regulations of the City pertinent thereto are being complied with. No person shall prevent or attempt to prevent anyone so authorized from making an inspection provided in this section or interfere with or attempt to interfere with such an inspection.

(Ord. 231. Passed 12-6-65; Ord. 748. Passed 10-20-03; Ord. 796. Passed 3-26-07.)

## **872.11 INVESTIGATION OF CRIMINAL RECORD.**

No license provided for in this chapter shall be issued by the City Clerk or his or her authorized representative until the Chief of Police has made a complete search of the criminal record, if any, and as allowed by law of the licensee and has filed with the City Clerk in writing, the findings of such search, accompanied by his or her written approval or disapproval of the application of the licensee, based upon the findings of such search. No such license shall be issued if, in the opinion of the Chief, the applicant for such license is not a fit person to conduct business in the City. If such application is not approved by the Chief, the application shall be denied and the reasons shall be submitted in writing to the City Clerk by the Chief.

(Ord. 748. Passed 10-20-03; Ord. 796. Passed 3-26-07.)

## **872.12 EXEMPTIONS.**

No license fee shall be charged to a person, or for any vehicle which he or she operates, who proposes to sell produce raised by him or her; to a mechanic selling articles made by him or her; or to a person operating as a street vendor for a charitable purpose who has been honorably discharged as a war veteran from the Armed Forces of the United States. At the time that any such person or mechanic claims such an exemption from a license fee, such person or mechanic shall swear by affidavit, setting up facts which entitle him or her to such exemption, and such affidavit shall be filed with the City Clerk along with the application for the license.

(Ord. 748. Passed 10-20-03; Ord. 796. Passed 3-26-07.)

## **872.13 LIGHTING REQUIREMENTS FOR MOTOR VEHICLES.**

No person shall use a motor vehicle in the act of vending products on the streets of the City unless such vehicle is equipped with and utilizes simultaneously blinking amber warning lights, clearly visible from the front and rear of the vehicle when the vehicle is stopped for the purpose of making sales.

(Ord. 359. Passed 8-15-77; Ord. 748. Passed 10-20-03; Ord. 796. Passed 3-26-07.)

## **872.14 MICHIGAN DEPARTMENT OF TRANSPORTATION (MDOT) PERMIT REQUIRED.**

(a) The City of Howell hereby authorizes persons, firms and corporations to sell or offer for sale or display or attempt to display for sale goods, wares, produce, fruit, vegetables or merchandise upon any state trunk line highway in the City so long as said person, firm, or corporation has secured a permit for such activities from MDOT and the same comply with the provisions of this chapter, Chapter 873 and Article 6 of Chapter 1240 of the Howell City Code.

(b) The authorization, set forth above, shall remain in force and effect so long as the permitted activities do not create an unsafe situation and do not interfere with transportation along any state trunk line highway in the City pursuant to Public Act 1 of 2005.

(Res. 05-12. Passed 5-23-05; Ord. 796. Passed 3-26-07.)

## **872.99 PENALTY.**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

# **CHAPTER 873**

## **Transient Merchants**

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- 873.02 License; necessity.
- 873.03 License; contents of application, consent to service, deposit of bond, fee, expiration.
- 873.04 Investigation of criminal record.
- 873.05 Deposit; subjection to claim, disposition of balance.
- 873.06 License; invalidation by exhaustion of deposit, revocation.
- 873.07 Transient merchant; evidence.
- 873.08 Michigan Department of Transportation (MDOT) permit required.
- 873.99 Penalty.

### **CROSS REFERENCES**

Street vendors and peddlers - see B.R. & T.Ch. 872

### **873.01 DEFINITIONS.**

As used in this act:

(a) "Transient merchant" means any person, firm, association, or corporation engaging temporarily in a retail sale of goods, wares, or merchandise, in any place in this City and who, for the purpose of conducting business, occupies any lot, building, room, or structure of any kind. The term shall not apply to any of the following:

(1) A person selling goods, wares, or merchandise of any description raised, produced or manufactured by the individual offering the same for sale.

(2) A person soliciting orders by sample, brochure or sales catalog for future delivery or making sales at residential premises pursuant to an invitation issued by the owner or legal occupant of the premises.

(3) A person handling vegetables, fruits, or perishable farm products at any established city market.

(4) A person operating a store or refreshment stand at a resort or having a booth on or adjacent to the property owned or occupied by him or her. This includes the sale of hot dogs, hamburgers, snow cones, peanuts, chips and/or other non-alcoholic beverages or other similar products as determined by the City Manager or his or her designee, from a temporary/portable stand. The sale of such products must comply with all requirements of the Livingston County Health Department.

(5) A person operating a stand on any fairgrounds or City park property.

(6) A person selling at an art fair or festival or similar event at the invitation of the event's sponsor if all of the following conditions are met:

A. The sponsor is a governmental entity or nonprofit organization.

B. The person provides the sponsor with the person's sales tax license number.

C. The sponsor provides a list of the event's vendors and their sales tax license numbers to the City Clerk, the county treasurer and the state treasurer.

(b) "Person" includes any individual, corporation, partnership, limited liability company, or two or more persons having a joint or common interest.

(Ord. 749. Passed 10-20-03; Ord. 797. Passed 3-26-07.)

### **873.02 LICENSE; NECESSITY.**

(a) It shall be unlawful for any person, either as principal or agent, to engage in business as a transient merchant in the City without having first obtained a license in the manner provided.

(b) A license issued pursuant to this chapter shall not give permission for the transient merchant to conduct or set up business in the City, Livingston County, or State of Michigan rights-of-ways within the City. A transient merchant must set up business on private property, with the permission of the property owner, in an area zoned for the type of activity in which the transient merchant is engaged, and shall otherwise comply with all applicable requirements set out in Section 6.19 of the Howell Zoning Code. Further, a transient merchant may set up business on any sidewalk area in the Central Business District, as zoned, with permission of the property owner who abuts the sidewalk area so affected. The transient merchant must set up the area used for the business and leave no less than a five foot pedestrian access as established by City ordinance. The transient merchant shall not block visibility at intersections or corners of streets and must not pose any safety hazard to the public whatsoever.

(c) The area in which the transient merchant sets up business shall not diminish or reduce the number of parking spaces so required, if any, in the area or locale in which the transient merchant sets up business, pursuant to the Howell City Zoning Code.

(Ord. 749. Passed 10-20-03; Ord. 797. Passed 3-26-07.)

### **873.03 LICENSE; CONTENTS OF APPLICATION, CONSENT TO SERVICE, DEPOSIT OF BOND, FEE, EXPIRATION.**

Any person desiring to engage in a business under this chapter shall make and file with the City Clerk a written application stating the applicant's name, residence, federal identification number, place where he or she intends to do business, and kind of business. The individual, primary officer, managing member, managing partner or any employee or subcontractor of the applicant must submit to an individual criminal and Michigan Secretary of State background check pursuant to Section 872.11. A copy of the applicant's Michigan sales tax license shall be attached to the application, except for an applicant selling only food for human consumption as defined in section 4g of Act No. 167 of the Public Acts of 1933, being section 205.54g of the Michigan Compiled Laws. If the applicant is acting as agent for another person, the applicant shall cause to be filed with the City Clerk a power of attorney appointing the City Clerk the agent of the principal on whom service of process may be made in any suit commenced against the principal. The applicant shall at the same time deposit five hundred dollars (\$500.00) with the City Clerk, or file a surety company bond for that amount. The applicant shall also pay the City Clerk a one hundred dollars (\$100.00) non-refundable application fee. The City Clerk shall issue to the applicant the license if satisfied that the business to be conducted by the person is not intended to cheat or defraud the public, there is written approval for issuance of the license by the Chief of Police and upon payment of a fifty dollars (\$50.00) non-refundable license fee. A license issued under this section shall expire on the December thirty-first after its issuance. Not more than ten days after issuing a license, the City Clerk shall send a copy of the license and the completed application to the State Treasurer. The license shall be displayed in full view at the place of business.

(Ord. 749. Passed 10-20-03; Ord. 797. Passed 3-26-07.)

### **873.04 INVESTIGATION OF CRIMINAL RECORD.**

No license provided for in this chapter shall be issued by the City Clerk until the Chief of Police has made a complete search of the criminal record, if any, and as allowed by law of the licensee and has filed with the City Clerk, in writing, the findings of such search, accompanied by his or her written approval or disapproval of the application of the licensee, based upon the findings of such search. No such license shall be issued if, in the opinion of the Chief, the applicant for such license is not a fit person to conduct business in the City. If such application is not approved by the Chief, the application shall be denied and the reasons shall be submitted in writing to the City Clerk by the Chief.

(Ord. 797. Passed 3-26-07.)

### **873.05 DEPOSIT; SUBJECTION TO CLAIMS, DISPOSITION OF BALANCE.**

Deposits made with the City Clerk as required by Section 873.03 shall be subject to claims of creditors and claims for local license fees on behalf of any city, village or township in all cases where a judgment has been obtained against such transient merchant in any court in this state and the time for appealing such judgment has expired. In such cases garnishment proceedings may be commenced in such court against said City Clerk. It shall thereupon be the duty of the City Clerk to remit to any such court any balance of said cash deposit remaining in his or her hands not exceeding the amount of said judgment, for the purpose of satisfying the same. Any balance of said cash deposit remaining in the hands of the City Clerk four (4) months after the expiration of said license shall be remitted to such transient merchant, provided if, at such date, the City Clerk shall have received notice of any suit then pending against said transient merchant, said deposit shall not be returned until sixty (60) days after the termination of such suit.

(Ord. 749. Passed 10-20-03; Ord. 797. Passed 3-26-07.)

### **873.06 LICENSE; INVALIDATION BY EXHAUSTION OF DEPOSIT, REVOCATION.**

Any such license shall be void as soon as the deposit made with the City Clerk, as provided in Section 873.03, has been exhausted because of garnishment suits as mentioned in the preceding section. The City Clerk may revoke any license issued by him or her for good cause shown, after giving the licensee reasonable notice and opportunity to be heard.

(Ord. 749. Passed 10-20-03; Ord. 797. Passed 3-26-07.)

### **873.07 TRANSIENT MERCHANT; EVIDENCE.**

Transaction of business as defined in Section 873.01 of this chapter by any person for a period of less than six (6) months consecutively shall be prima facie evidence that such person was a transient merchant within the intent and meaning of this chapter.

(Ord. 749. Passed 10-20-03; Ord. 797. Passed 3-26-07.)

### **873.08 MICHIGAN DEPARTMENT OF TRANSPORTATION (MDOT) PERMIT REQUIRED.**

(a) The City of Howell hereby authorizes persons, firms and corporations to sell or offer for sale or display or attempt to display for sale goods, wares, produce, fruit, vegetables or merchandise upon any state trunk line highway in the City so long as said person, firm, or corporation has secured a permit for such activities from MDOT and the same comply with the provisions of this chapter, Chapter 872 and Article 6 of Chapter 1240 of the Howell City Code.

(b) The authorization, set forth above, shall remain in force and effect so long as the permitted activities do not create an unsafe situation and do not interfere with transportation along any state trunk line highway in the City pursuant to Public Act

(Res. 05-12. Passed 5-23-05.)

### **873.99 PENALTY.**

(a) A person who violates this chapter is guilty of a misdemeanor, punishable by a fine of five hundred dollars (\$500.00) or 10% of the value of any property impounded pursuant to this section, whichever amount is greater and court costs. If a peace officer has probable cause to believe that a person is engaging in a business as a transient merchant without having first obtained a license in the manner provided for in this chapter, the peace officer shall immediately take into custody and impound all goods offered for sale by the transient merchant until the matter has been adjudicated by a court of proper jurisdiction.

(b) Recovery of impounded goods; security. The transient merchant may obtain his or her impounded goods prior to adjudication by paying, either in cash or by security bond, one thousand dollars (\$1,000) or an amount equal to the value of the impounded property, whichever amount is greater.

(c) Sale of impounded goods; notice. If the transient merchant is convicted of violating this chapter and fails to pay the fine and court costs provided in subsection (a) hereof within seven (7) days after the date of conviction, the Howell City Police Department shall sell the impounded goods by publishing notice in a newspaper of general circulation in the county at least five (5) days before the sale. The notice shall describe the property and shall state the time and place of public sale at which the impounded property may be purchased by the highest bidder.

(d) Conduct of sale; disposition of proceeds; liability. The Howell City Police Department shall conduct the sale and shall deposit from the proceeds of the sale an amount equal to the fine and court costs provided in subsection (a) hereof with the court in which the transient merchant was convicted. Any proceeds of the sale which exceed the fine shall first be used to reimburse the Police Department for the Department's actual costs of sale, with the remaining proceeds, if any, to be returned to the transient merchant. By disposing of the property in the manner provided in this chapter, the Howell City Police Department shall not be liable to the transient merchant for the sale.

(Ord. 749. Passed 10-20-03; Ord. 797. Passed 3-26-07.)

## **CHAPTER 876**

### **Taxicabs**

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876.01 Taxicab defined.

876.02 License required.

876.03 License application.

876.04 Limitation on number of taxicabs.

876.05 License issuance, term and fee; mechanical condition of vehicles; insurance.

876.06 Garageman's certificate.

876.07 Transferability of licenses.

876.08 Taxicab stands.

876.09 Rates.

876.10 Cancellation of licenses.

876.99 Penalty.

#### **CROSS REFERENCES**

Carrying passengers; locking of doors - see M.C.L. Secs. 256.531, 256.532

Application for registration of taxicabs - see M.C.L. Sec. 257.217

Discrimination - see M.C.L. Secs. 750.146, 750.147

Uniform Traffic Code - see TRAF.Ch. 410

Commercial and heavy vehicles - see TRAF.Ch. 420

### **876.01 TAXICAB DEFINED.**

As used in this chapter, "taxicab" means a motor vehicle used and driven for hire and engaged in the transportation of passengers for hire in the City.

(Ord. 118. Passed 5-6-46.)

#### **876.02 LICENSE REQUIRED.**

No person shall engage in the business of operating a taxicab upon the streets of the City without first obtaining a license therefor from Council for each of such taxicabs, as herein provided.

(Ord. 118. Passed 5-6-46.)

#### **876.03 LICENSE APPLICATION.**

(a) Application for a license under this chapter shall be made in writing and filed with the City Manager or his or her authorized representative. Such application shall give the following information:

- (1) The applicant's name;
- (2) The applicant's age and address;
- (3) The applicant's marital status;
- (4) The make, ownership, engine number, license number and seating capacity of the automobile or automobiles to be used in the business; and
- (5) Whether or not the applicant has been convicted of a violation of any law of the State or ordinance of the City in the five years preceding the date of such application.

(b) Applications filed with the Manager or his or her representative under this chapter shall be referred to Council at its regular meeting.

#### **876.04 LIMITATION ON NUMBER OF TAXICABS.**

Council may limit the number of taxicabs licensed to operate in the City to such a number as is deemed by it to be in the interest of public safety and welfare. Council may refuse to issue a license when in its opinion the number of taxicabs already licensed is sufficient for the public safety and welfare.

(Ord. 118. Passed 5-6-46.)

#### **876.05 LICENSE ISSUANCE, TERM AND FEE; MECHANICAL CONDITION OF VEHICLES; INSURANCE.**

(a) Upon approval by Council of an application filed under this chapter, a license shall be issued to the applicant by the City Manager or his or her authorized representative, covering the automobile or automobiles in question, which license shall be effective for a period of one year from the date of issuance.

(b) Before the issuance and delivery of such license, the applicant shall furnish the Manager or his or her representative with the following:

- (1) Twenty-five dollars (\$25.00) for each motor vehicle licensed;
- (2) A written statement from a competent garage in the City that the vehicle or vehicles are in good mechanical order and equipped with safe tires.

(c) Each and every taxicab licensed under this chapter shall have in full force and effect at all times an insurance policy covering personal injury and property damage in no less than the following amounts: one hundred thousand dollars (\$100,000) for each person; three hundred thousand dollars (\$300,000) for each accident; and fifty thousand dollars (\$50,000) for property damage. Duplicate copies of all such insurance policies shall be submitted to the Manager or his or her representative along with certification that all premiums have been paid. Failure to comply with this subsection shall cause an automatic revocation of such license. A separate offense shall be deemed committed each day during or on which a violation of this subsection occurs or continues.

#### **876.06 GARAGEMAN'S CERTIFICATE.**

Six months after the issuance of a license under this chapter, the licensee shall furnish a new garageman's certificate, to comply with Section 876.05(b)(2). Failure to do so shall result in suspension of the license until such certificate is furnished.

(Ord. 118. Passed 5-6-46.)

#### **876.07 TRANSFERABILITY OF LICENSES.**

The holder of any license issued under this chapter may substitute one automobile for another with the written consent of the City Manager or his or her authorized representative and upon compliance with the provisions of Section 876.05(b)(2) and (c).

#### **876.08 TAXICAB STANDS.**

Council may, by resolution, locate and designate public taxicab stands.

(Ord. 118. Passed 5-6-46.)

#### **876.09 RATES.**

Council may, by resolution, determine and fix rates which all licensees operating under this chapter shall charge for services. Having fixed such rates by resolution, notice thereof shall immediately be given by the City Manager or his or her authorized representative to all licensees.

#### **876.10 CANCELLATION OF LICENSES.**

Council may, after a hearing and after notice to any licensee, cancel any license issued under this chapter under the following circumstances:

- (a) When the licensee is found to have been violating any of the provisions of this chapter;
- (b) When the licensee has been found to make charges other than those determined and fixed by Council by resolution under the provisions of this chapter; or
- (c) When such cancellation is found to be in the interest of the public welfare and safety. In the event of cancellation, refund shall be made of the unused prorated portion of the license fee.

(Ord. 128. Passed 3-24-49.)

#### **876.99 PENALTY.**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

## **TITLE FOUR - Taxation**

### **CHAPTER 890**

#### **General Regulations**

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890.01 Tax day.

##### **CROSS REFERENCES**

Taxation - see CHTR. Ch. 12

Special assessments - see CHTR. Ch. 14; B.R. & T.Ch. 892

Real estate transfer; documentary stamp tax - see M.C.L. Secs. 207.501 et seq.

Municipal tax rates - see M.C.L. Secs. 211.107a, 211.203

#### **890.01 TAX DAY.**

(a) In the year 1950 and each year thereafter, December 31 shall be the tax day in the City. The taxable status of persons and real and personal property shall be determined as of the tax day.

(b) In the year 1950 and each year thereafter, the City Assessor shall, on or before the first Monday in March, make and complete the assessment roll.

(c) In the year 1950 and each year thereafter, as provided in Section 1210(b) of the City Charter, the Board of Review shall meet in the Council Chambers for the purpose of reviewing and correcting the assessment roll of the City. The review of assessments shall be completed on or before the first Monday of April.

(d) This section is adopted pursuant to the provisions of the General Property Tax Act as last amended by Act 285 of the Public Acts of 1949, as amended, which amendment authorizes such changes in the making, completing and reviewing of the assessment roll as are herein made, any provision of the City Charter to the contrary notwithstanding.

### **CHAPTER 892**

#### **Special Assessments**

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892.01 Application of chapter.

892.02 Authority of Council.



- 892.03 Petitions for improvement; forms; consideration by Council.
- 892.04 Investigation of petition; cost estimates.
- 892.05 Determination of necessity of improvement; additional cost estimate.
- 892.06 Action prohibited prior to resolution.
- 892.07 Contents of resolution.
- 892.08 Preparation of special assessment roll.
- 892.09 Notice of proposed assessment; hearings; objections.
- 892.10 Conduct of hearing; alteration and confirmation of roll.
- 892.11 Payment schedule.
- 892.12 Assessment as lien.
- 892.13 Collection fees.
- 892.14 Placement on City tax roll; collection; delinquency.
- 892.15 Partial payment prior to work.
- 892.16 Segregation of moneys.
- 892.17 Refunds.
- 892.18 Additional assessments.
- 892.19 Reassessments.
- 892.20 Assessments for hazards or nuisances.
- 892.21 Bonds.
- 892.22 Responsibility for costs.

#### **CROSS REFERENCES**

City Assessor - see CHTR. Sec. 7.6

Taxation - see CHTR. Ch. 12

Special assessments - see CHTR. Ch. 14

Tax Increment Finance Authority - see B.R. & T.Ch. 896

Brownfield Redevelopment Authority - see B.R. & T.Ch. 899

Subdivision improvements - see P. & Z.Ch. 1228

#### **892.01 APPLICATION OF CHAPTER.**

When, by the provisions of the City Charter, the whole or any part of the cost of any public improvement is to be defrayed by a special assessment upon the property especially benefited, such assessment shall be made as provided in this chapter.

(Ord. 158. Passed 7-2-56.)

#### **892.02 AUTHORITY OF COUNCIL.**

Council may initiate proceedings for any other public improvement, other than those for which petitions have been filed, whether the cost thereof is to be defrayed from the general funds of the City or by special assessments upon the property especially benefited.

(Ord. 158. Passed 7-2-56.)

#### **892.03 PETITIONS FOR IMPROVEMENT; FORMS; CONSIDERATION BY COUNCIL.**

A petition for making a public improvement, any part of the expense of which will be borne by special assessments, shall be filed with the City Clerk. Such a petition shall be upon a form furnished by the City. Council, by resolution, shall prescribe the form of petition to be used. No petition need be considered by Council unless the same has been signed by the owners of at least sixty percent of the lands subject to be assessed for the cost of the proposed public improvement. All petitions filed in accordance with this chapter during any calendar year shall be considered by Council not later than January 31 of the next calendar year.

(Ord. 158. Passed 7-2-56.)

#### **892.04 INVESTIGATION OF PETITION; COST ESTIMATES.**

(a) Upon receipt of a petition requesting a public improvement or repairs, filed in accordance with Section 892.03, the City Manager shall investigate the petition. If the Manager finds that the same is in accordance with this chapter, he or she shall thereupon prepare a cost estimate and submit the same to Council together with the petition. The cost estimate shall include the cost of doing the work, engineering and legal fees, land acquisition if any, advertising fees and any other expenses incidental thereto.

(b) When Council initiates proceedings for a public improvement, it shall, as a preliminary, direct the Manager to prepare the cost estimate.

(Ord. 158. Passed 7-2-56.)

#### **892.05 DETERMINATION OF NECESSITY OF IMPROVEMENT; ADDITIONAL COST ESTIMATE.**

After Council has received the cost estimate provided for in Section 892.04, it shall then determine the necessity of the proposed public improvement. Before ordering the public improvement to be made, Council shall cause to be prepared necessary profiles, plans and specifications. The same, when completed, shall be filed with the Clerk and a further cost estimate shall be prepared by the City Manager.

#### **892.06 ACTION PROHIBITED PRIOR TO RESOLUTION.**

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

(Ord. 158. Passed 7-2-56.)

#### **892.07 CONTENTS OF RESOLUTION.**

Upon the filing and consideration of the profiles, plans, specifications and additional cost estimate provided for in Section 892.05, Council may then by resolution determine to proceed with the proposed public improvement. The resolution shall declare what portion of the costs and expenses shall be assessed against the property to be especially benefited; specify the sum to be so assessed; specify the boundaries of the property deemed to be especially benefited; specify whether such special assessment shall be made according to benefits based on frontage, area or otherwise; and direct the City Assessor to prepare a special assessment roll in accordance with the resolution.

(Ord. 158. Passed 7-2-56.)

#### **892.08 PREPARATION OF SPECIAL ASSESSMENT ROLL.**

The City Assessor shall prepare the special assessment roll and return the same to Council within thirty days following the passage of the resolution of Council referred to in Section 892.07. Upon the assessment roll the Assessor shall enter and describe all the lots, premises and parcels of land to be assessed, with the names of the persons, if known, who are the owners thereof and the amount to be assessed against each lot, premises and parcel in the manner directed by Council and this chapter. The Assessor shall certify the assessment roll at the time he or she reports and returns the same to Council. The certification of the Assessor to be endorsed on the assessment roll may be in the following form:

STATE OF MICHIGAN     )

)) SS

COUNTY OF LIVINGSTON     )

I do hereby certify and report that the foregoing is the special assessment roll and the assessment made by me pursuant to a resolution of Council of the City of Howell, Michigan, adopted (give date) \_\_\_\_\_, for the purpose of paying that part of the cost which Council has resolved should be paid and borne by special assessment (here insert the object of the assessment) \_\_\_\_\_; that in making such assessments I have, as near as may be, and according to my best judgment, conformed to the directions contained in the resolution of Council hereinbefore referred to, the Charter and the ordinances of the City relating to such assessments.

Dated \_\_\_\_\_

City Assessor

(Ord. 158. Passed 7-2-56.)

#### **892.09 NOTICE OF PROPOSED ASSESSMENT; HEARINGS; OBJECTIONS.**

When a special assessment roll is reported and returned by the City Assessor to Council, the same shall be filed in the office of the City Clerk and numbered. Before confirming a special assessment roll, Council shall give notice to all persons interested by publishing, in a newspaper published and circulated in the City, once in each week for two weeks in succession, a notice stating the lots, premises and parcels of land assessed, the names of the persons, if known, who are the owners thereof, the purpose of the assessment and the amount thereof. Such notice shall also state the time and place at which Council shall meet for the purpose of reviewing the assessment roll and hearing any person so assessed who considers himself or herself aggrieved thereby. At least ten days prior to the date of the hearing by Council, the Clerk shall

notify the owners of the lots, premises and parcels of land assessed, by first class mail, so far as the same are known and as shown on the tax rolls of the City. A person objecting to his or her assessment may file his or her objections thereto in writing with the Clerk.

(Ord. 209. Passed 12-10-62.)

#### **892.10 CONDUCT OF HEARING; ALTERATION AND CONFIRMATION OF ROLL.**

At the time and place designated in the notice provided for in Section 892.09, Council and the City Assessor shall meet and hear all persons interested in such assessments and consider all objections as filed with the City Clerk. At such time and place, Council shall review the assessment roll and may alter, change or correct the same if necessary and confirm it as reported and returned or as altered, changed and corrected. Otherwise, Council may refer the assessment roll back to the Assessor for revision or annul it and direct a new assessment, in which case the same proceedings shall be had as in the case of original assessment. However, in altering, changing or correcting the roll, Council shall not add any lands not included in the notice of the original assessment. Further, Council may adjourn and continue such hearing from time to time. When the special assessment roll has been confirmed by Council, the Clerk shall endorse a certificate thereof upon the roll showing the date of confirmation.

(Ord. 158. Passed 7-2-56.)

#### **892.11 PAYMENT SCHEDULE.**

At the time of confirmation of a special assessment roll, Council shall, in its resolution, state the number of installments in which the assessment is to be paid, the due date of the first and subsequent installments and the rate of interest to be charged on unpaid installments, which rate shall not exceed twelve percent per year. However, the whole assessment, after confirmation, may be paid to the City Treasurer at any time in full with accrued interest thereon.

#### **892.12 ASSESSMENT AS LIEN.**

Upon the date of the confirmation of a special assessment roll, the special assessments thereon shall become a debt due 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 assessments and all interest and charges thereon. Such lien shall be of the same character and effect as that which is created by the City Charter for City taxes.

(Ord. 158. Passed 7-2-56.)

#### **892.13 COLLECTION FEES.**

Each special assessment, or each installment of such an assessment when installment payments are provided for, shall be collected by the City Treasurer without a collection fee for a period ending on the last day of the first month following each such due date. Thereafter, the City Treasurer shall add to the assessment or installment a collection fee of one-half of one percent for each month or fraction thereof which elapses following the first month, until the payment of such assessment or installment. All such collection fees shall belong to the City and be collectible in the same manner as the collection fees or collection charges for City taxes as provided in Section 12.21 of the City Charter.

(Ord. 158. Passed 7-2-56.)

#### **892.14 PLACEMENT ON CITY TAX ROLL; COLLECTION; DELINQUENCY.**

(a) Each special assessment, or each installment of such an assessment when installment payments are provided for, with accrued interest thereon, if any, which becomes due on July 1 of a given year, shall be placed on the tax roll of the City for that year in a column for special assessments, and thereupon the amount so levied in the tax roll shall be collected in all respects as are City taxes due on July 1 of that year and shall be subject to the same fees and charges as are City taxes due on that date. If uncollected by the following February 20, such amount shall be returned to the County Treasurer with unpaid taxes, as provided in Section 12.21 of the City Charter.

(b) Each special assessment or installment which becomes due other than on July 1 of a given year shall, if unpaid for ninety days after March 1 of the calendar year following the calendar year in which the assessment or installment was due, be certified as delinquent to Council by the City Treasurer. Council shall order such delinquent assessment or installment to be placed on the tax roll of the City for that year, together with accrued interest and accrued collection fees in a column for special assessments. Thereafter, the total amount of such assessment or installment, with interest and fees, shall be collected in all respects as are City taxes due on July 1 of that year, and such total amount shall be subject to the same fees and charges as are City taxes due on that date. If uncollected by the following February 20, such amount shall be returned to the County Treasurer with unpaid taxes, as provided in Section 12.21 of the City Charter.

(Ord. 158. Passed 7-2-56.)

#### **892.15 PARTIAL PAYMENT PRIOR TO WORK.**

Council, at its discretion, need not proceed with the performance of the public improvement or repair, the cost of which is to be defrayed in whole or in part by a special assessment, until twenty-five percent of the total assessment has been paid into the City Treasury.

(Ord. 158. Passed 7-2-56.)

#### **892.16 SEGREGATION OF MONEYS.**

Except as otherwise provided in the City Charter or by law, moneys raised by special assessment for a public improvement shall be segregated in a special fund or account and may be used only to pay for the costs of the improvement for which the assessment was levied, together with the expenses incidental thereto, and to repay any money borrowed or advanced therefor, together with interest which has accrued thereon.

(Ord. 158. Passed 7-2-56.)

#### **892.17 REFUNDS.**

If a special assessment proves greater than the actual cost of the improvement and the expenses incidental thereto, such excess may be placed in the General Fund of the City if such excess is five percent or less of the assessment. Should the assessment prove greater than necessary by more than five percent, the entire excess shall be refunded on a pro rata basis to the then owners of the property assessed. Such refund may be made by credit against future unpaid installments, to the extent that such installments then exist, and the balance of the refund shall be in cash. No refund shall be made which contravenes the provisions of any evidence of outstanding indebtedness secured in whole or in part by such special assessment.

(Ord. 158. Passed 7-2-56.)

#### **892.18 ADDITIONAL ASSESSMENTS.**

If a special assessment proves to be more than five percent less than the actual cost of the improvement and the expenses incidental thereto, Council may order the City Assessor to make an additional pro rata assessment to cover the deficiency. The additional pro rata assessment shall not exceed twenty-five percent of the assessment, as originally confirmed, unless a meeting of Council is held to review such additional assessment. Notice of any such meeting shall be published and all proceedings taken thereon shall be in accordance with this chapter as it applies to an original assessment.

(Ord. 158. Passed 7-2-56.)

#### **892.19 REASSESSMENTS.**

Whenever, in the opinion of Council, a special assessment is invalid or defective by reason of irregularity or informality in the proceedings, or if a court of competent jurisdiction adjudges such assessment to be illegal in whole or in part, Council may, whether or not the improvement has been made or any part of the assessments has been paid, 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, except that it shall not again be necessary to prepare plans and estimates of cost, redetermine the necessity of the improvement or hold a hearing thereon, unless and to the extent that the cause of irregularity arose in such proceedings. Whenever a sum or part thereof, levied upon any property for the assessment so set aside, has been paid and not refunded, the payment so made shall be applied toward the reassessment, or if the payment exceeds the amount of the reassessment, a refund shall be made to the person making such payment. No judgment or decree, or any act of 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 had such charge been lawfully assessed thereupon in accordance with the procedure established or authorized in this chapter.

(Ord. 158. Passed 7-2-56.)

#### **892.20 ASSESSMENTS FOR HAZARDS OR NUISANCES.**

The assessment for the cost of the abatement of a hazard or nuisance, to be made pursuant to Section 3.2(1) of the City Charter, shall be made by resolution of Council. Notice of the time at which Council will act thereon shall be given, by publication in a newspaper published and circulating in the City, once in each week for two weeks in succession, and sent by certified mail, return receipt requested, to all owners of the property constituting or creating such nuisance or hazard, as shown on the last tax roll of the City. Failure of any such owner to receive such notice shall not invalidate any such assessment. 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 such assessment shall become a debt due the City upon the adoption of such resolution, shall be payable and subject to collection fees and shall be a lien and be collectible as provided in Sections 892.12, 892.13 and 892.14. This section shall not apply to those cases falling within the provisions of Section 14.4 of the City Charter.

#### **892.21 BONDS.**

If the payment of a special assessment is divided into installments, as provided in this chapter, Council may authorize and direct the Mayor and City Treasurer to issue, in accordance with law, and negotiate at not less than par, on behalf of the City, bonds bearing not more than twelve percent annual interest, for the aggregate amount of such special assessment. The maturity of such bonds shall in all cases correspond substantially in time and amount to the payment of the assessments for the public improvement for which the bonds are issued. The proceeds received from the sale of the bonds shall be deposited with the City Treasurer and disbursed by him or her, on the order of Council, in payment of the cost and

expense of the public improvement for which they were issued. Such proceeds shall be used for no other purpose. The proceeds of the extended special assessment, when collected, shall be used for the payment of such bonds and for no other purpose.

(Ord. 158. Passed 7-2-56.)

## **892.22 RESPONSIBILITY FOR COSTS.**

The policies set forth in this section are established for public improvements in the City. Such policies will cover projects undertaken in already-developed areas of the City. It is anticipated that all costs for public improvements in new development areas will be covered by the developer.

(a) Sidewalks. (EDITOR'S NOTE: This subsection was repealed by Ordinance 572, passed February 8, 1993. See Section 1022.055.)

(b) Local street construction. Upon the receipt of a petition for the making of a public improvement for local street construction, and upon the granting of the same, the costs for local street construction will be borne by the City.

(c) Major Street Construction. Upon the receipt of a petition for the making of a public improvement for major street construction, and upon the granting of the same, the costs for major street construction will be borne by the City.

(Ord. 683. Passed 9-14-98; Ord. 718. Passed 6-4-01.)

(d) Storm Sewer Construction. The City will cover fifty percent of the cost of storm sewer construction projects. Major drainage area outlet and retention area work will be fully funded by the City.

(e) Sewer and Water Extensions to Previously Developed Property. For extensions of water and sewer service into areas of the City that were previously developed, the City will cover thirty-four percent of the cost. In addition to picking up sixty-six percent of the extension costs, property owners will pay the appropriate capital charges and tap-in fees. Property owners may spread the cost of their portion of the work on the tax rolls at the same interest rate as on any bonds issued by the City for the project or at any other rate and schedule established by the City Council.

(f) Corner Lot Assessment Procedure. In recognition of the added burden on corner lot owners and realizing that the majority of property owners do not pay for assessments based on side yard footage (front footage only), the following procedure will be used to assess costs to corner lot owners. When work is done and assessed on the shortest side of the property it will be assessed in the normal procedure based on the footage in the project area.

When work is done and assessed on the longest side of the property, it will be assessed based on the following formula for determining front footage:

Assessment Footage - One-half of seventy-five percent of the sum of the footage of the two sides of the property fronting on the streets.

Example:

[Click here to view image](#)

(1) When Street X is reconstructed, assessment to property owner will be based on 66' since this is the shortest side.

(2) When Street Y is reconstructed, assessment to property owner will be based on the corner lot assessment formula since this is the longest side.

Assessment Footage =  $\frac{1}{2} \times .75 (66 + 132) = \underline{148.5} = 74.25'$

2

(Res. 90-17. Passed 4-9-90.)

(g) Local and Major Street Construction Undertaken by City. All local street construction and major street construction undertaken by the City will be paid for from the General Fund of the City, or on bonds that may be issued by the City for any local or major street construction project, as the same may be determined by Council.

(Res. 91-28. Passed 9-9-91.)

(h) Driveway Approaches and Driveway Aprons. If the City undertakes any local street or major street construction or reconstruction in which curb and gutter is installed, then, as to the cost of driveway approaches and driveway aprons, the cost to the City and the property owner and the method of payment thereon by the property owner, shall be determined as set forth in the Zoning Code.

(Ord. 683. Passed 9-14-98.)

## **CHAPTER 894**

### **Real Estate Tax**

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894.01 Administration fee; late charge.

894.02 Poverty exemption guidelines.

### **CROSS REFERENCES**

Taxation - see CHTR. Ch. 12

Special assessments - see CHTR. Ch. 14; B.R. & T.Ch. 892

Real estate transfer; documentary stamp tax - see M.C.L. Secs. 207.501 et seq.

Municipal tax rates - see M.C.L. Secs. 211.107a, 211.203

Tax Increment Finance Authority - see B.R. & T.Ch. 896

Local Development Finance Authority - see B.R. & T.Ch. 898

Brownfield Redevelopment Authority - see B.R. & T.Ch. 899

### **894.01 ADMINISTRATION FEE; LATE CHARGE.**

(a) The City Treasurer shall add a one percent charge, as a property tax administration fee, on all taxes, except City taxes, that become a lien in 1983 and all succeeding years thereafter.

(b) The City Treasurer shall add a late penalty charge, equal to three percent of such tax, upon all taxes paid after February 14 and before March 1, in addition to the one percent administration fee to the extent imposed on taxes paid before February 15.

(c) The late penalty charge shall be waived by the City for the homestead property of a senior citizen, paraplegic, quadriplegic, eligible serviceman, eligible veteran, eligible widow, totally and permanently disabled person, blind person, or a person who seeks a poverty tax exemption, as those persons are defined in Chapter 9 of Act No. 281 of the Public Acts of 1967, as amended, being M.C.L. 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, as amended, if he or she presents a copy of the form filed for that credit to the Treasurer, and if he or she has not received the credit before February 15.

(Res. 95-15. Passed 4-17-95.)

### **894.02 POVERTY EXEMPTION GUIDELINES.**

(a) The following shall be the guidelines for the poverty exemption pursuant to Act 390 of the Public Acts of 1994, as amended. The City Assessor is hereby charged with setting forth the guidelines found herein on a separate document and compiling all information relative to ascertaining a poverty exemption for any taxpayer who qualifies under these guidelines. The guidelines are as follows:

(1) The applicant may appeal personally by appointment, in writing or through an agent authorized in writing by the property owner.

(2) The applicant shall complete the poverty exemption application form in advance of the hearing date, including a copy of the current or prior year Income Tax Returns, both Federal and Michigan, for all persons residing in the homestead. This must include the MI 1040 CR showing the Homestead Property Tax Credit. Any additional information to be presented to the Board must be in writing and attached to the application.

(3) All applications must be received at the Assessor's office one full business day prior to the final published session of the Board of Review.

(4) All applications shall be processed by the Assessor's office to calculate the percentages of household income consumed by property taxes. A hardship situation does not exist when property taxes do not exceed five percent of the total household income.

(5) The Board of Review may require a driver's license, deed or any form of documentation necessary for verification.

(6) An explanation will be required for all household members over the age of eighteen who are not cited as contributing to the household income.

(7) The property being applied for must be the applicant's homestead. The property of a corporation is not eligible for this exemption.

(8) Household income may not exceed the poverty level established annually by the H.U.D. for Livingston County, MI H.U.D. Metro FMR Area (Extremely Low Category).

(9) Poverty exemptions are also limited by:

A. A property true cash value equal to or less than \$137,300 (SEV \$68,600) for tax year 2009. In each subsequent year, this value will be indexed by the average increase/decrease for the residential class of property as established for equalization purposes.

B. One vehicle used for personal transportation and titled to a member of the household having a value equal to or

less than \$15,000.

C. Cash on hand, checking/savings not to exceed twenty-five percent of total household income.

D. Non-cash assets for the household shall not exceed thirty-five percent of the true cash value of the applicant's homestead. Non-cash assets do not include the homestead property, household personal property (clothing, furniture, appliances) or one vehicle as provided above.

(10) The Board of Review shall follow these guidelines in granting or denying an exemption unless the Board of Review determines there are substantial and compelling reasons why there should be a deviation from the guidelines. The substantial and compelling reasons must be noted in writing and made a part of the official minutes of the meeting in which the granting/denying of the exemption was voted on.

(b) Poverty exemptions are granted for one year only. Under no circumstances will a poverty exemption continue for a subsequent year without a completed and updated application.

(Res. 97-02. Passed 3-13-97; Res. 09-01. Passed 1-12-09.)

## CHAPTER 896

### Tax Increment Finance Authority

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896.01 Definitions.

896.02 Determination of necessity.

896.03 Establishment; powers.

896.04 Tax Increment Finance Districts and plans.

896.05 Board of Directors.

896.06 Fiscal year; budget; financial reports.

#### **CROSS REFERENCES**

Taxation - see CHTR. Ch. 12

Special assessments - see CHTR. Ch. 14; B.R. & T.Ch. 892

Public improvements - see CHTR. Secs. 14.2, 14.3

Real estate tax - see B.R. & T.Ch. 894

Local Development Finance Authority - see B.R. & T.Ch. 898

Brownfield Redevelopment Authority - see B.R. & T.Ch. 899

#### **896.01 DEFINITIONS.**

The terms used in this chapter shall have the same meanings given to them in Act 450, Public Acts of Michigan, 1980, unless the context clearly indicates to the contrary. In addition, as used in this chapter:

(a) "Authority" means the Tax Increment Finance Authority of the City.

(b) "Board of Directors" means the Board of Directors of the Authority, the governing body of the Authority.

(c) "Chief Executive Officer" means the Mayor of the City.

(Res. 85-19. Passed 7-8-85.)

(d) "District" means a Tax Increment Finance District created pursuant to Section 896.04.

#### **896.02 DETERMINATION OF NECESSITY.**

Council hereby determines that it is necessary for the best interests of the City to halt a decline in property values, to increase property tax valuation, to eliminate the cause of the decline in property values and to promote growth within the Tax Increment Finance District by establishing the Tax Increment Finance Authority pursuant to Act 450, Public Acts of Michigan, 1980. (Res. 85-19. Passed 7-8-85.)

#### **896.03 ESTABLISHMENT; POWERS.**

There is hereby established, pursuant to Act 450, Public Acts of Michigan, 1980, a Tax Increment Finance Authority for the City. The Authority shall be a public body corporate and shall be known and exercise its powers under the title of Tax Increment Finance Authority of the City of Howell. The Authority may adopt a seal, may sue and be sued in any court of this

State and shall possess all of the powers provided by law, including all powers necessary to carry out the purpose of its incorporation as provided by this chapter and Act 450, subject to the limitations imposed by law and herein. The enumeration of a power in this chapter or in Act 450 shall not be construed as a limitation upon the general powers of the Authority.

(Res. 85-19. Passed 7-8-85.)

#### **896.04 TAX INCREMENT FINANCE DISTRICTS AND PLANS.**

The Tax Increment Finance Authority will, from time to time by resolution, create districts and establish finance plans for those districts. The resolutions will be kept on file in the office of the City Clerk.

#### **896.05 BOARD OF DIRECTORS.**

The Tax Increment Finance Authority shall be under the supervision and control of a Board of Directors consisting of nine members. The members shall be appointed by the Mayor, subject to approval by Council, and shall hold office for a term of four years. Of the members first appointed, two members shall hold office for one year, two members for two years, two members for three years and three members for four years. All members shall hold office until the member's successor is appointed.

(Res. 85-19. Passed 7-8-85.)

#### **896.06 FISCAL YEAR; BUDGET; FINANCIAL REPORTS.**

(a) The fiscal year of the Tax Increment Finance Authority shall begin on July 1 of each year and end on June 30 of the following year, unless another fiscal year is hereafter adopted by the City.

(b) The Board of Directors shall annually prepare a budget and shall submit it to Council on the same date that the proposed budget for the City is required by the City Charter to be submitted to Council. The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by 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 resolution authorizing the revenue bonds.

(c) The Authority shall submit financial reports to Council at the same time and on the same basis as departments of the City are required to submit reports. The Authority shall be audited annually by the same independent auditors auditing the City and copies of the audit report shall be filed with Council.

(Res. 85-19. Passed 7-8-85.)

## **CHAPTER 898**

### **Local Development Finance Authority**

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EDITOR'S NOTE: Resolution 98-12, passed April 13, 1998, approved Bylaws governing the activities of the Local Development Finance Authority and the Board of Directors. Resolution 98-14, passed May 11, 1998, approved a Development Plan and Tax Increment Financing Plan prepared and recommended by the Authority. Copies of these resolutions and of the Bylaws and Plan may be obtained, at cost, from the City Clerk.

898.01 Determination of necessity; purpose.

898.02 Definitions.

898.03 Creation of authority.

898.04 Termination.

898.05 Description of authority district.

898.06 Board of directors.

898.07 Powers.

898.08 Fiscal year; adoption of budget.

898.09 Publication, recording and filing.

#### **CROSS REFERENCES**

Taxation - see CHTR. Ch. 12

Special assessments - see CHTR. Ch. 14; B.R. & T.Ch. 892

Real estate tax - see B.R. & T.Ch. 894



Tax Increment Finance Authority - see B.R. & T.Ch. 896

Brownfield Redevelopment Authority - see B.R. & T.Ch. 899

#### **898.01 DETERMINATION OF NECESSITY; PURPOSE.**

The City Council hereby determines that it is necessary for the best interests of the public to create a public body corporate which shall operate to eliminate the causes of unemployment, underemployment and joblessness and to promote economic growth in the City, pursuant to Act 281.

(Res. 98-07. Passed 3-30-98.)

#### **898.02 DEFINITIONS.**

The terms used in this chapter shall have the same meaning as given to them in Act 281 or as hereinafter in this section provided unless the context clearly indicates to the contrary. As used in this chapter:

- (a) "Act 281" means Act No. 281 of the Public Acts of Michigan of 1986, as amended.
- (b) "Authority" means the Local Development Finance Authority of the City of Howell created by this chapter.
- (c) "Authority District" means the Authority District designated by this chapter as now existing or hereafter amended, and within which the Authority shall exercise its powers.
- (d) "Board" or "Board of Directors" means the Board of Directors of the Authority, the governing body of the Authority.
- (e) "Chief Executive Officer" means the Mayor of the City.
- (f) "City" means the City of Howell, Michigan.
- (g) "Council" or "City Council" means the City Council of the City.

(Res. 98-07. Passed 3-30-98.)

#### **898.03 CREATION OF AUTHORITY.**

There is hereby created pursuant to Act 281 a Local Development Finance Authority for the City. The Authority shall be a public body corporate and shall be known and exercise its powers under title of the "LOCAL DEVELOPMENT FINANCE AUTHORITY OF THE CITY OF HOWELL". The Authority may adopt a seal, may sue and be sued in any court of this State and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by this chapter and Act 281. The enumeration of a power in this chapter or in Act 281 shall not be construed as a limitation upon the general powers of the Authority.

(Res. 98-07. Passed 3-30-98.)

#### **898.04 TERMINATION.**

Upon completion of its purposes, the Authority may be dissolved by the Council. The property and assets of the Authority, after dissolution and satisfaction of its obligations, shall revert to the City.

(Res. 98-07. Passed 3-30-98.)

#### **898.05 DESCRIPTION OF AUTHORITY DISTRICT.**

The Authority District shall consist of the territory in the City described in Exhibit A, attached to original Resolution 98-07, passed March 30, 1998, and made a part hereof, subject to such changes as may hereinafter be made pursuant to this resolution and Act 281.

(Res. 98-07. Passed 3-30-98.)

#### **898.06 BOARD OF DIRECTORS.**

The Authority shall be under the supervision and control of the Board. The Board shall consist of ten board members, seven of whom shall be appointed by the Chief Executive Officer, subject to approval by the Council, one of whom shall be appointed by the County Board of Commissioners for the County of Livingston, two of whom shall be appointed by the chief executive officer of the local school district. Members shall be appointed to serve for a term of four years, except that of the members first appointed, an equal number, as near as is practicable, shall be appointed for terms of one year, two years, three years, and four years. A member shall hold office until the member's successor is appointed and qualified. Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office. An appointment to fill a vacancy shall be made in the same manner as the original appointment but 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. The Board shall adopt Bylaws governing its procedures subject to the approval of the Council. In the event that the Board determines to employ a Director of the Authority, such Director shall furnish a bond in the penal sum of fifty thousand dollars (\$50,000) payable to the Authority for the use and benefit of the Authority and shall file the same with the City Clerk of the City.

(Res. 98-07. Passed 3-30-98.)

#### **898.07 POWERS.**

Except as specifically otherwise provided in this chapter, the Authority shall have all powers provided by law subject to the limitations imposed by law and herein.

(Res. 98-07. Passed 3-30-98.)

#### **898.08 FISCAL YEAR; ADOPTION OF BUDGET.**

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

(b) The Board shall prepare annually a budget and shall submit it to the Council for approval in the manner and at the time, and which budget shall contain the information, and be prepared in the manner, required of Municipal departments. The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by the 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 resolution authorizing the revenue bonds.

(c) The Authority shall submit financial reports to the Council at the same time and on the same basis as departments of the City are required to submit reports. 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.

(Res. 98-07. Passed 3-30-98.)

#### **898.09 PUBLICATION, RECORDING AND FILING.**

This chapter shall be published once after its adoption in full in the Livingston County Press, a newspaper of general circulation in the City of Howell, and the City Clerk shall file a certified copy of the chapter with the Michigan Secretary of State promptly after its adoption.

(Res. 98-07. Passed 3-30-98.)

## **CHAPTER 899**

### **Brownfield Redevelopment Authority**

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- 899.01 Authority established.
- 899.02 Authority Board.
- 899.03 Powers and duties of the Authority.
- 899.04 Boundaries.
- 899.05 Rules of the Authority Board.
- 899.06 By-laws of the Authority.
- 899.07 Director's bond.
- 899.08 Fiscal year; adoption of budget.
- 899.09 Chapter filed with Secretary of State.

#### **CROSS REFERENCES**

Brownfield Redevelopment Financing Act - see M.C.L.A. 125.2651 et seq.

Taxation - see CHTR. Ch. 12

Hazardous material spills - see GEN. OFF. Ch. 620

Special assessments - see CHTR. Ch. 14; B.R. & T.Ch. 892

Real estate tax - see B.R. & T.Ch. 894

Tax Increment Finance Authority - see B.R. & T.Ch. 896

Local Development Finance Authority - see B.R. & T.Ch. 898

Discharge of hazardous materials to sewers - see S.U. & P.S.1043.02(d)

Radioactive materials - see P. & Z. Chapter 1240 (Zoning Code)

#### **899.01 AUTHORITY ESTABLISHED.**

Pursuant to the provisions of Act 381, the Brownfield Redevelopment Authority of the City of Howell (the "Authority") is hereby established.

(Res. 00-38. Passed 9-25-00.)

#### **899.02 AUTHORITY BOARD.**

The Authority shall be under the supervision and control of a board (hereinafter sometimes referred to as the "Authority Board") to be comprised of seven members appointed by the Mayor of the City subject to the approval of City Council. Of the initial members appointed, three members shall be appointed for one-year terms of office, two members shall be appointed for two-year terms of office and two members shall be appointed for three-year terms of office. A member shall hold office until the member's successor is appointed and qualified. Thereafter, each member shall serve for a term of three years. Each member of the Authority Board shall qualify by taking and subscribing to the oath of office provided in Section I of Article XI of the Michigan Constitution of 1963. An appointment to fill a vacancy on the Authority Board shall be made by the Mayor for the unexpired term only. Members of the Authority Board shall serve without compensation, but shall be reimbursed for reasonable actual and necessary expenses.

(Res. 00-38. Passed 9-25-00.)

#### **899.03 POWERS AND DUTIES OF THE AUTHORITY.**

The Authority shall have the powers as are now or may hereafter be conferred on authorities established pursuant to Act. 381.

(Res. 00-38. Passed 9-25-00.)

#### **899.04 BOUNDARIES.**

The Authority shall exercise its powers over any eligible property, as defined in Act 381, located in the City.

(Res. 00-38. Passed 9-25-00.)

#### **899.05 RULES OF THE AUTHORITY BOARD.**

The Authority Board shall adopt rules governing its procedures and the holdings of its regular meetings, subject to the approval of the City Council. Special meetings may be held when called in the manner provided in the rules of the Authority Board.

(Res. 00-38. Passed 9-25-00.)

#### **899.06 BY-LAWS OF THE AUTHORITY BOARD.**

The Authority Board may adopt, amend and repeal bylaws for the regulation of its affairs and the conduct of its business, all in accordance with Section 7(1) of Act 381, and immediately shall forward a copy thereof to the City Council in care of the City Clerk.

(Res. 00-38. Passed 9-25-00.)

#### **899.07 DIRECTOR'S BOND.**

In the event the Authority Board employs a Director as authorized by Section 6(1) of Act 381, the Director, before entering upon the duties of his or her office, shall post a bond in the penal sum of ten thousand dollars (\$10,000), payable to the Authority for the use and benefit of the Authority, approved by the Authority Board and filed with the City Clerk. The premium on the bond furnished by the Director shall be deemed an operating expense of the Authority, payable from funds available to it for expenses of operations.

(Res. 00-38. Passed 9-25-00.)

#### **899.08 FISCAL YEAR; ADOPTION OF BUDGET.**

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

(b) The Authority shall prepare and approve annually a budget for the operation of the Authority for the ensuing fiscal year. The budget shall be prepared in the manner and shall contain the information required of municipal departments. Funds of the City shall not be included in the budget of the Authority except those funds authorized in Act 381 or by the City Council.

(c) The Authority shall submit annually to the City Council and the State Tax Commission a financial report on the status of activities of the Authority. The report shall include all of the following:

- (1) The amount and source of tax increment revenues received;

- (2) The amount and purpose of expenditures of tax increment revenues;
- (3) The amount and principal and interest on all outstanding indebtedness;
- (4) The initial taxable value of all eligible property subject to the Brownfield plan;
- (5) The captured taxable value realized by the Authority;
- (6) Information concerning any transfer of ownership of or interest in each eligible property; and
- (7) All additional information that the City Council or the State Tax Commission considers necessary.

(Res. 00-38. Passed 9-25-00.)

**899.09 CHAPTER FILED WITH SECRETARY OF STATE.**

A certified copy of this chapter shall be filed with the Secretary of State of the State of Michigan in accordance with Section 4(3) of Act 381.

(Res. 00-38. Passed 9-25-00.)

## **PART TEN - STREETS, UTILITIES AND PUBLIC SERVICES CODE**

### TITLE TWO - Street and Sidewalk Areas

Chap. 1020 Streets and Excavations.

Chap. 1022 Sidewalks.

Chap. 1024 Trees.

### TITLE FOUR - Utilities

Chap. 1040 Water.

Chap. 1042 Sewers.

Chap. 1043 Industrial Wastewater Pretreatment Regulations.

Chap. 1044 Water and Sewerage Rates and Management.

Chap. 1046 Gas.

Chap. 1048 Electricity.

Chap. 1049 Street Lighting.

Chap. 1050 Utilities Generally.

Chap. 1051. Telecommunications Rights-of-Way Oversight.

### TITLE SIX - Other Public Services

Chap. 1060 Solid Waste Collection and Disposal.

Chap. 1062 Parks and Recreational Facilities.

Chap. 1064 Cemeteries.

Chap. 1066 Fire and Burglar Alarm Systems.

Chap. 1068 City Library.

## **TITLE TWO - Street and Sidewalk Areas**

### **CHAPTER 1020**

#### **Streets and Excavations**

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1020.01 Definitions.

1020.02 Excavations, damage and obstructions; objects suspended above public ways.

1020.03 Permits; fees; insurance.

- 1020.04 Street openings; permit required.
- 1020.05 Emergency openings.
- 1020.06 Backfilling.
- 1020.07 Maintenance of installations in street.
- 1020.08 Notice of resurfacing.
- 1020.09 Sewer and water connections.
- 1020.10 Determination of necessity; notice to abutting property owners.
- 1020.11 Prohibited openings.
- 1020.12 Barricades and warning lights.
- 1020.13 Shoring excavations.
- 1020.14 Removal of encroachments.
- 1020.15 Temporary street closings.
- 1020.16 Parades; permit required.
- 1020.17 Load security.
- 1020.18 City policy re limited street improvements.
- 1020.19 Authority to use street and water systems for car washing.
- 1020.99 Penalty.

#### **CROSS REFERENCES**

Streets and alleys in home rule cities - see M.C.L. Secs. 117.4d, 117.4e, 117.4h

Excavations generally - see M.C.L. Secs. 554.251 et seq.

Playing games in streets - see GEN. OFF.622.08

Obstruction of streets - see GEN. OFF.622.09

Assessment policy re street improvements - see B.R. & T.892.22(b), (c)

Street lighting generally - see S.U. & P.S.Ch. 1049

#### **1020.01 DEFINITIONS.**

As used in this chapter, unless the context specifically indicates otherwise:

(a) "Street" means all of the land lying between property lines on either side of all streets, alleys and boulevards in the City and includes lawn extensions and sidewalks and the area reserved therefor where the same are not yet constructed.

(b) "Manager" means the City Manager or his or her designate.

#### **1020.02 EXCAVATIONS, DAMAGE AND OBSTRUCTIONS; OBJECTS SUSPENDED ABOVE PUBLIC WAYS.**

No person shall make an excavation in, or cause any damage to, a street in the City, except under the conditions and in the manner permitted in this chapter. No person shall place any article, thing or obstruction in any street, except under the conditions and in the manner permitted in this chapter. However, this provision shall not prohibit such temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises, nor shall it prohibit the lawful parking of vehicles within the part of the street reserved for vehicular traffic.

No person shall suspend anything above any sidewalk or within any street area unless expressly authorized by this chapter, provided that Council, when in its opinion public safety requires it, may authorize the erection of fire escapes or similar devices by resolution. This chapter shall not apply to awnings or marquees when no part thereof is less than seven feet above the sidewalk grade.

#### **1020.03 PERMITS; FEES; INSURANCE.**

Permits that are authorized in this chapter shall be obtained upon application to the City Manager upon such forms as he or she prescribes, and there shall be a charge for each such permit as provided by resolution of Council. Such permits are revocable by the Manager for failure to comply with any of the provisions of this chapter, rules and regulations adopted pursuant hereto and the lawful orders of the Manager and shall be valid only for the period of time endorsed thereon. Application for a permit under this chapter shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the City in connection therewith, repair all damage done to the street surface and installations on, over or within such street, including trees, and protect and save harmless the City from all

damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith. Liability insurance policies that are required to be filed in making application for a permit shall be as provided by resolution of Council.

Where, in the opinion of the Manager, a greater risk is involved, higher limits of coverage may be required up to the maximum limits above specified.

A duplicate copy of the original insurance policy, approved as to form by the City Attorney, shall be filed with the City Clerk. Where cash deposits are required with the application for any permit hereunder, such deposit shall be in an amount prescribed by Council, except as otherwise specified in this chapter. Such deposit shall be used to defray all expenses to the City arising out of the granting of the permit and work done under the permit or in connection therewith. Six months after the completion of the work done under the permit, any balance of such cash deposit which is unexpended shall be refunded. In any case where the deposit does not cover all expenses of the City, the deficit shall be paid by the applicant.

#### **1020.04 STREET OPENINGS; PERMIT REQUIRED.**

No person shall make an excavation or opening in or under a street right of way without first obtaining a written permit therefor from the City Manager. No permit shall be granted until the applicant posts a cash deposit and files a liability insurance policy as provided by Council.

(a) Street Excavations. No permit shall be granted for making an excavation or opening within the limits of a street which will result in permanent or prolonged interference with public use of the streets.

(b) Manholes. No permit shall be issued for manholes in any street, except for public utility uses and openings for fuel supply.

#### **1020.05 EMERGENCY OPENINGS.**

The City Manager may, if public safety requires immediate action, grant permission to make a necessary street opening in an emergency, provided that a permit is obtained on the following business day and that this chapter is complied with.

#### **1020.06 BACKFILLING.**

All trenches in a public street or other public place, except by special permission, shall be backfilled in accordance with regulations adopted pursuant to this chapter. Any settlement shall be corrected within four hours after notification to do so.

#### **1020.07 MAINTENANCE OF INSTALLATIONS IN STREET.**

Every owner of, and every person in control of, any estate hereafter maintaining a sidewalk vault, coal hole, manhole or any other excavation, or any post, pole, sign, awning, wire, pipe, conduit or other structure in, under, over or upon any street which is adjacent to or a part of his or her estate, shall do so only on the condition that such maintenance is considered an agreement on his or her part with the City to keep the same and the covers thereof, and any gas and electric boxes and tubes thereon, in good repair and condition at all times during his or her ownership or control thereof and to indemnify and save harmless the City against all damages or actions at law that may arise or be brought by reason of such excavation or structure being under, over, in or upon the street or being unfastened, out of repair or defective during such ownership or control.

#### **1020.08 NOTICE OF RESURFACING.**

Whenever Council determines to pave or resurface any street, the City Manager shall, not less than thirty days prior to commencement of construction, serve notice upon all public utilities, requiring them to install and repair all necessary underground work in advance of the paving or resurfacing.

#### **1020.09 SEWER AND WATER CONNECTIONS.**

When such paving or resurfacing is ordered or declared necessary by Council, such sewer and water connections as are necessary shall be installed in advance of such paving or resurfacing. The cost of such connections shall be charged against the premises adjacent thereto, or to be served thereby, and against the owner of such premises. Where such paving or resurfacing is financed in whole or in part by special assessment, the cost of such sewer and water connections may be made chargeable against the premises served or adjacent thereto, as a part of the special assessment for such paving or resurfacing. Where such paving or resurfacing is financed otherwise than by special assessment, the cost of the sewer and water connections so installed shall be a lien on such premises adjacent thereto, or to be served thereby, and shall be collected as provided for assessments on single lots pursuant to the provisions of the City Charter.

#### **1020.10 DETERMINATION OF NECESSITY; NOTICE TO ABUTTING PROPERTY OWNERS.**

The necessity for such sewer and water connections shall be determined by the City Manager. Such determination shall be based upon the size, shape and area of each abutting lot or parcel of land, the lawful use of such land under the Zoning Code, the character of the locality and the probable future development of each abutting lot or parcel of land. The Manager shall give written notice of the intention to install such sewer and water connections and to charge the cost of the same to the premises, to each owner of the land abutting the street, to be furnished with such connections, as shown by the records of the City Assessor. Any owner objecting to the installation of any such sewer or water connection shall file his or her objections, in writing, within seven days after service of such notice, with the Manager who shall, after considering each such

objection made in writing, make a final determination of the sewer and water connections to be installed.

#### **1020.11 PROHIBITED OPENINGS.**

No permit to make an opening or excavation in or under a paved street shall be granted to any person within two years after the completion of any paving or resurfacing thereof. If a street opening is necessary as a public safety measure, the City Manager may suspend the operation of this section as to such street opening. Council may, by resolution, set a fee for a street opening to be made up to ten years after paving or repaving.

#### **1020.12 BARRICADES AND WARNING LIGHTS.**

All openings, excavations and obstructions shall be properly and substantially barricaded and railed off and at night shall be provided with prescribed warning lights. Warning lights which are perpendicular to the flow of traffic shall not be more than three feet apart and lights which are parallel to the flow of traffic shall not be over fifteen feet apart. The Police Chief shall determine what constitutes proper barricading, lighting and railing.

#### **1020.13 SHORING EXCAVATIONS.**

All openings and excavations shall, where necessary, be properly and substantially sheeted and braced as a safeguard to workmen and to prevent cave-ins or washouts which would tend to injure the thoroughfare or subsurface structure of the street. The City Manager shall determine what constitutes proper sheeting and bracing.

#### **1020.14 REMOVAL OF ENCROACHMENTS.**

Encroachments and obstructions in a street may be removed and excavations refilled. The expense of such removal or refilling shall be charged to the abutting land owner when made or permitted by him or her or suffered to remain by him or her otherwise than in accordance with this chapter. The procedure for collection of such expenses shall be as prescribed in Chapter 14 of the City Charter.

#### **1020.15 TEMPORARY STREET CLOSINGS.**

The City Manager shall have authority to temporarily close any street or portion thereof when he or she deems such street to be unsafe or temporarily unsuitable for use. He or she shall cause suitable barriers and signs to be erected on such street, indicating that the same is closed to public travel. When any street or portion thereof is closed to public travel, no person shall drive any vehicle upon or over such street except when such travel is necessarily incidental to any street repair or construction work being done in the area closed to public travel or when the Police Chief allows such travel. No person shall move or interfere with any sign or barrier erected pursuant to this section without the authorization of the Manager.

#### **1020.16 PARADES; PERMIT REQUIRED.**

No person shall conduct a parade upon any street without first obtaining a permit therefor. Such permits shall be issued only upon the authority of Council. The fee for such permit shall be as set forth by resolution of Council and shall take into consideration the traffic, time of day and route over which the parade is proposed to travel.

#### **1020.17 LOAD SECURITY.**

No person shall drop, leave or scatter on any sidewalk, park, alley or roadway in the City any coal, sand, dirt, gravel, brick, scrap materials or any other material or substance that is being hauled or carted about in a truck, trailer, wagon or cart or any other vehicle.

#### **1020.18 CITY POLICY RE LIMITED STREET IMPROVEMENTS.**

(a) No petition or request for a street improvement shall be considered for action unless:

(1) It includes the following improvements: the addition of proper storm drainage structures, excavation and construction of a proper sand and gravel base, construction of a curb and gutter and addition of a permanent-type bituminous or concrete wearing surface.

(2) It is for improving one or more whole City blocks as platted.

(b) The policy set forth in subsection (a) hereof shall be deviated from only on approval of Council and only in order to alleviate a serious deficiency where a proper street improvement does not have sufficient priority to be scheduled in the reasonably near future.

(c) No construction of a curb and gutter shall be permitted in the street right of way without the approval of Council.

(Res. Unno. Passed 5-4-59.)

#### **1020.19 AUTHORITY TO USE STREET AND WATER SYSTEMS FOR CAR WASHING.**

The City Manager is hereby authorized to grant, at his or her discretion, to any nonprofit organization, a permit to use the City street and water systems for car washing under standards and conditions determined from time to time by him or her.

(Res. Unno. Passed 9-29-75.)

## **1020.99 PENALTY.**

Whoever violates any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99.

# **CHAPTER 1022**

## **Sidewalks**

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- 1022.01 Construction and repair; compliance required.
- 1022.02 Line and grade.
- 1022.03 Permits to construct or repair; fee.
- 1022.04 Necessity of construction or repair.
- 1022.05 Partial payment of repair by City.
- 1022.055 Responsibility for construction costs; method of payment.
- 1022.06 Notice to repair or construct; action by City.
- 1022.07 Removal of snow, ice and debris.
- 1022.99 Penalty.

### **CROSS REFERENCES**

Failure of property owner to keep free of obstructions - see M.C.L. Sec. 103.4

Sidewalks generally - see M.C.L. Secs. 691.1401 et seq.

Duty to keep sidewalks clean - see GEN. OFF.652.05(d)

Assessment policy re sidewalk improvements - see B.R. & T.892.22(a)

Sidewalk cafes - see P. & Z.Chapter 1240 (Zoning Code)

Outdoor displays of products or materials intended for retail sale or rental - see P. & Z.Chapter 1240 (Zoning Code)

### **1022.01 CONSTRUCTION AND REPAIR; COMPLIANCE REQUIRED.**

The sidewalks of all public streets and alleys in the City constructed or repaired after the effective date of this chapter (Ordinance 220, passed June 22, 1964) shall, unless otherwise ordered by Council, be constructed or repaired in the manner provided in this chapter.

(Ord. 220. Passed 6-22-64.)

### **1022.02 LINE AND GRADE.**

(a) All sidewalks constructed or repaired as set forth in this chapter shall conform to the established grade of the street, unless otherwise ordered by Council. The line and grade for all walks constructed or repaired as set forth in this chapter shall be given by the City Manager or his or her representative, and all of the construction work shall be under the Manager's supervision and to his or her satisfaction.

(b) All sidewalks shall be constructed or repaired to conform with the plans and standard specifications of the City, which are on file in the office of the City Clerk.

(Ord. 220. Passed 6-22-64.)

### **1022.03 PERMITS TO CONSTRUCT OR REPAIR; FEE.**

(a) Every person who constructs new sidewalks or repairs and/or replaces existing sidewalks in the City shall, for each job, first obtain from the City Clerk a permit to proceed with the proposed work, such permit to be issued upon receipt of a permit fee established by Council resolution. Every permittee shall comply with all requirements as to grade, width, specifications and all other provisions of this chapter relative to the laying, constructing and repairing of sidewalks.

(b) Council may revoke a permit issued under this chapter for incompetency or failure to comply with this chapter or the rules, regulations, plans and standard specifications of the City for the construction or repair of sidewalks.

(c) The City Manager may cause work to be stopped under a permit granted for the construction or repair of a sidewalk, for any of the causes enumerated in this section, until the next regular meeting of Council.



(Ord. 626. Passed 3-18-96.)

#### **1022.04 NECESSITY OF CONSTRUCTION OR REPAIR.**

Council shall determine the necessity of construction, repair or replacement of public sidewalks to protect the public health, safety and welfare. The construction of a new sidewalk is required when a vacant parcel is developed, as well as when there is a building addition or usage change requiring site plan approval. Council may waive the new sidewalk requirement for good cause shown, provided the land owners sign a recordable instrument guaranteeing construction and payment therefor at a future time as directed by the City.

(Ord. 472. Passed 2-17-86.)

#### **1022.05 PARTIAL PAYMENT OF REPAIR BY CITY.**

(a) The City may authorize payment, from an appropriate budgetary account, of an amount as determined by resolution of Council, from time to time, toward the cost of existing sidewalk repair and/or replacement, upon receipt from the property owner involved of a request for such payment. The request for payment by the City shall include a statement from the City Manager approving such request and the amount thereof. No such payment by the City shall be authorized unless:

(1) A sidewalk construction permit was obtained prior to making such repair and/or payment therefor is recommended by the Manager; or

(2) The Manager caused such work to be done pursuant to Section 1022.06(b).

(b) This section shall not apply to the construction of new sidewalks.

(c) Pursuant to subsection (a) hereof, the City shall pay an amount, to be established by Council resolution, of the replacement cost through the City's Sidewalk Replacement Program, toward the cost of sidewalk repair and/or replacement from the appropriate budgetary account upon receipt from the property owner involved of a request for each payment and upon compliance with the provisions of subsection (a) hereof.

(Ord. 626. Passed 3-18-96.)

#### **1022.055 RESPONSIBILITY FOR CONSTRUCTION COSTS; METHOD OF PAYMENT.**

(a) Cost of Sidewalks. The cost of construction of new sidewalks and the cost of reconstruction or replacement of existing sidewalks shall be paid as follows:

(1) For residential property certified on the City's tax records as a homestead at the time of the resolution of necessity for new sidewalks, the City shall pay the entire cost. However, if it is found by official State or local action that the residential property did not qualify as a homestead, then, upon such an event, this shall be cause for the City to assess fifty percent of the cost to the property owner pursuant to paragraph (a)(2) below, and to collect said monies as provided for in this section.

(2) For all other properties not zoned as certified, residential homesteads at the time of construction for new sidewalks, the City and the property owner shall equally share the cost of installation of new sidewalks.

(3) For new construction of any property regardless of zoning designation under the City Zoning Code, the property owner and/or developer shall pay the entire cost for the construction of new sidewalks.

(4) For repair and/or replacement of existing sidewalks upon any property, regardless of zoning designation, the City and the property owner shall equally share the cost.

For property owners performing their own sidewalk replacement, the City shall, based on appropriate documentation, reimburse said property owner at a rate to be established by Council resolution.

(b) Payment for Sidewalks. Property owners shall pay the cost of their portion of the sidewalk work in full at the time statements/invoices are mailed by the City to said property owners. In the event that the property owners cannot pay or wish to pay in installment payments, installment payments of not less than three hundred dollars (\$300.00) per year shall be paid by each property owner on or before March 31. Notwithstanding anything in this subsection to the contrary, the property owners' share of the cost of sidewalk work shall be paid in full within seven years. Statements/invoices for installment payments shall be mailed by the City on or before December 30 of the year in which work was done. A statement will be sent each December 1 of successive years until such time as all payments are made. Interest shall be charged at the rate of one-half of one percent per month (or any portion thereof) on the unpaid balance, beginning April 1 of the year succeeding the year in which the work was done. If the property owner chooses the installment payment method, and any annual installment payment is not made on or before March 31 of the year in which it is due, the installment payment, with interest, shall be certified as delinquent and placed on the tax roll of the City for that year. Such certification shall make the entire amount due and owing by the property owner a lien on the real estate and such amount shall be collected in a method as set forth and provided for in Section 12.21 of the City Charter.

(Ord. 674. Passed 6-8-98.)

#### **1022.06 NOTICE TO REPAIR OR CONSTRUCT; ACTION BY CITY.**

(a) Council shall, by resolution, declare the necessity for the construction or repair of the sidewalk in and on any street in front of or adjacent to private property. The resolution shall state the names of the owners, their addresses, and the location

of such construction or repair. The City Clerk shall cause to be prepared two notices. The first notice shall be a notice sent to the property owners affected, and the second notice shall be a notice for public hearing, which notice will notify the public at large of the intention of the City to make such sidewalk improvements and to charge the cost thereof against the abutting property owner. The form of the notice sent to affected owners shall set forth the owners assessed, the estimated amount of sidewalk to be repaired or replaced, any new sidewalk to be installed and an estimated amount for the work. The notice shall also state that the property owner may cause such work to be done at his or her expense in conformity with the plans and specifications on file in the office of the City Clerk, provided that this work is completed by a date to be determined by Council after the date of the public hearing. The notice shall also include the public hearing notice. The form of the public hearing notice shall state the time and place at which Council shall meet for the purpose of reviewing the list of sidewalks so affected and hearing any person so assessed who considers himself or herself aggrieved thereby. The public notice shall not contain the list of sidewalks so affected, but shall make reference that the list may be reviewed at the City Clerk's office prior to the hearing. The notice to property owners shall be sent at least ten days prior to the date of the hearing by Council, and the City Clerk shall notify the owners by first class mail, so far as the same are known and as shown on the tax rolls of the City. The City Clerk shall cause the public notice to be published, once, in a newspaper of general circulation in the City at least ten days before the public hearing.

(b) At the time and place designated in the notice for public hearing, Council shall meet and hear all persons interested or affected in the construction or repair of sidewalks within the City, and shall consider all objections either given orally at the public hearing or filed with the City Clerk. At such time and place, Council shall review the resolution of necessity and the list of owners affected. Council may alter, change, or correct the same if necessary or may refer the list set forth in the resolution back to the City Manager for revision. However, in altering, changing or correcting the list set forth in the resolution, Council shall not add any other sidewalk construction or repair not included in the original resolution, except as is necessitated during on-site construction or upon the approval of the affected property owner. Further, Council may adjourn and continue such hearing from time to time. When the list set forth in the resolution has been set and confirmed by Council, Council shall, by resolution, approve the resolution of necessity and authorize the City Manager to commence work on the construction or repair of sidewalks so affected. The City Manager shall authorize additional sidewalk repair and/or replacement when, during construction, it is found that such repair and/or replacement is necessary due to on-site inspection, or at the request of the property owner to enlarge the affected area for repair and/or replacement. A change made under these circumstances shall not require further Council approval or a corrected resolution.

(c) If the property owner fails to cause such work to be done within the time allotted by Council after the date of the public hearing, then the City Manager shall proceed to have such work done and shall bill the property owner. The method of payment to be made by the property owner shall conform to Section 1022.055.

(Ord. 626. Passed 3-18-96.)

#### **1022.07 REMOVAL OF SNOW, ICE AND DEBRIS.**

(a) No person owning or occupying any lot or premises abutting upon any street in the City shall permit sidewalks in front of such lot or premises to become obstructed by snow, ice or debris so as to inconvenience and/or endanger public travel thereon. (Ord. 61. Passed 2-25-19.)

(b) No person shall, in any event, permit any snow to remain on any sidewalk in front of a lot or premises owned or occupied by him or her in the City, longer than twenty-four hours after the same has fallen. The sidewalk shall be cleaned of snow down to the cement base of the sidewalk and the entire width of the sidewalk. (Ord. 688. Passed 3-1-99.)

(c) No person shall, in any event, permit any ice to remain on any sidewalk in front of a lot or premises owned or occupied by him or her in the City, longer than twenty-four hours after the same has formed. The sidewalk shall be reasonably cleaned of ice down to the cement base of the sidewalk and the entire width of the sidewalk.

(d) No person shall permit or cause any building material, wood, rubbish, article, substance, or merchandise held for sale, to be dropped, delivered, piled or placed in any way above or upon any sidewalk so as to obstruct the sidewalk in a manner that inconveniences and/or endangers public travel thereon except by special permission of the City Council or the City Manager according to limitations set by the Council. Merchandise necessarily delivered on the sidewalks shall be immediately removed to the interior of the address to which it was destined.

(e) If the sidewalks abutting any lot or premises in the City are not cleaned of snow, ice and/or debris in the manner and within the time provided in subsections (a), (b), (c) and (d) hereof, then the City shall cause such sidewalks to be cleaned at the expense of the City. After such cleaning by the City, the actual cost thereof shall be certified to by the City Manager or his or her duly authorized representative and shall become and be a lien upon the property on which the violation took place. A statement for such actual costs plus administrative fee shall thereupon be sent by first class mail to the property owner or his or her representative to whom the original notice was given. Should the obligation as described by this statement remain unpaid after forty-five days from the date of the statement, the City Manager or his or her representative may then certify the delinquent amount, after first adding a penalty of ten percent, to the Assessor. At the discretion of the City Manager, this amount shall either be incorporated into a special assessment roll to be processed in the manner prescribed by the City Charter and ordinances of the City, or shall be entered upon the next tax roll as a charge against such premises and be collected and the lien thereof enforced in the same manner as general City taxes against such premises are collected and liens enforced. In general, the decision as to whether the obligation shall be made a part of a special assessment roll or certified directly to the assessing officer for collection as a City tax shall depend upon the number and magnitude of such outstanding delinquent statements.

(Ord. 61. Passed 2-25-19; Ord. 863. Passed 2-11-13; Ord. 875. Passed 6-10-13; Ord. 876. Passed 7-8-13.)

## **1022.99 PENALTY.**

Whoever violates any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99.

# **CHAPTER 1024**

## **Trees**

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1024.01 Trimming and pruning required; notice to owner.

1024.02 Wires and lines; mutilation.

1024.03 Boxelder trees prohibited.

1024.04 Proximity of poplar and willow trees to sewers.

1024.05 Width of North Michigan Avenue.

1024.99 Penalty.

### **CROSS REFERENCES**

Box elder trees, female, as nuisance - see M.C.L. Sec. 124.151

Cutting or destroying - see M.C.L. Secs. 247.235, 247.241, 752.701 et seq.

Malicious destruction - see M.C.L. Sec. 750.382

Vegetation - see GEN. OFF. 622.02

Landscaping - see P. & Z. Chapter 1240 (Zoning Code)

### **1024.01 TRIMMING AND PRUNING REQUIRED; NOTICE TO OWNER.**

(a) All trees in the street rights of way of the City shall be trimmed and pruned by the abutting property owner so that no branch thereof grows or hangs lower than nine and one-half feet above the level of the sidewalk.

(b) All trees on private property, the branches of which extend over the line of a street, shall be trimmed and pruned so that no such branch grows or hangs over the line of the street or sidewalk lower than nine and one-half feet above the level of the sidewalk.

(c) No person shall permit a tree in the public streets of the City to grow in such a manner, or be or remain untrimmed, so as to defeat the object of the street lighting system. All such trees shall be trimmed so as to obstruct as little as possible the efficiency of the street lights without destroying the beauty and symmetry of such trees.

(Ord. 45. Passed 10-10-05.)

(d) If the owner or occupant of any premises, or his or her agent, allows any tree growing upon his or her premises, or upon that portion of the street upon which his or her premises abuts, to grow or remain in such a condition as to violate any of the provisions of this section, the Director of Public Works shall notify such owner, occupant or agent of the requirements of this section. Such notice may be verbal or written. If written, it shall be mailed to the owner of record of the property in question, certified, return receipt requested. If the property is occupied by someone other than the owner of record, a copy of the aforesaid written notice shall also be sent to such occupant.

If such trees are not properly trimmed by the owner, occupant or agent within ten days after receipt of such notice, the Director shall forthwith proceed to trim such trees in accordance with the requirements of this section.

### **1024.02 WIRES AND LINES; MUTILATION.**

(a) Any person running or putting wires or lines through, by or above a tree in the City shall exercise such care in so doing as not to destroy the beauty and symmetry of trees for ornamental and shade purposes. No person shall mutilate, cut or prune a tree without the permission of the Director of Public Works or without the supervision of the Director.

(b) No person shall purposely, knowingly or recklessly cut, destroy, mutilate or otherwise injure a tree growing in the streets of the City, or in any public park thereof, or climb any such tree by means of metallic climbers, or attach or connect any wire thereto, except as otherwise provided in subsection (a) hereof.

### **1024.03 BOXELDER TREES PROHIBITED.**

(a) A female boxelder tree which is or could be the breeding place for boxelder bugs (*leptocoris trivittas*) is hereby declared to be a public nuisance, and no person shall maintain the same on his or her property after the notification provided for in subsection (d) hereof.

(b) Any such tree located on public lands in the City shall be removed at City expense and under the direction of the City Manager.

(c) The Manager or a person designated by him or her may enter upon private property to make a field inspection of a boxelder tree and may remove specimens therefrom for analysis.

(d) After such an inspection, the Manager may require, by written notice addressed to the owner of the premises on which the tree is located or to the occupant of such premises, the removal of such tree. Such notice shall give the person so notified a definite time within which to comply with such notice, which time shall be at least fifteen days following the date of such notice. If such tree is not removed within the time given in the notice, the Manager shall report the failure to remove such tree to Council. Council may thereafter, without further notice, cause such tree to be removed. All costs involved in the cutting and removal of such tree shall be assessed against the property upon which such tree is located, on the next general tax assessment roll of the City.

(e) No damages shall be awarded for the destruction of a tree or for injury to the same in carrying out this section.

(Ord. 228. Passed 3-15-65.)

#### **1024.04 PROXIMITY OF POPLAR AND WILLOW TREES TO SEWERS.**

(a) No person shall plant, transplant or cultivate any poplar or willow tree within 200 feet of any storm or sanitary sewer in the City.

(b) No person shall grow or permit to grow on his or her premises any poplar or willow tree within 200 feet of any storm or sanitary sewer in the City.

(c) In the event of a violation of subsection (a) or (b) hereof, the Director of Public Works, when so directed by Council, may enter on the premises in question and cut down such poplar or willow tree. The actual cost of such cutting shall be recorded by the City Clerk and, prior to the making of the annual assessment roll by the City Assessor, Council shall, by resolution, direct the cost of such cutting to be levied on the next general assessment roll, in a special column therefor, against the property involved.

(Ord. 68. Passed 11-11-19.)

#### **1024.05 WIDTH OF NORTH MICHIGAN AVENUE.**

No person shall widen the paved portion of North Michigan Avenue between the North Michigan Avenue railroad bridge and 850 feet south of the right-of-way to M-59 to more than twenty-eight feet, except the Riddle Street intersection, which is currently thirty-eight feet wide. No person shall interfere with the natural life span of any tree within the right-of-way of North Michigan Avenue as set forth herein, except in case of disease, damage from natural elements or other casualty.

(Ord. 638. Passed 10-28-96; Ord. 774. Passed 9-26-05.)

#### **1024.99 PENALTY.**

Whoever violates any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99.

## **TITLE FOUR - Utilities**

### **CHAPTER 1040**

#### **Water**

1040.01 Cross connections; inspections.

1040.02 Use of public water supply required when available.

1040.03 City as management agency for water quality management.

1040.99 Penalty.

#### **CROSS REFERENCES**

Water quality - see Mich Const. Art. 4, Secs. 22, 52; M.C.L. Secs. 67.38, 323.1 et seq.

Water supply generally - see Mich. Const. Art. 7, Sec. 24; M.C.L. Secs. 46.171 et seq., 123.111 et seq., 325.201 et seq., 486.51 et seq., 486.101 et seq.

Municipal utilities - see CHTR. Ch. 16

Water supply in home rule cities - see M.C.L. Secs. 117.4b, 117.4e, 117.4f, 117.35, 123.115

Polluting and diverting watercourses - see GEN. OFF.622.03

Assessment policy re water extensions - see B.R. & T.892.22 (e)

Costs for extensions to new developments - see S.U. & P.S.1050.01

#### **1040.01 CROSS CONNECTIONS; INSPECTIONS.**

(a) The City hereby adopts a cross connection control program which shall 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 inspection and reinspection, based on potential health hazards involved, shall be as established by the City through its cross connection control program and as approved by the Michigan Department of Environmental Quality (MDEQ). The cross connection control program shall be amended and changed by the City of Howell Department of Public Works Superintendent when mandated by the MDEQ.

(b) The City of Howell Department of Public Works Superintendent and/or his/her designated agent may enter, at any reasonable time, upon any property served by a connection to the public water supply system of the City, for the purpose of inspecting the water supply system thereof 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 such water supply system. The refusal of such information or the refusal of access to such property, when requested, shall be deemed evidence of the presence of cross connections.

(c) The City is hereby authorized and directed to discontinue water service after reasonable notice to the owner, lessee or occupant of any property wherein any cross connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with this section.

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

(e) This section does not supersede the State Plumbing Code or Chapter 1044 but is supplementary to them.

(Ord. 319. Passed 5-14-73; Ord. 719. Passed 6-18-01.)

#### **1040.02 USE OF PUBLIC WATER SUPPLY REQUIRED WHEN AVAILABLE.**

(a) Except as provided in this chapter, no person shall construct or maintain any private water well within the City limits.

(b) Every owner of a house, building or property used for human occupancy, employment, recreation or other purposes, situated in the City and abutting on a street, alley or right of way in which there is now located or may in the future be located a public water system of the City, shall, at his or her own expense, install suitable plumbing facilities therein.

(c) When in the future a private water well fails, then the property owner shall connect to the public water system, in accordance with the provisions of this chapter, provided that the public water system is within 200 feet of the nearest property line of such house, building or property. If the public water system is not located within 200 feet of the house, building, or property where the well has failed, then the owner may construct a new well for domestic water use only, in accordance with all City, County, and State requirements. Any private water well existing as a result of the connection to the public water system shall be abandoned pursuant to subsection (d) hereof.

(d) The abandonment of any private water well shall be made by the owner of such property pursuant to standards set forth by the Livingston County Health Department.

(Ord. 622. Passed 10-30-95; Ord. 931. Passed 2-10-20.)

#### **1040.03 CITY AS MANAGEMENT AGENCY FOR WATER QUALITY MANAGEMENT.**

(a) Council hereby accepts designation as a management agency for planning, constructing and/or operating treatment facilities and/or interceptor systems in accordance with Public Law 92-500 (The Federal Water Pollution Control Act Amendments of 1972).

(b) Acceptance of the designation shall include acceptance, in principle, of responsibility for the collection and payment of a surcharge based on sewage flow to provide financial support for the functions of continuing areawide quality management planning and implementation of the Areawide Water Quality Management Plan.

(c) Assumption of such responsibilities accepted herein shall be deferred until such time as Chapters I and II of the Areawide Water Quality Management Plan are certified by the Governor and approved by the Environmental Protection Agency.

(Res. Unno. Passed 1-16-78; Res. Unno. Passed 11-20-78.)

#### **1040.99 PENALTY.**

Whoever violates any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99.

## CHAPTER 1042

### Sewers

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EDITOR'S NOTE: Chapter 1042, previously a codification of Ordinance 460, passed June 10, 1985, was re-enacted in its entirety by Ordinance 588, passed November 15, 1993.

- 1042.01 Definitions.
- 1042.02 Unlawful deposits and discharges; use of sewer required when available.
- 1042.03 Permits for building sewers and connections; cost of installation and repair.
- 1042.04 Construction requirements of building sewers.
- 1042.05 Discharge of storm water, etc., into sewers.
- 1042.06 Interceptors.
- 1042.07 Damage to system.
- 1042.08 Right of entry.
- 1042.09 Violations; notice to correct.
- 1042.10 Falsification; tampering with meters.
- 1042.99 Penalty.

#### **CROSS REFERENCES**

Sewers and sewer systems generally - see Mich. Const. Art. 7, Sec. 24; M.C.L. Secs. 46.171 et seq., 67.34, 123.241 et seq., 323.151 et seq. 325.201 et seq.

Municipal utilities - see CHTR. Ch. 16

Sewers and sewer systems in home rule cities - see M.C.L. Secs. 117.4b, 117.4e, 117.4f, 117.35

Assessment policy re sewer improvements - see B.R. & T.892.22(d), (e)

Proximity of poplar and willow trees to sewers - see S.U. & P.S.1024.04

Industrial wastewater pretreatment regulations - see S.U. & P.S.Ch. 1043

Sewerage rates and management - see S.U. & P.S.Ch. 1044

Costs for extensions to new developments - see S.U. & P.S.1050.01

Sewers in subdivisions - see P. & Z.1228.05, 1228.06

Design of sewerage systems - see B. & H. 1440.07

#### **1042.01 DEFINITIONS.**

As used in this chapter, unless the context specifically indicates otherwise:

(a) "Building drain" means that part of the lowest horizontal of a drainage system which receives the discharge from soil, waste and other drain pipes inside the walls of the building and which conveys such discharge to the building sewer, beginning five feet outside the inner face of the building wall.

(b) "Building Inspector" means the person designated by the City to supervise the operation of the City's Building Department and who is charged with certain duties and responsibilities by this chapter, or his or her duly authorized representative.

(c) "Building sewer" means the extension from the building drain to the public sewer or other place of disposal.

(d) "City Manager" means the City Manager and such authorized representative as he or she may designate.

(e) "Garbage" means solid waste from the preparation, cooking or dispensing of food and from the handling, storage, processing or sale of produce.

(f) "Holding tank waste" means any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

(g) "Indirect discharge" means the discharge or the introduction of non-domestic pollutants into the POTW (including holding tank waste discharged into the system).

(h) "National Pollution Discharge Elimination System Permit" and "NPDES permit" mean a permit issued pursuant to Section 402 of the Act (33 USC 1342).

(i) "Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or his or her or its legal representatives, agents or assigns.

(j) "POTW treatment plant" means that portion of the POTW designed to provide treatment to wastewater.

(k) "Properly shredded garbage" means wastes from the cooking, preparation and dispensing of foods that have been cut or shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

(l) "Sewage" means a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.

(m) "Sewage treatment plant" means an arrangement of devices and structures used for treating sewage.

(n) "Sewage works" means all facilities for collecting, pumping, treating and disposing of sewage.

(o) "Sewer" means a pipe, tile, tube or conduit for carrying sewage. Specifically:

(1) "Combination sewer" and "combined sewer" mean a sewer receiving both surface run-off and sewage.

(2) "Public sewer" means a sewer in which all owners of abutting property have equal rights and which is controlled by a public authority.

(3) "Sanitary sewer" means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

(4) "Storm sewer" and "storm drain" mean a sewer which carries storm and surface waters and drainage, but which does not carry sewage and polluted industrial wastes.

(p) "Storm water" means any flow occurring during or following any form of natural precipitation and resulting therefrom.

(q) "Superintendent" means the person designated by the City to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his or her duly authorized representative.

(r) "User" means any person who contributes or causes or permits the contribution of wastewater into the POTW.

(s) "Wastewater" means liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any ground water, surface water and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(t) "Watercourse" means a channel in which the flow of water occurs, either continuously or intermittently.

(Ord. 588. Passed 11-15-93.)

#### **1042.02 UNLAWFUL DEPOSITS AND DISCHARGES; USE OF SEWER REQUIRED WHEN AVAILABLE.**

(a) No person shall place or deposit or permit to be deposited, in an unsanitary manner upon any public or private property in the City or in an area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

(b) No person shall discharge to any natural watercourse in the City, or in an area under the jurisdiction of the City, any sanitary sewage, industrial waste or other polluted waters, except where suitable treatment has been provided in accordance with standards established by the State Water Resources Commission.

(c) Except as provided in this chapter, no person shall construct or maintain any privy vault, septic tank, cesspool or other facilities intended or used for the disposal of sewage.

(d) Every owner of a house, building or property used for human occupancy, employment, recreation or other purposes, situated in the City and abutting on a 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, shall, at his or her own expense, install suitable toilet facilities therein and connect such facilities directly to the public sanitary sewer, in accordance with the provisions of this chapter, within ninety days after the date that official notice to do so has been issued by the City Manager, provided that the public sanitary sewer is within 200 feet of the nearest property line of such house, building or property.

(Ord. 588. Passed 11-15-93.)

(e) Any privy vault, septic tank, cesspool or other facilities used for the disposal of sewage existing as a result of the connection to the public sanitary sewer system shall be abandoned by the owner of such property pursuant to standards set forth by the Livingston County Health Department.

(Ord. 621. Passed 10-30-95.)

#### **1042.03 PERMITS FOR BUILDING SEWERS AND CONNECTIONS; COST OF INSTALLATION AND REPAIR.**

(a) No unauthorized person shall uncover, make any connection with, open into, alter or disturb a public sewer or appurtenance thereof without first obtaining a written permit therefor from the Building Inspector.

(b) Connections with the sanitary sewers of the City shall be made only upon written authorization and permits issued by the City on such forms and upon payment of such fees as are established from time to time by the City.

(c) All costs and expenses incident to the installation and connection of building sewers shall be borne by the owner of the property. The owner shall indemnify the City for all loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(d) All applicants for sewer connection permits shall first submit plans and specifications of all plumbing construction within the building or premises, and such plans and specifications shall meet the requirements of the State Plumbing Code and all rules and regulations of the State Water Resources Commission or its affiliates. When such plans and specifications have been approved by the Building Inspector, a temporary construction permit shall be issued, subject to a final inspection and approval when construction is completed and ready for connection with the City sewer system.

(e) The applicant for a building sewer permit shall notify the Building Inspector when the building sewer is ready for inspection and connection to the public sewer. The Building Inspector or his or her authorized representative shall then inspect the building and plumbing construction therein, and if such construction meets previous requirements as approved in the construction permit, the Building Inspector shall issue a sewer connection permit, subject to this chapter.

(f) The cost of all repairs, maintenance and replacements of existing building sewers and their connection to public sewers shall be borne by the property owner. Such owner shall make application to the Building Inspector to perform such work, if it is to be done within the street right of way, and work shall be according to City specifications.

(Ord. 588. Passed 11-15-93.)

#### **1042.04 CONSTRUCTION REQUIREMENTS OF BUILDING SEWERS.**

(a) The building sewer shall be constructed of vitrified clay sewer pipe, PVC or cast iron soil pipe, as approved by the Building Inspector. The City reserves the right to specify and require the encasement of any sewer pipe in concrete or the installation of the sewer pipe in a concrete cradle if the foundation and construction are such as to warrant such protection in the opinion of the Building Inspector.

(b) The size and slope of the building sewer shall be subject to the approval of the Building Inspector, but in no event shall the diameter of the pipe be less than four inches. The slope of such pipe shall be not less than one-quarter inch per foot, unless otherwise permitted.

(c) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade. The line shall be straight or laid with properly curved pipe and fittings. Changes in direction greater than forty-five degrees shall be provided with clean-outs accessible for cleaning.

(d) In all buildings in which a building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by artificial means, approved by the Building Inspector, and discharged to the building sewer.

(e) All joints and connections shall be made gastight and watertight. All joints shall be approved by the Building Inspector.

(Ord. 588. Passed 11-15-93.)

#### **1042.05 DISCHARGE OF STORM WATER, ETC., INTO SEWERS.**

(a) No person shall discharge or cause to be discharged any storm water, surface water, ground water or roof run-off water to a sanitary sewer. Subsurface drainage may be discharged into a sanitary sewer with the approval of the City Manager or his or her authorized representative, provided that favorable soil and water conditions will prevent excessive drainage.

(b) Storm water and all other unpolluted drainage shall be discharged to sewers specifically designed as storm sewers or to a natural outlet approved by the City Manager and/or the State Water Resources Commission. Industrial cooling water or unpolluted process waters may be discharged, with the approval of the City Manager, to a sanitary sewer.

(Ord. 588. Passed 11-15-93.)

#### **1042.06 INTERCEPTORS.**

(a) Grease, oil and sand interceptors shall be provided when, in the opinion of the Department of Public Services Director (or his or her designee) and/or the State Water Resources Commission, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any inflammable waste, sand or other harmful ingredient. However, such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity



approved by the Director and/or the Commission and shall be located so as to be readily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be substantially constructed, watertight and equipped with easily removable covers which, when bolted in place, are gastight and watertight.

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

(c) All grease, oil and sand interceptors shall be inspected on an annual basis by the Howell City Department of Public Services Director (or his or her designee) and an inspection fee of \$50 shall be assessed upon each annual inspection.

(Ord. 588. Passed 11-15-93; Ord. 751. Passed 1-12-04.)

#### **1042.07 DAMAGE TO SYSTEM.**

(a) No person shall purposely, knowingly, recklessly or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the Municipal sewerage system or treatment plant.

(b) The City may suspend the wastewater treatment service when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, which causes interference to the POTW or which causes the City to violate any condition of its NPDES permit.

(c) The City may seek to terminate the wastewater treatment service to any user who:

(1) Fails to factually report the wastewater constituents and characteristics of his or her discharge;

(2) Fails to report significant changes in wastewater constituents or characteristics;

(3) Refuses reasonable access to the user's premises by representatives of the City for the purpose of inspection or monitoring; or

(4) Violates the conditions of this chapter or any final judicial order entered with respect thereto.

(d) Any person notified of a suspension of the wastewater treatment service shall immediately stop or eliminate the contribution. If the person fails to comply voluntarily with the suspension order, the City shall take such steps as are deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individual. The City shall reinstate the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within fifteen days of the date of occurrence.

(e) Any person who violates any subsections to this section which causes damage in either the POTW system, causes interference with same, causes the City to violate any condition of its NPDES permit, or any other type of action which endangers the POTW system or the wastewater treatment plant in way, shape or form shall be liable to the City in damages for all actual costs incurred by the City for the prevention of or damage to the POTW system. The City shall place a lien upon the real property of the person which was used in violating this Chapter upon failure to pay damages to the City. The placing of this lien will be done in a manner as prescribed by the Howell City Charter or the Codified Ordinances of the City of Howell.

(Ord. 588. Passed 11-15-93; Ord. 751. Passed 1-12-04.)

#### **1042.08 RIGHT OF ENTRY.**

Council, other duly authorized employees of the City and agents of the State Water Resources Commission bearing proper credentials and identification, shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with this chapter or any other chapter of these Codified Ordinances or law of the State corresponding to this chapter, at any time during reasonable or usual business hours. No person shall refuse or obstruct such entry.

(Ord. 588. Passed 11-15-93.)

#### **1042.09 VIOLATIONS; NOTICE TO CORRECT.**

Whoever violates or fails to comply with any of the provisions of this chapter, except Sections 1042.07 and 1042.08, shall be served by the City Manager or his or her authorized representative with a written notice stating the nature of such violation or noncompliance and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(Ord. 588. Passed 11-15-93.)

#### **1042.10 FALSIFICATION; TAMPERING WITH METERS.**

No person shall:

(a) Knowingly make any false statement, representation or certification in any application, record, report, plan or other

document filed or required to be maintained pursuant to this chapter; or

(b) Falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this chapter.

(Ord. 588. Passed 11-15-93.)

#### **1042.99 PENALTY.**

(a) Notwithstanding any other penalties prescribed in the Codified Ordinances of the City of Howell, any violation of this Chapter which would otherwise be a violation deemed a misdemeanor under State or Federal laws and specifically under the Natural Resources and Environmental Protection Act, being M.C.L.A. Sections 324.101 et seq, shall be deemed a misdemeanor for purposes of this Chapter punishable as prescribed under Section 202.99 of the Howell City Code.

(b) All other violations of this Chapter not deemed to be criminal activity as described in 1043.99 herein, shall be a municipal civil infraction. The violator shall be subject to the civil fines as set forth in Section 202.99 herein.

(c) In addition to the penalty provided in subsection (a) hereof, whoever violates or fails to comply with any of the provisions of this chapter shall be liable to the City for any expense, loss or damage occasioned to the City by reason of such violation or noncompliance, and recovery therefor may be had in an appropriate action in any court of competent jurisdiction.

(d) Any continued violation or noncompliance, after due notice as provided in Section 1043.14 shall be deemed a public nuisance and may be abated by a suit in equity by the City in any court of competent jurisdiction. This remedy shall be in addition to those heretofore provided for.

(Ord. 751. Passed 1-12-04.)

## **CHAPTER 1043**

### **Industrial Wastewater Pretreatment Regulations**

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EDITOR'S NOTE: Resolution 96-03, passed May 13, 1996, authorized the Michigan Industrial Pretreatment Program, as regulated by the Michigan Department of Environmental Quality, to oversee the administration of the City's wastewater treatment facility and the enforcement of the provisions of this chapter. Copies of such resolution may be obtained, at cost, from the City Clerk.

This chapter, previously a codification of Ordinance 589, passed November 15, 1993, and Ordinance 629, passed April 29, 1996, was repealed in its entirety and re-enacted by Ordinance 656, passed September 15, 1997.

- 1043.01 Definitions and abbreviations.
- 1043.02 Responsibilities of users.
- 1043.03 Discharge of other wastes into sewers.
- 1043.04 Pretreatment.
- 1043.05 Control manholes; evaluations of water and waste.
- 1043.06 Exceptions for industrial uses; surcharges; added charges.
- 1043.07 Fees, charges and Reimbursement of City expenses.
- 1043.08 Adjustment of categorical pretreatment standards for polluted intake water.
- 1043.09 Sampling and analysis of water and waste.
- 1043.10 Authority of POTW; enforcement.
- 1043.11 Damage to system.
- 1043.12 Bypasses.
- 1043.13 Right of entry.
- 1043.14 Violations; notice to correct.
- 1043.15 Retention of records.
- 1043.16 Upset as affirmative defense.
- 1043.17 Rules of the Michigan Department of Environmental Quality.
- 1043.99 Penalty; liability for costs of damages; abatement of violations as public nuisances.

#### **CROSS REFERENCES**

Sewers and sewer systems generally - see Mich. Const. Art. 7, Sec. 24; M.C.L. Secs. 46.171 et seq., 67.34, 123.241 et seq., 323.151 et seq. 325.201 et seq.

Municipal utilities - see CHTR. Ch. 16

Sewers and sewer systems in home rule cities - see M.C.L. Secs. 117.4b, 117.4e, 117.4f, 117.35

Hazardous spills, releases or discharges - see GEN. OFF.Ch. 620

Assessment policy re sewer improvements - see B.R. & T.892.22(d), (e)

Proximity of poplar and willow trees to sewers - see S.U. & P.S.1024.04

Sewers generally - see S.U. & P.S.Ch. 1042

Sewerage rates and management - see S.U. & P.S.Ch. 1044

Costs for extensions to new developments - see S.U. & P.S.1050.01

Sewers in subdivisions - see P. & Z.1228.05, 1228.06

Design of sewerage systems - see B. & H. 1440.07

#### **1043.01 DEFINITIONS AND ABBREVIATIONS.**

(a) Definitions. As used in this chapter, unless the context specifically indicates otherwise:

(1) "Act" or "the Act" means Sections 3101 to 3119 of Act No. 451 of the Public Acts of 1994, as amended, being Sections 324.3101 to 324.3119 of the Michigan Compiled Laws and any rules promulgated therein by the approval authority.

(2) "Approval authority" means the Michigan Department of Environmental Quality.

(3) "Approved program" or "approved pretreatment program" or "publicly owned treatment works' pretreatment program" means a program administered by a publicly owned treatment works which meets the criteria established in R 323.2306 and which has been approved by the approval authority in accordance with R 323.2308.

(4) "Authorized representative of nondomestic user" means those persons authorized to certify reports and other documents specified in this chapter:

A. A responsible corporate officer. As used in this chapter, "responsible corporate officer" means an officer of a corporation and means a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function or any other person who performs similar policy or decision making functions for the corporation or means the principal manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures of more than twenty-five million dollars (\$25,000,000), in second quarter 1980 dollars, if authority to sign the documents has been assigned or delegated to the manager in accordance with corporate procedures.

B. A general partner or proprietor if the nondomestic user submitting the reports is a partnership or sole proprietorship, respectively.

C. A duly authorized representative if:

1. The authorization is made in writing by the individual;
2. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates; and
3. The written authorization is submitted to the Superintendent.

If an authorization is no longer accurate due to changes of individuals or positions, a new authorization must be submitted to the Superintendent prior to or together with any reports required by this chapter to be signed by an authorized representative, officer, partner, or proprietor.

(5) "Average daily flow" means a reasonable measure of the average daily flow for a thirty-day period.

(6) "B.O.D." (biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees Centigrade, expressed in parts per million by weight.

(7) "Bypass" means the intentional diversion of waste streams from any portion of a nondomestic user's treatment facility needed for compliance with pretreatment standards.

(8) "Categorical nondomestic user" means all nondomestic users subject to categorical pretreatment standards.

(9) "Categorical pretreatment standard" or "categorical standard" means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency (EPA) in accordance with sections 307(b) and (c) of the Clean Water Act, 33 U.S.C. 1317, which apply to a specific category of nondomestic users and which appear in 40 C.F.R. Chapter I, subchapter N (1990), parts 405-471.

(10) "Chemical oxygen demands" (C.O.D.) means a measure of the oxygen consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not necessarily correlate with biochemical oxygen demand. It is also known as OC and DOC, oxygen consumed and dichromate oxygen consumed, respectively.

(11) "City Health Officer" means the local health officer (City or County) having jurisdiction over public health in the City, or his or her authorized representative.

(12) "City Manager" means the City Manager of the City of Howell, Michigan, and such authorized representative as he or she may designate.

(13) "Clean Water Act" means the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., as amended.

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

(15) "Composite sample" means a collection of individual samples which are obtained at regular intervals, collected on a time-proportional or flow-proportional basis, over a specific time period and which provide a representative sample of the average stream during the sampling period.

(16) "Control Authority" means the publicly owned treatment works if it has an approved program or means the approval authority until the publicly owned treatment works program is approved.

(17) "Cooling water" means the water discharged from any use, such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(18) "Department" means the Director of the Department of Environmental Quality"

(19) "Discharge" means any direct or indirect discharge of any waste, waste effluent, wastewater, pollutant, or any combination into any of the waters of the State or upon the ground.

(20) "Domestic waste" means waste coming from domestic household sources that meets the definition of compatible pollutants.

(21) "Environmental Protection Agency" (EPA) means the U.S. Environmental Protection Agency, the Administrator thereof or another duly authorized official.

(22) "Grab sample" means a sample taken from a wastestream on a one-time basis over a period of time of not more than fifteen minutes without regard to the flow in the wastestream.

(23) "Hazardous waste" means any substance discharged or proposed to be discharged into the POTW which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.

(24) "Incompatible pollutant" means any pollutant which is not a compatible pollutant.

(25) "Indirect discharge" means the discharge or the introduction of nondomestic pollutants into the POTW (including holding tank waste discharged into the system).

(26) "Industrial waste" means the liquid, solid or semisolid waste from industrial processes, as distinct from sanitary sewage.

(27) "Interference" means a discharge, alone or in conjunction with a discharge or discharges from other sources, to which both of the following provisions apply:

A. The discharge inhibits or disrupts the publicly owned treatment works, its treatment processes or operations, or its sludge processes, use, or disposal; and

B. Pursuant to paragraph (a)(27)A. hereof, the discharge is a cause of a violation of any requirement of the publicly owned treatment works' permit, including an increase in the magnitude or duration of a violation, or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder, or more stringent State or local regulations:

1. Section 405 of the Clean Water Act.

2. The Solid Waste Disposal Act, 42 U.S.C. 6901 et seq., including Title II, more commonly referred to as the Resources Conservation and Recovery Act, and including State regulations contained in any State sludge management plan prepared.

3. The Clean Air Act, 42 U.S.C. 7401 et seq.

4. The Toxic Substances Control Act, 15 U.S.C 2601 et seq.

5. The Marine Protection, Research and Sanctuaries Act, 33 U.S.C. 1401 et seq.

(28) "Laboratory determination" means the measurements, tests and analyses of the characteristics of waters and

wastes in accordance with the methods outlined in 40 CFR Part 136, as amended October 8, 1991, or EPA approved test techniques, which, in most cases, are outlined in the 17th Edition of Standard Methods for Examination of Water and Waste Water, a joint publication of the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation, or in accordance with any other method described by the rules and regulations promulgated pursuant to this chapter.

(29) "Local limit" means a specific prohibition or limit set by a publicly owned treatment works on discharges by a nondomestic user.

(30) "National categorical pretreatment standard" or "pretreatment standard" means any Federal regulation containing pollutant discharge limits promulgated by the EPA, which regulation applies to a specific category of nondomestic users.

(31) "National Pollution Discharge Elimination System Permit" or "NPDES permit" means a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

(32) "National prohibitive discharge standard" or "prohibitive discharge standard" means any regulation developed under the authority of Section 307(b) of the Act and 40 C.F.R. 403.5.

(33) "Natural outlet" means an outlet into a watercourse, pond, ditch, lake or other body of water, either surface water or ground water.

(34) "New source" means any building, structure, facility, or installation from which there is or may be a discharge and for which construction commenced after the publication of proposed pretreatment standards under Section 307(c) of the Clean Water Act will be applicable to the source if the standards are thereafter promulgated in accordance with Section 307(c), and if any of the following provisions apply:

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.

C. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. The extent to which the new facility is engaged in the same general type of activity as the existing source and the extent of integration of the new facility with the existing plant should be considered in determining whether the process is substantially independent.

D. Any other modification which significantly changes discharge or as specified in 40 C.F.R. 403.3 (k)(2).

E. Construction on site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building structure, facility, or installation meeting the criteria of paragraph (a)(34)C. or D. hereof, but otherwise alters, replaces or adds to the existing process or production equipment.

F. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

1. Begun, or caused to begin as part of a continuous on site construction program:

a. Any placement, assembly or installation of facilities or equipment; or

b. Significant site preservation 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

2. 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.

(35) "Nondomestic user" means an industry, commercial establishment, or other entity that discharges wastewater to a publicly owned treatment works other than, or in addition to, sanitary sewage.

(36) "Pass-through" means a discharge which exits the POTW into State waters in quantities or concentrations which alone, or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Act.

(37) "Permit" means an authorization, license, or equivalent control document and includes any of the following:

A. A nondomestic user permit, which is a control document issued by the publicly owned treatment works that controls the wastewater discharges from nondomestic users into the publicly owned treatment works.

B. A national pollutant discharge elimination system permit, which is a permit issued pursuant to Section 3112(1) of the Act to control wastewater discharges to the surface waters.

C. A State permit, which is a permit issued pursuant to Section 3112(1) of the Act to control wastewater discharges of publicly owned treatment works to the groundwaters.

(38) "Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or his or her or its legal representatives, agents or assigns.

(39) "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(40) "Pollutant" means any of the following:

- A. Substances regulated by categorical standards.
- B. Substances discharged to publicly owned treatment works that are required to be monitored, are limited in the publicly owned treatment works' permit, or are to be identified in the publicly owned treatment works' permit application.
- C. Substances for which control measures on nondomestic users are necessary to avoid restricting the publicly owned treatment works' approved residuals management program.
- D. Substances for which control measures on nondomestic users are necessary to avoid operational problems at the publicly owned treatment works.
- E. Substances for which control measures on nondomestic sources are necessary to avoid worker health and safety problems in publicly owned treatment works.

(41) "Pollution" means the man-induced alteration of the chemical, physical, biological and radiological integrity of water.

(42) "POTW" treatment plant" means that portion of the POTW designed to provide treatment of Municipal sewage and industrial waste.

(43) "Pretreatment" or "treatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before or instead of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes, or other means except for the use of dilution, unless expressly authorized by an applicable pretreatment standard or requirement.

(44) "Pretreatment program" means a nondomestic user waste control program which is required in a publicly owned treatment works wastewater discharge permit or order of the Department and which is developed in accordance with R 323.2306 of the Act.

(45) "Pretreatment requirement" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on a nondomestic user.

(46) "Pretreatment standard" means any regulation containing pollutant discharge limits promulgated in accordance with Section 307(b) and (c) of the Clean Water Act and the Act. This term includes prohibited discharges and local limits as defined in R 323.2303 of the Act and categorical standards.

(47) "Publicly Owned Treatment Works" (POTW) means a treatment works that is owned by a municipality and includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. This term also includes sewers, pipes, and other conveyances if they convey wastewater to a publicly owned treatment works. The term also means the municipality that has jurisdiction over the indirect discharges to, and the discharges from, a treatment works.

(48) "Sanitary sewage" means a combination of water-carried wastes from toilet, kitchen, laundry, bathing or other facilities used for household purposes; business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.

(49) "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 be reasonably expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(50) "Sewage treatment plant" means an arrangement of devices and structures used for treating sewage.

(51) "Sewage works" means all facilities for collecting, pumping, treating and disposing of sewage.

(52) "Sewer" means a pipe, tile, tube or conduit for carrying sewage. Specifically:

- A. "Combination sewer" or "combined sewer" means a sewer receiving both surface run-off and sewage.
- B. "Public sewer" means a sewer in which all owners of abutting property have equal rights and which is controlled by a public authority.
- C. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.
- D. "Storm sewer" or "storm drain" means a sewer which carries storm and surface waters and drainage, but which does not carry sewage and polluted industrial wastes.

(53) "Significant noncompliance" means any of the following:

- A. Chronic violations of wastewater discharge limits, defined herein as those in which sixty-six percent or more of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

B. Technical Review Criteria (TRC) violations, defined herein as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC. (The TRC equals 1.4 for conventional pollutants; for all other pollutants except pH, the TRC shall equal 1.2.)

C. Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the Superintendent determines has caused, alone or in combination with other discharges, interference, or pass-through (including endangering the health of treatment plant personnel or the general public);

D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the treatment plant's exercise of its emergency authority under R 323.2306(a)(vi) of the Act to halt or prevent such a discharge;

E. Failure to meet, within ninety days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide, within thirty days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; and

H. Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

(54) "Significant nondomestic user" means either of the following:

A. A nondomestic user subject to categorical pretreatment standards under 40 C.F.R. 403 (1992) and 40 C.F.R. Chapter I, subchapter N (1990).

B. A nondomestic user to which one of the following provisions applies:

1. The user discharges an average of 25,000 gallons per day or more of process wastewater to the publicly owned treatment works, excluding sanitary, noncontract cooling, and boiler blowdown wastewater.

2. The user contributes a process wastestream that makes up five percent or more of the average dry weather hydraulic or organic capacity of the publicly owned treatment works.

3. The user is designated as a significant nondomestic user by the control authority on the basis that the user has a reasonable potential for adversely affecting the publicly owned treatment works' operation or for violating any pretreatment standard or requirement.

C. Upon a finding that a nondomestic user meeting the criteria in paragraph (a)(54)B. hereof has no reasonable potential for adversely affecting the publicly owned treatment works' operation or for violating any pretreatment standard or requirement, the control authority may, at any time, on its own initiative or in response to a petition received from a nondomestic user or publicly owned treatment works, determine that a nondomestic user is not a significant nondomestic user.

(55) "Slug discharge" means any discharge of a nonroutine, episodic nature, including an accidental spill or noncustomary batch discharge.

(56) "Slug load" means any substance released in a discharge at a rate and/or concentration which causes interference to a POTW.

(57) "Standard Industrial Classification" (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(58) "Storm water" means any flow occurring during or following any form of natural precipitation and resulting therefrom.

(59) "Superintendent" means the person designated by the City to supervise the operation of the publicly owned treatment works, who is charged with certain duties and responsibilities by this chapter, or his or her duly authorized representative.

(60) "Suspended solids" means solids that either float on the surface of or are suspended in water, sewage or other liquids and which are removable by laboratory filtering.

(61) "SWRC" means the State Water Resources Commission or any of its affiliates, the State Public Health Department, the State Department of Natural Resources or the State Highway Department.

(62) "Toxic pollutant" means any pollutant or combination of pollutants which is or can potentially be harmful to public health or the environment, including those listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of Section 307(A) of the Act or other acts.

(63) "Trade secret" means the whole or any portion or phase of any manufacturing proprietary process or method which is not patented, which is secret, which is useful in compounding an article of trade having a commercial value, and the secrecy of which the owner has taken reasonable measure to prevent from becoming available to persons other than those

selected by the owner to have access for limited purposes. "Trade secret" shall not be construed, for purposes of these rules, to include any information regarding the quantum or character of waste products or their constituents discharged, or sought to be discharged, into the publicly owned treatment works.

(64) "Upset" means an exceptional incident in which there is an unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the nondomestic 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.

(65) "User" means any person who contributes or causes or permits the contribution of wastewater into the POTW.

(66) "Wastewater" means water resulting from industrial and commercial processes and municipal operations, including liquid or water-carried process waste, cooling and condensing waters, and sanitary sewage.

(67) "Watercourse" means a channel in which the flow of water occurs, either continuously or intermittently.

(68) "Waters of the State" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the State or any portion thereof.

(b) Abbreviations. The following abbreviations shall have the designated meanings:

- (1) BOD - Biochemical Oxygen Demand
- (2) CFR - Code of Federal Regulations
- (3) COD - Chemical Oxygen Demand
- (4) EPA - Environmental Protection Agency
- (5) L - Liter
- (6) Mg - Milligrams
- (7) Mg/l - Milligrams per liter
- (8) NPDES - National Pollutant Discharge Elimination System
- (9) POTW - Publicly Owned Treatment Works
- (10) RCRA - Resource Conservation and Recovery Act
- (11) SIC - Standard Industrial Classification
- (12) SWDA - Solid Waste Disposal Act
- (13) TSS - Total Suspended Solids
- (14) O&M - Operation and Maintenance
- (15) CWA - Clean Water Act

(Ord. 656. Passed 9-15-97.)

#### **1043.02 RESPONSIBILITIES OF USERS.**

Any industry or structure discharging process flow to a sanitary sewer, storm sewer or receiving stream shall file the material listed in this section with the Superintendent. In addition, the Superintendent may require each person who applies for or receives sewer service, or who, because of the nature of the enterprise, creates a potential environmental problem, to file such material.

(a) Baseline Monitoring Reports and Other Required Information.

(1) Submission of information. All nondomestic users proposing to connect to or contribute to the POTW shall submit to the City a baseline monitoring report that contains information on the user, processes and wastewaters before connecting to or contributing to the POTW. All existing nondomestic users connected to or contributing to the POTW shall submit this information within ninety days after the effective date of this chapter. All new sources and sources that become nondomestic users subsequent to the promulgation of an applicable categorical standard shall be required to submit to the Superintendent a report which contains the information described below. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested when actual data are not available. The information submitted must be sufficient for the City to determine the impact of the user's discharge on the POTW and the need for pretreatment. Categorical users shall report any changes to information in the baseline monitoring report to the POTW within sixty days. The user shall submit, in units and terms appropriate for evaluation, on a disclosure form prescribed by the City, the following information:

- A. The name, address and location (if different from the address) of the facility, and the name of the operator and



owners.

B. The SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.

C. A list of any environmental control permits held by or for the facility.

D. Wastewater constituents and characteristics, including, but not limited to, those mentioned in Section 1043.03, as determined by a reliable analytical laboratory.

Sampling and analysis shall be performed in accordance with the procedures and methods detailed in:

1. Standard Methods for the Examination of Water and Wastewater, American Public Health Association;

2. Manual of Methods for Chemical Analysis of Water and Wastes United States Environmental Protection Agency; and

3. Annual Book of Standards, Part 131, Water, Atmospheric Analysis, 1975, American Society for Testing and Materials (ASTM).

E. The time and duration of the contribution.

F. Average daily wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, to the POTW from each of the following:

1. Regulated process streams;

2. Other streams as necessary to allow use of the combined wastestream formula specified in rule 323.2311(6) of the Act. The control authority may allow for verifiable estimates of these flows where justified by costs or feasibility considerations.

G. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by their size, location and elevation, from industries identified as significant industries or subject to national categorical pretreatment standards or those required by the City.

H. Identification of the pretreatment standards applicable to each regulated process. In addition, the user shall submit the results of sampling and analysis, identifying the nature and concentration (or mass), where required by the standard or the Superintendent, of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations.

I. A description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged.

J. Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State or Federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and/or additional pretreatment is required by the nondomestic user to meet applicable pretreatment standards.

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

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

2. No increment referred to in the paragraph (a)(1)K.1. hereof shall exceed nine months.

3. Not later than fourteen days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent, including, as a minimum, a statement as to whether or not he or she complied with the increment of progress to be met on such date and, if not, the date on which he or she expects to comply with this increment of progress, the reason for the delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Superintendent.

4. Existing sources which become nondomestic users subsequent to the promulgation of an applicable categorical pretreatment standard shall be considered existing nondomestic users, except where such sources meet the definition of a new source as provided in Section 1043.01(a)(34). New sources shall install and have in operating condition, and shall start up, all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time, not to exceed ninety days, new sources must meet all applicable pretreatment standards.

L. Each product produced by type, amount, process and rate of production.

M. The type and amount of raw materials processed, including the average and the maximum per day.

N. The number and type of employees, the hours of operation of the plant and the proposed or actual hours of

operation of the pretreatment system.

O. Any other information deemed by the City to be necessary to evaluate the impact of the discharge on the POTW.

(2) Evaluation and acceptance of baseline monitoring reports; issuance of industrial use permits The baseline monitoring report shall be signed by a principal responsible corporate officer of the user and a qualified engineer. The City will evaluate the complete report and data furnished and may require additional information. Within ninety days after full evaluation and acceptance of the data furnished, the City shall notify the user of the acceptance thereof in the form of a nondomestic user permit or equivalent individual control mechanism, which permits contain the following conditions:

A. A statement of duration, which in no case shall be more than five years;

B. A statement of non-transferability without a minimum prior notification to the POTW and a copy of the permit to the new owner or operator;

C. Effluent limits based on applicable general pretreatment standards as provided in this chapter;

D. Self-monitoring, sampling, reporting, notification and record keeping requirements, including an identification of the pollutants to be monitored, the sampling location, the sampling frequency and the sample type, based on the applicable standards as contained in this chapter;

E. A statement of the applicable civil and criminal penalties for violations of this chapter and any compliance schedule provided for in this chapter, which schedules shall not extend the compliance date beyond applicable Federal deadlines.

(b) Discharge Modifications. Within ninety days of the promulgation or revision of a national categorical pretreatment standard, all affected users must submit to the City the information required by paragraphs (a)(1)J. and K. hereof.

(c) Discharge Conditions. Wastewater discharges shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the City. The City may:

(1) Set unit charges or a schedule of user charges and fees for the wastewater to be discharged to the POTW;

(2) Limit the average and maximum wastewater constituents and characteristics;

(3) Limit the average and maximum rate and time of discharge or make requirements for flow regulations and equalization;

(4) Require the installation and maintenance of inspection and sampling facilities;

(5) Establish specifications for monitoring programs, which may include sampling locations, frequency of sampling, number, types and standards for tests and a reporting schedule;

(6) Establish compliance schedules;

(7) Require submission of technical reports or discharge reports;

(8) Require the maintenance, retention and furnishing of plant records relating to wastewater discharged as specified by the City, have access thereto and make copies thereof;

(9) Require notification of the City for any new introduction of wastewater constituents into the wastewater treatment system;

(10) Require, at least once every two years, that each significant nondomestic user provide a plan to control slug discharges. The results of such activities shall be available to the Superintendent upon request. If the treatment plant decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

A. A description of discharge practices, including nonroutine batch discharges;

B. A description of stored chemicals;

C. Procedures for immediately notifying the treatment plant of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five days; and

D. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant-site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(11) Require other conditions as deemed appropriate by the City to ensure compliance with this chapter.

(d) Notification by Nondomestic Users of Hazardous Waste Disposal

(1) A nondomestic user shall notify the treatment plant, the EPA Regional Waste Management Division Director and State hazardous waste authorities, in writing, of any discharge into the treatment plant of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other). If the nondomestic user discharges more than 100 kilograms of such waste per calendar month to the treatment plant, the notification shall also contain the following information to the extent such information is known and

readily available to the nondomestic user: an identification of the hazardous constituents contained in the waste; an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve months. All notifications must take place within 180 days of the effective date of this section. Nondomestic users who commence discharging after the effective date of this section shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this section need be submitted only once for each hazardous waste discharged.

(2) Dischargers are exempt from the above requirements during a calendar month for discharges of no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 251.30(d) and 281.33(e). Discharges of more than fifteen kilograms of non-acute hazardous wastes in a calendar month, or any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), require a one-time notification.

(3) In the case of any new regulations under Section 3001 of the RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the nondomestic user must notify the treatment plant, the EPA Regional Waste Management Division Director and State hazardous waste authorities of the discharge of such substance within ninety days of the effective date of such regulations.

(4) In the case of any notification made under this chapter, the nondomestic 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.

(e) Records and Reports Generally. Nondomestic users shall maintain records and file reports of the final disposal of specific liquid and solid wastes, sludges, oils, radioactive materials, solvents and other wastes.

(f) Compliance Date Reports. Within ninety days following the date for final compliance with applicable pretreatment standards, or, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the Superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such pretreatment standards or requirements. New sources subject to categorical standards shall install and start up pretreatment technology prior to discharge and achieve compliance within the shortest time feasible, said compliance not to exceed ninety days after the commencement of a discharge, pursuant to 40 CFR 403.6(b). The report shall state whether or not the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the nondomestic user and certified to by a qualified representative, as defined in Section 1043.01(a)(4).

(g) Periodic Compliance Reports.

(1) All categorical and significant noncategorical nondomestic users or new sources discharging into the POTW shall submit to the Superintendent, during the months of June and December, unless required more frequently in a pretreatment standard or by the Superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards or this chapter. In addition, this report shall include a record of all daily flows which, during the reporting period, exceed the average daily flow reported in paragraph (c)(3) hereof. At the discretion of the Superintendent, and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendent may agree to alter the months during which the reports are to be submitted. Nondomestic users not subject to categorical pretreatment standards shall submit a report every six months, which report shall contain information necessary to protect the POTW, on a case by case basis.

(2) The Superintendent may also impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases in which the imposition of mass limitations is appropriate. In such cases, the report required by subsection (f) hereof shall also indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(h) Certification of Reports. The reports required by this section shall include a certification statement and shall be signed by an authorized representative.

(i) Potential for Discharge. Any industry which does not normally discharge to a sanitary sewer, storm sewer or receiving stream, but which has the potential to do so from accidental spills or similar circumstances, may be required by the Superintendent to file the listed reports in this section.

(j) Notice of Potential Problems: Slug Loads. All categorical and noncategorical nondomestic users shall notify the POTW immediately of all discharges that could cause problems to the POTW, as defined by 40 CFR 403.5(b).

(k) Notification of Changed Discharges. All nondomestic users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the nondomestic user has submitted initial notification under subsection (d) hereof, and further including any groundwater purged for remedial action programs and groundwater containing pollutants that infiltrate into the sewer and POTW.

(l) Confidential Information. Information and data on a user obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public or to any governmental agency without

restriction unless the user specifically requests confidentiality 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 of the user.

When requested by the person furnishing a report, the portion of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be available, upon written request, to governmental agencies for uses related to this chapter, the NPDES permit or the pretreatment programs, and shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the City as confidential shall not be transmitted to any governmental agency or to the general public by the City until and unless a ten-day notification is given to the user.

(Ord. 656. Passed 9-15-97.)

### **1043.03 DISCHARGE OF OTHER WASTES INTO SEWERS.**

(a) General Discharge Prohibitions. No nondomestic user or other user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW or that causes pass-through or interference. The control authority shall investigate instances of pass-through or interference and take appropriate enforcement action and inform the responsible nondomestic user of the impact. These general prohibitions and the specific prohibitions listed below apply to all such nondomestic users of the POTW, whether or not the nondomestic user is subject to national categorical pretreatment standards or any other national, State or local pretreatment standards or requirements. A nondomestic user may not contribute the following substances to any POTW:

(1) Any liquids, solids or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides and pollutants which create a fire or explosion hazard in the treatment plant, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or sixty degrees centigrade, using the test method specified in 40 CFR 261.21.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from the refining or processing of fuel or lubricating oil, mud or glass grinding, petroleum oil, non-biodegradable cutting oil, products of mineral oil origin in amounts that will cause interference or pass through or polishing wastes;

(3) Any wastewater having a pH of less than 5.0 (unless the POTW is specifically designed to accommodate the discharges and has been approved by the approval authority) or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the POTW;

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

(5) Any noxious or malodorous liquids, gases, solids or pollutants which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or result in the presence of toxic gases, vapors or fumes within the treatment plant and/or collection system in a quantity that may cause acute worker health and safety problems, or are sufficient to prevent entry into the sewers for maintenance and repair;

(6) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and re-use or to interfere with the reclamation process;

(7) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards;

(8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes, solvents, inks, paints, stains, vegetable tanning solutions and other coloring agents;

(9) Any wastewater having a temperature which will result in the wastewater treatment plant influent exceeding 104 degrees Fahrenheit or which will inhibit biological activity in the POTW, resulting in interference, or any wastewater with a temperature of 150 degrees Fahrenheit (sixty-six degrees centigrade) or greater;

(10) Any pollutants, including oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which will cause interference to the POTW;

(11) Any wastewater containing radioactive wastes or isotopes of such half- life or concentration as may exceed limits established by the City Manager in compliance with applicable State or Federal regulations. All users of radioactive materials shall register with the City Manager.

(12) Any wastewater which causes a hazard to human life or creates a public nuisance;

(13) Any unpolluted water, including, but not limited to, noncontact cooling water;

(14) Garbage that has not been properly shredded; and

(15) The contents of septic, vehicular or marine holding tanks or similar facilities. Trucked or hauled pollutants may be discharged into the POTW, provided that the treatment plant has facilities designated for such discharge, with the same being under the supervision and control of the Superintendent, as follows:

A. Septic tank waste may be accepted into the POTW at the option of the Superintendent at a designated receiving structure within the treatment plant area and at such times that are established by the Superintendent, provided that such waste does not violate the prohibited discharge standards of this chapter or any other requirements established or adopted by the City. Wastewater discharge permits for individual vehicles to use such facility shall be issued by the Superintendent.

B. The discharge of hauled industrial waste as "industrial septage" requires prior approval and a wastewater discharge permit from the City. The Superintendent shall have authority to prohibit the disposal of such waste if such disposal would interfere with the operation of the treatment plant. Waste haulers are subject to all other sections of this chapter.

(b) Affirmative Defense. A nondomestic user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in subsection (a) hereof and the specific prohibitions in subsections (c), (d), (e) and (f) hereof if the user can demonstrate both of the following:

(1) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass-through or interference.

(2) A local limit designated to prevent pass-through or interference was developed in accordance with subsection (d) hereof for each pollutant in the user's discharge that caused pass-through or interference, and the user was in compliance with each local limit directly before and during the pass-through or interference, or if a local limit designed to prevent pass-through or interference has not been developed in accordance with subsection (d) hereof for the pollutant that caused the pass-through or interference, the user's discharge directly before and during the pass-through or interference did not change substantially in nature or constituents from the user's prior discharge activity when the publicly owned treatment works was regularly in compliance with its National Pollutant Discharge Elimination System permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

Nondomestic users shall not have an affirmative defense for the discharge of pollutants that result in the presence of toxic gases, vapors or fumes within the POTW that may cause worker health or safety problems.

(c) National Categorical Pretreatment Standards. Upon the promulgation of national or State of Michigan categorical pretreatment standards for a particular industrial subcategory, the pretreatment standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter and shall be considered a part of this chapter. The Superintendent shall notify all affected users of the applicable reporting requirements.

(d) Specific Pollutant Limitations. No person shall discharge wastewater, a twenty-four hour composite sample (except for oil and grease, for which a grab sample shall be taken) of which exceeds the following:

(1) .310 mg/l arsenic (As).

(2) .120 mg/l cadmium (Cd).

(3) .120 mg/l copper (Cu).

(4) .093 mg/l available cyanide (Cn).

(5) 1.480 mg/l lead (Pb).

(6) Nondetectable limit for mercury (Hg). The detection level shall not exceed .2 ug/l unless higher levels are appropriate due to matrix interference. Compliance monitoring for mercury shall be in accordance with approved EPA methodology.

(7) 2.390 mg/l total nickel (Ni).

(8) .027 mg/l silver (Ag).

(9) 2.170 mg/l total chromium (Cr).

(10) .940 mg/l zinc (ZN).

(11) 28.0 mg/l total phenols.

(12) 68.0 mg/l tetrahydrofuran.

(13) 100 mg/l oil and grease.

(14) 15 mg/l chlorine demand at thirty minutes contact time.

(15) 60 mg/l ammonia-nitrogen (NH<sub>3</sub>-N, as N).

(16) 5.8 mg/l total phosphorous.

(17) 12.8 mg/l formaldehyde.

If the Superintendent determines that the maximum concentrations of any other substances, either individually or in combination with other substances (whether or not such substances are defined in this chapter), interfere with or cause damage to the sewage works or receiving waters, said concentrations of such substances or those substances listed in paragraphs (d)(1) to (16) hereof, shall be reduced by the Superintendent or his or her authorized representative.

If the Superintendent determines that the maximum concentrations of any other substances, either individually or in combination with other substances (whether or not such substances are defined in this chapter), can be increased without interference with or damage to the sewage works or receiving waters, and that such increase does not result in plant exceeding State or Federal limits, then the Superintendent may increase said concentrations of such substances, to those substances listed in paragraph (d)(1) to (16) hereof.

The Superintendent shall base his or her determination of either reducing or increasing the maximum concentrations on factors including, but not limited to, quantity of flow, equipment capabilities, testing reliability and other factors that may, from time to time, be available to the Superintendent.

In no event, however, shall the upper limits for BOD, suspended solids, total phosphorous and total ammonia-nitrogen exceed those limits set in Section 1443.06(b).

(e) 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 chapter.

(f) City's Right of Revision. The City reserves the right to establish more stringent limitations or requirements on discharges to the wastewater disposal system.

(g) Dilution. No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards or in other pollutant-specific limitations developed by the City or the State.

(h) Mercury Policy and Procedure.

(1) There shall be no detectable amounts of mercury discharged into the POTW. Mercury sampling procedures, preservation, handling, and analytical protocol for compliance monitoring shall be in accordance with EPA Method 245.1 or 245.2. The Level of Detection (LOD), developed in accordance with the procedure specified in 40 CFR 136 shall not be greater than 0.2 ug/L for mercury, unless higher levels are appropriate due to matrix interference.

(2) The evaluation of potential matrix interference(s) shall include, at a minimum, the following:

- A. A demonstration that the laboratory conducting the analysis is capable of achieving the LOD of 0.2 ug/L in reagent water;
- B. A demonstration that the LOD of 0.2 ug/L cannot be achieved in the effluent; and
- C. A demonstration that an attempt has been made to resolve the matrix interference(s).

(3) In cases where true matrix interference(s) can be demonstrated, a discharge-specific LOD will be developed in accordance with the procedure in 40 CFR 136. Discharge-specific LOD's will be incorporated into the wastewater discharge permit of the nondomestic user.

(i) Mercury Reduction Plans.

(1) To ensure that the maximum allowable mercury loading to the POTW is not exceeded, the Control Authority may require any nondomestic user with a reasonable potential to discharge mercury to develop, submit for approval and implement a Mercury Reduction Plan (MRP). The MRP may be required by permit if the Control Authority has determined that a reasonable potential for mercury discharge exists. MRP's may also be required in notices of violations, orders, agreements or other documents or if the user is designated as a mercury source. An approved MRP will place the user in compliance if the user is working on mercury reduction, however, the City reserves the right to prohibit any detectable mercury discharge. Approvable MRP's will contain the following elements or elements determined equivalent by the Control Authority:

- A. A commitment by the nondomestic user to reduce discharges of mercury, utilizing the best available technologies, with a goal of achieving compliance with the LOD limit for mercury;
- B. Within 60 days of notification by the Control Authority that a MRP is required, the nondomestic user shall supply an initial identification of all potential sources of mercury which could be discharged to the sanitary sewer system;
- C. Specific strategies for mercury reduction with reasonable time frames for implementation, capable of ensuring that mercury discharges will be reduced;
- D. A program for sampling and analysis of the discharge for mercury utilizing approved EPA 245.1 or 245.2 methods and/or a demonstration of specific, measurable and/or otherwise quantifiable mercury reductions consistent with the goal of reducing mercury discharges below the specified LOD. Where such reductions can not be demonstrated through normal effluent monitoring, the demonstration should incorporate the following:

1. Internal process monitoring, documenting the results of mercury reduction strategies at sampling locations within

the facility;

2. Internal and/or effluent sampling utilizing clean and/or ultra-clean sampling and analytical methods as referenced by USEPA Federal Register. Note that the results of such monitoring will not be used for compliance purposes unless performed in accordance with EPA Method 245.1 or 245.2 and collected at the appropriate compliance measurement location.

3. Loading calculations wherein the nondomestic user calculates the total mass of mercury reduced from the sanitary sewer discharge through reagent substitutions, changes in disposal practices and/or other approved MRP strategies implemented.

E. Submittal of a periodic status report summarizing quantifiable mercury reductions performed to date, an evaluation of the effectiveness of actions taken, and any new strategies or modifications to the MRP proposed to improve mercury reduction efforts.

F. Any other conditions that the Control Authority deems necessary to ensure that mercury reduction efforts are effective in achieving the goals of this section.

(2) Failure to submit an approvable MRP within 30 days of the required due date shall constitute significant noncompliance in accordance with this section.

(3) A MRP may be evaluated for adequacy at any time by the Control Authority. Failure to comply with the MRP requirement constitutes noncompliance. The Control Authority will follow its Enforcement Response Plan (ERP) to ensure that corrective actions are taken.

(4) A nondomestic user may request a release from MRP requirements if:

A. All samples of the discharge for a period of one year are less than the specified LOD;

B. The nondomestic user has complied with the minimum monitoring frequency; and

C. The Control Authority deems that MRP commitments have been fulfilled sufficiently to ensure continued compliance with the mercury limitation.

(5) Re-discovery of mercury in the nondomestic user discharge may trigger the submission of a new MRP, or enforcement in accordance with the ERP.

(j) MRPs for Dental Facilities.

(1) Dental facilities may implement the following MRP:

A. To accomplish the goals of the MRP, a dental facility may elect to install and maintain per the manufacturer's recommendations a mercury separator which is ISO 14000 certified, or a similarly approvable system capable of removing an equivalent amount of mercury.

B. The dental facility will submit semiannual reports on December 30 and June 30 of each year, documenting mercury removal accomplished over the preceding six months. The report will include analytical or other quantifiable demonstrations of mercury reduction achieved. It will also include all applicable analytical data.

C. The dental facility agrees to allow City personnel to inspect the dental facility to ensure that requirements of the MRP are being met. Samples may also be collected.

(2) If the Control Authority determines that the dental facility is not complying with any MRP requirement, the MRP may be revoked.

(k) Accidental Discharges. Where required, a user shall provide protection from the accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent the accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and shall be approved by the City before construction of the facility. All required users shall complete such a plan within 180 days of the effective date of this chapter. If required by the City, a user who commences contribution to the POTW after such effective date shall not be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the nondomestic user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, the user shall immediately telephone and notify the POTW of the incident. The notification shall include the location of the discharge, the type of waste, the concentration and volume of the discharge and corrective actions.

(1) Written notice. Within forty-eight hours following an accidental discharge, the user shall submit to the City Manager a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to persons or property, nor shall such notification relieve the user of any fine, civil penalty or other liability which may be imposed by this chapter or other applicable law.

(2) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place, advising employees of whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer from such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. 656. Passed 9-15-97; Ord. 829. Passed 11-9-09; Ord. 835. Passed 5-10-10; Ord. 840. Passed 10-25-10; Ord. 851. Passed 3-12-12; Ord. 856. Passed 7-9-12.)

#### **1043.04 PRETREATMENT.**

(a) Nondomestic users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all national categorical pretreatment standards within the time limitations specified by Federal pretreatment regulations and as required by the City. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review and shall be approved by the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under this chapter. Any subsequent change in the pretreatment facility or method of operation shall be reported to and be acceptable to the City prior to the user's initiation of the change.

The City shall annually publish, in a major local newspaper, a list of the users which were in significant noncompliance with any pretreatment requirements or standards at least once during the twelve previous months. The notification shall also summarize any enforcement actions taken against such users during the same twelve months.

All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or the Michigan Department of Environmental Quality, upon request.

(b) Where preliminary treatment facilities are provided for any water or waste, they shall be maintained in satisfactory and effective operation by the owner at his or her expense.

(Ord. 656. Passed 9-15-97.)

#### **1043.05 CONTROL MANHOLES; EVALUATIONS OF WATER AND WASTE.**

(a) The City shall require to be provided and operated, at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained, at all times, in a safe and proper operating condition at the expense of the user. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with plans and specifications submitted to and approved by the City and all applicable local construction standards and specifications. Construction shall be completed within ninety days following written notification by the City.

(b) The City shall inspect the facilities of any user to ascertain whether or not the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and records copying or in the performance of any of the duties of the City or its representative. The City, the Michigan Department of Environmental Quality and the EPA may set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into his or her premises, the user shall make necessary arrangements with his or her security guards so that, upon presentation of suitable identification, personnel from the City, the Michigan Department of Environmental Quality and the EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(c) All measurements, tests and analyses of the characteristics of water and waste, to which reference is made in Sections 1043.03 and 1043.04, shall be laboratory determinations in accordance with 40 CFR Part 136, as amended October 8, 1991, or EPA approved test techniques, which techniques are outlined in Standard Methods for the Examination of Water and Wastewater, 17th Edition, a joint publication of the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation, and shall be determined at the control manhole provided for in subsection (a) hereof.

(Ord. 656. Passed 9-15-97.)

#### **1043.06 EXCEPTIONS FOR INDUSTRIAL USES; SURCHARGES; ADDED CHARGES.**

(a) Nothing contained in this chapter shall be deemed to prohibit a special agreement or arrangement between the City and an industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor by the industrial concern.

(b) Where the strength of sewage from an industrial, commercial or institutional establishment exceeds 250 parts per million, by weight, of BOD, or 250 parts per million, by weight, of suspended solids, or has a chlorine demand greater than 5 parts per million, by weight, an ammonia-nitrogen content greater than 40 parts per million, by weight, or a total phosphorous content greater than 4.5 parts per million, by weight, and where such wastes are permitted to be discharged to the sewer system by the Superintendent, an added charge, as provided for in subsection (c) hereof, shall be made against such establishment according to the strength of such wastes, which wastes shall in no event exceed 862 parts per million, by weight, of BOD, or 1,000 parts per million, by weight, of suspended solids, or have a chlorine demand greater than 15



parts per million, by weight, an ammonia-nitrogen content greater than 60 parts per million, by weight, a pH content less than 5.0 S.U. or greater than 11.0 S.U., or a phosphorous content greater than 5.8 parts per million, by weight. No industrial, commercial or institutional waste which exceeds the limits set forth in the preceding sentence shall be discharged. The strength of such wastes shall be determined by composite samples taken over a sufficient period of time to ensure a representative sample. The cost of sampling and testing shall be borne by the establishment, whether owner or lessee.

(c) In the event that the upper limits for BOD, suspended solids, ammonia-nitrogen or phosphorous, as specified in subsection (b) hereof, are exceeded, the City shall require that such sewage be treated by the establishment responsible therefor before being emptied into the sewer, or the right to empty such sewage shall be denied, if necessary to protect the system or any part thereof. Further, an additional charge in the form of a surcharge shall be made over and above the regular rates for those loading in excess of the specific pollutant limits set forth in subsection (b) hereof. The surcharge shall be calculated annually, based upon a percentage of the annual costs of operation and maintenance, including administration, attributable to treating a substance in excess of that of domestic sewage, which costs shall be divided by the influent pounds per day of the BOD, suspended solids, ammonia-nitrogen and phosphorous. The surcharge shall be set on an annual basis by Council resolution.

(Ord. 656. Passed 9-15-97; Ord. 829. Passed 11-9-09; Ord. 835. Passed 5-10-10.)

#### **1043.07 FEES, CHARGES AND REIMBURSEMENT OF CITY EXPENSES.**

(a) The Howell City Council shall set, by resolution, all nondomestic user permit fees, SIU permit fees, CIU permit fees, SIU inspection fees, and sampling fees, the same which shall relate back to this Section of the Howell City Code and shall be on file with the City Clerk and the Superintendent of the Wastewater Treatment Plant at all times and places for inspection.

(b) A sewer user shall reimburse the City for any other expenses not set forth herein incurred by the City as a result of making investigations and negotiations regarding the following:

- (1) A new industrial or commercial user;
- (2) A change in the disposal material or technique by an existing user; or
- (3) A violation of any of the provisions of this chapter.

(c) Should any such expense, reasonably incurred, not be paid to the City within sixty days, such amount may be made a part of a special assessment roll which shall be prepared and confirmed in accordance with any of the special assessment ordinances available to the City, including those for the abatement and correction of nuisances, as defined in Section 652.01 of the General Offenses Code.

(Ord. 656. Passed 9-15-97; Ord. 750. Passed 1-12-04.)

#### **1043.08 ADJUSTMENT OF CATEGORICAL PRETREATMENT STANDARDS FOR POLLUTED INTAKE WATER.**

Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the nondomestic user's intake water in accordance with the following:

(a) Application. Any nondomestic user wishing to obtain credit for intake pollutants must make application to the Superintendent. Upon request of the nondomestic user, the applicable standard will be calculated on a "net" basis (i.e. adjusted to reflect credit for pollutants in the intake water) if the requirements of subsections (b) and (c) hereof are met.

(b) Criteria.

(1) The nondomestic user must demonstrate that the processes it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.

(2) Credit for generic pollutants, such as BOD, total suspended solids and oil and grease, shall not be granted unless the nondomestic user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water, or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

(3) Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standards, up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standards adjusted under this section.

(4) Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The Superintendent may waive this requirement if he or she finds that no environmental degradation will result.

(c) Application of Standards on a Net Basis. The applicable categorical pretreatment standards contained in 40 CFR, Chapter I, subchapter N, specifically provide that they shall be applied on a net basis.

(Ord. 656. Passed 9-15-97.)

#### **1043.09 SAMPLING AND ANALYSIS OF WATER AND WASTE.**

Upon the request of the Superintendent, the sewer user shall conduct such sampling and analysis programs as are necessary to ensure compliance with this chapter. A record of the results of such analysis or the actual samples taken, along with a statement of how and when such samples were taken, shall be submitted to the City upon request in accordance with a schedule established by the Superintendent. If sampling performed by a sewer user indicates a violation of this chapter, the user shall notify the Superintendent within twenty-four hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within thirty days after becoming aware of the violation.

The City shall randomly sample and analyze the effluent from nondomestic users and conduct surveillance activities in order to identify, independent of information supplied by nondomestic users, compliance with pretreatment standards. Significant nondomestic users shall be inspected and have their effluent sampled at least once per year.

(Ord. 656. Passed 9-15-97.)

#### **1043.10 AUTHORITY OF POTW; ENFORCEMENT.**

The treatment plant shall operate pursuant to legal authority enforceable in Federal, State or local courts, which authorizes or enables the treatment plant to apply and enforce the requirements of Sections 307(b) and (c) and 402(b)(8) of the Act and any regulations implementing those sections. At a minimum, this legal authority shall enable the treatment plant to:

(a) Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the treatment plant by nondomestic users where such contributions do not meet applicable pretreatment standards and requirements, or where such contributions would cause the treatment plant to violate its NPDES permit;

(b) Require compliance with applicable pretreatment standards and requirements by nondomestic users;

(c) Control, through permit, order, or similar means, the contribution to the treatment plant by each nondomestic user to ensure compliance with applicable pretreatment standards and requirements;

(d) Require the development of compliance schedules by each nondomestic user and the submission of all notices and self-monitoring reports from nondomestic users;

(e) Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by nondomestic users, compliance or noncompliance with applicable pretreatment standards and requirements by nondomestic users;

(f) Obtain remedies for noncompliance by any nondomestic user with any pretreatment standard and requirement..

(Ord. 656. Passed 9-15-97.)

#### **1043.11 DAMAGE TO SYSTEM.**

(a) No person shall purposely, knowingly, recklessly or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the POTW or treatment plant.

(b) The City may suspend wastewater treatment services when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, which causes interference to the POTW or which causes the City to violate any condition of its NPDES permit.

(c) The City may terminate wastewater treatment services to any user who:

(1) Fails to factually report the wastewater constituents and characteristics of his or her discharge;

(2) Fails to report significant changes in wastewater constituents or characteristics;

(3) Refuses reasonable access to such user's premises by representatives of the City for the purpose of inspection or monitoring; or

(4) Violates the provisions of this chapter or any final judicial order entered with respect thereto.

(d) Any person notified of a suspension of wastewater treatment services shall immediately stop or eliminate the contribution. If the person fails to comply voluntarily with the suspension order, the City shall take such steps as are deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individual. The City shall reinstate the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within fifteen days of the date of occurrence.

(e) Any person who violates any subsections to this section which causes damage in either the POTW system, causes interference with same, causes the City to violate any condition of its NPDES permit, or any other type of action which endangers the POTW system or the wastewater treatment plant in way, shape or form shall be liable to the City in damages for all actual costs incurred by the City for the prevention of or damage to the POTW system. The City shall place a lien upon the real property of the person which was used in violating this Chapter upon failure to pay damages to the City. The

placing of this lien will be done in a manner as prescribed by the Howell City Charter or the Codified Ordinances of the City of Howell.

(Ord. 656. Passed 9-15-97; Ord. 750. Passed 1-12-04.)

#### **1043.12 BYPASSES.**

(a) Bypasses are hereby prohibited, except under the following conditions:

(1) A nondomestic user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is also for essential maintenance to assure efficient operation;

(2) If a nondomestic user knows in advance of the need for a bypass, he or she shall submit prior notice to the POTW at least ten days prior to the date of the bypass, if possible. The Superintendent may approve an anticipated bypass after considering its adverse effects if he or she determines that the provisions of subsection (c) hereof will apply.

(b) A nondomestic user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within twenty-four hours from the time it becomes aware of the bypass. A written explanation with details of the bypass shall be submitted within forty-eight hours of the bypass, and will include a description of the bypass; its cause; the duration of the bypass, including exact dates and times; if the bypass has not been corrected, the anticipated time it is expected to continue; and all steps taken or planned to reduce, eliminate and prevent recurrence of the bypass.

(c) A bypass is prohibited, and the Superintendent may take enforcement action against a nondomestic user for a bypass unless all of the following provisions apply:

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

(2) There was no feasible alternative to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment down time. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment down time or preventative maintenance;

(3) The nondomestic user submitted notices as required under paragraph (a)(2) hereof.

(Ord. 656. Passed 9-15-97.)

#### **1043.13 RIGHT OF ENTRY.**

Council, other duly authorized employees of the City and agents of the State Water Resources Commission, bearing proper credentials and identification, shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with this chapter, at any time during reasonable or usual business hours. No person shall refuse or obstruct such entry.

(Ord. 656. Passed 9-15-97.)

#### **1043.14 VIOLATIONS; NOTICE TO CORRECT.**

(a) Whoever violates, fails to comply with, or is in significant noncompliance with, any of the provisions of this chapter, shall be served, by the City Manager or his or her authorized representative, with a written notice stating the nature of such violation or noncompliance and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any user subject to enforcement action under this chapter may request a hearing before the City Manager within ten days of receipt of notification of proposed enforcement action. A hearing shall be held by the City Manager concerning the violation, the reasons the action is to be taken and the proposed enforcement action, and the user shall be directed to show cause before the City Manager as to why the proposed enforcement action should not be taken.

(c) The City Manager may conduct a hearing and take evidence or may designate an officer or employee to:

(1) Issue, in the name of the City Manager, notices of hearings, requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(2) Take evidence; and

(3) Transmit a report of the evidence and hearings, including transcripts and other evidence, together with recommendations, to the City Manager for action thereon.

(d) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded pursuant to statute. The transcript, so recorded, will be made available to any member of the public or to any party to the hearing upon payment of the usual charges therefor.

(e) After the City Manager has reviewed the evidence, he or she may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed on existing treatment facilities, and unless such devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(f) The City Manager shall also establish appropriate surcharges or fees to reimburse the City for the additional cost of operation and maintenance of the POTW works due to violations of this chapter.

(g) Any action by the City Manager may be appealed to Council.

(h) If any person discharges sewage, industrial waste or other waste into the City's wastewater disposal system contrary to any of the provision of this chapter, Federal or State pretreatment requirements or any order of the City, the City Attorney may commence an action for injunctive relief for noncompliance by nondomestic users with pretreatment standards and requirements. Such action shall be in addition to the penalty provided in Section 1043.99.

(Ord. 656. Passed 9-15-97.)

#### **1043.15 RETENTION OF RECORDS.**

All of the following apply to recordkeeping requirements:

(a) A nondomestic user shall maintain records of all information resulting from any monitoring activities required herein. The records shall include all of the following information for all samples:

- (1) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples.
- (2) The dates analyses were performed.
- (3) Who performed the analyses.
- (4) The analytical techniques and methods used.
- (5) The results of the analyses.

(b) A nondomestic user shall be required to retain, for a minimum of three years, any records of monitoring activities and results, whether or not the monitoring activities are required herein, and shall make the records available for inspection and copying by the approval authority and the E.P.A. regional administrator. In the case of a nondomestic user, the period of retention shall be extended during the course of any pending litigation regarding the nondomestic user or when requested by the approval authority or the E.P.A. regional administrator.

(Ord. 656. Passed 9-15-97.)

#### **1043.16 UPSET AS AFFIRMATIVE DEFENSE.**

(a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the provisions of subsection (b) hereof are met.

(b) A nondomestic user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that all of the following provisions apply:

- (1) An upset occurred and the nondomestic user can identify the cause or causes 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 nondomestic user has submitted the following information to the publicly owned treatment works within twenty-four hours of becoming aware of the upset:
  - A. A description of the indirect discharge and the 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 or planned to reduce, eliminate, and prevent a recurrence of the noncompliance.

If this information is provided orally, a written submission shall be provided within five days of the user becoming aware of the upset.

(c) In any enforcement proceeding, the nondomestic user seeking to establish the occurrence of an upset shall have the burden of proof.

(d) In the usual exercise of prosecutorial discretion, agency enforcement personnel should review any claims that noncompliance was caused by an upset. A determination made in the course of the review does not constitute final agency action subject to judicial review. Nondomestic users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(e) The nondomestic user shall control production of all discharges to the extent necessary to maintain compliance with categorical 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 a situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(Ord. 656. Passed 9-15-97.)

## **1043.17 RULES OF THE MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY.**

Any and all rules set forth by the Michigan Department of Environmental Quality under the terms and conditions of the Act, as defined in this chapter, shall be referred to and followed in all cases in which this chapter does not address a particular issue. If any Michigan Department of Environmental Quality rules come into conflict with this chapter, and the rules allow for less stringent requirements, this chapter shall prevail. Any and all amendments to the rules that may be made by the Michigan Department of Environmental Quality after the passage of this chapter shall be looked upon as having amended the rules and regulations only, and this chapter, only, in light of new rules and regulations promulgated by the Michigan Department of Environmental Quality.

(Ord. 656. Passed 9-15-97.)

## **1043.99 PENALTY; LIABILITY FOR COSTS OF DAMAGES; ABATEMENT OF VIOLATIONS AS PUBLIC NUISANCES.**

(a) Notwithstanding the penalties prescribed in these Codified Ordinances for civil or criminal violations, the City shall have the authority to seek or assess civil or criminal penalties in an amount of at least five hundred dollars (\$500.00) a day for each violation by nondomestic users of pretreatment standards and requirements, unless limited to a lesser amount by Federal or State law.

(b) In addition to the penalty provided in subsection (a) hereof, whoever violates or fails to comply with any of the provisions of this chapter shall be liable to the City for any expense, loss or damage occasioned to the City by reason of such violation or noncompliance, and recovery therefor may be had in an appropriate action in any court of competent jurisdiction.

(c) Any continued violation or noncompliance, after due notice as provided in Section 1043.14, shall be deemed a public nuisance and may be abated by a suit in equity by the City in any court of competent jurisdiction. This remedy shall be in addition to those heretofore provided for.

(d) Any continued violation or noncompliance, after due notice as provided in Section 1043.14 shall be deemed a public nuisance and may be abated by a suit in equity by the City in any court of competent jurisdiction. This remedy shall be in addition to those heretofore provided for.

(Ord. 656. Passed 9-15-97; Ord. 750. Passed 1-12-04.)

## **CHAPTER 1044**

### **Water and Sewerage Rates and Management**

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- 1044.01 Short title.
- 1044.02 Definitions.
- 1044.03 Administration and enforcement.
- 1044.04 General provisions.
- 1044.05 Permits and connections; pipe specifications; repairs.
- 1044.06 Water meters.
- 1044.07 Water rates and tap-in charges.
- 1044.08 Sewer rates and tap-in charges.
- 1044.09 Liens, deposits and connections.
- 1044.10 Prohibited acts.
- 1044.11 Fiscal year; revision of rates; use of moneys.
- 1044.99 Penalty.

#### **CROSS REFERENCES**

General finance; budget procedure - see CHTR. Ch. 11

Municipal utility rates and charges - see CHTR. Secs. 16.2, 16.3

Water - see S.U. & P.S. Ch. 1040

Sewers - see S.U. & P.S. Ch. 1042

Industrial wastewater pretreatment regulations - see S.U. & P.S. Ch. 1043

Costs for extensions to new developments - see S.U. & P.S. 1050.01

#### **1044.01. SHORT TITLE.**

This chapter shall be known and may be cited as the "City of Howell Water and Sewerage Rates and Management Chapter."

(Ord. 623. Passed 10-30-95.)

#### **1044.02. DEFINITIONS.**

As used in this chapter, unless otherwise specifically stated:

(1) Capital Connection Charge. "Capital Connection Charge " means the fee paid to the City of Howell for a new private connection to the public water or wastewater system within the City.

(2) Charge.

A. "Debt service charge" means a charge levied on customers of the water or sewer system which are used to pay the principal, interest and the administrative costs of retiring any debt incurred for construction of the water or sewer system. The debt service charge shall be in addition to the usage charge defined in paragraph (2)C. hereof.

B. "Sewer service charge" means the sum applicable to the user charge, surcharges, industrial cost recovery and debt service charges.

C. "Usage charge" means a charge levied on users of a treatment works for the cost of operation and maintenance of sewerage works, pursuant to Section 204(b) of the Clean Water Act (Public Law 92-500, as amended) and includes the cost of replacement.

(3) Curb Box. "Curb box" means the City-installed water shut-off in a service line nearest the tap into a City water line.

(4) Customer. "Customer" means a person making use of the facilities provided for in this chapter.

(5) Department. "Department" means the Department of Public Works.

(6) Director. "Director" means the Director of the Department of Public Works.

(7) Facilities. "Facilities" means the water and sanitary sewer lines of the City and all appurtenances thereof or incidental thereto.

(8) Footing Drain. "Footing drain" means a pipe or conduit which is placed around the perimeter of a building foundation and which intentionally admits ground water.

(9) Infiltration. "Infiltration" means that portion of ground water which is unintentionally admitted to a sewer.

(10) Laboratory Determination. "Laboratory determination" means the measurements, tests and analyses of the characteristics of waters and wastes in accordance with the methods contained in the latest edition, at the time of such measurement, test or analysis, of Standard Methods for Examination of Water and Waste Water (a joint publication of the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation) or in accordance with any other method prescribed by rules and regulations promulgated pursuant to this chapter.

(11) Meter Equivalent Unit. "Meter Equivalent Unit " means the number of units that mirror the hydraulic ratio of a given meter size compared to a baseline 1" meter.

(12) NPDES Permit. "NPDES permit" means a permit issued pursuant to the National Pollutant Discharge Elimination System prescribed in the Clean Water Act (Public Law 92-500, as amended).

(13) Operation and Maintenance. "Operation and maintenance" means all work, materials, equipment, utilities and other efforts required to operate and maintain the wastewater transportation and treatment system consistent with ensuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other applicable State and Federal regulations, and includes the cost of replacement.

(14) Person. "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or other legal entity, or his, her or its legal representatives, agents or assigns.

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

(16) Replacement. "Replacement" means the replacement in whole or in part of any equipment in the wastewater transportation or treatment systems to ensure continuous treatment of wastewater in accordance with the NPDES permit and other applicable State and Federal regulations.

(17) Sanitary Sewer or Sanitary Sewer Line. "Sanitary sewer" or "sanitary sewer line" means a sewer provided by the City for the purpose of receiving any flowing sewage.

(18) Sewage. "Sewage" means any waste in liquid form and includes solids which have been mixed with liquids so as to result in a free-flowing consistency, but does not include surface drainage.

(19) Storm Sewer. "Storm sewer" means a sewer provided by the City for the purpose of receiving surface water and/or storm water which does not require treatment under rules and guidelines by the EPA.

(20) Sprinkling. "Sprinkling" means the watering, sprinkling, soaking or running of water from the City water system upon lawns, gardens, turfs, shrubs or other property in the City.

(21) User. "User" means any person who contributes or causes or permits the contribution of wastewater into the wastewater treatment plant or POTW treatment plant, as that term is defined in Chapter 1043 .

(Ord. 623. Passed 10-30-95; Ord. 916. Passed 8-13-18.)

#### **1044.03 ADMINISTRATION AND ENFORCEMENT.**

(a) Control. The Department of Public Works shall have complete control over all water and sanitary sewer mains and service of the City and is hereby charged with the installation, operation, use, maintenance and protection of such facilities.

(b) Director's Duties. The Director of the Department of Public Works is hereby charged with the complete operation of the Department and the enforcement of this chapter.

(Ord. 623. Passed 10-30-95.)

#### **1044.04. GENERAL PROVISIONS.**

(a) Scope of Chapter. No water or sewer facilities of the City shall be sold, leased or used in any manner, except as provided in this chapter.

(b) Sewer Connection Required. Every person owning or using property in the City, upon which sewage is created, is hereby required to provide an adequate connection with a sanitary sewer line of the City, whenever one is available, as required by Chapter 1042.

(c) Inspection. The Director of the Department of Public Works may enter any premises and inspect any installation connecting to the water or sewer facilities of the City and may examine any of the matter being dumped into such an installation.

(d) Harmful Matter. If, in the opinion of the Director, any harmful matter is found being dumped into the City sewer lines, causing excessive depreciation or damage beyond that generally anticipated, he or she shall report his or her findings to the City Manager, who may order the use of such sewer line discontinued or may direct that an additional charge be made for the use thereof, commensurate with the additional burden caused thereby, which action may be reviewed by Council, whose decision shall be final.

(e) Contract. This chapter constitutes a contract between the City and any person making use of the City water and sewer facilities, and the City reserves the right to amend this chapter at any time it deems necessary or when so required by the law. Any such amendment shall automatically amend or create a new contract between the City and a customer, and all amending terms shall become binding upon their effective dates.

(f) Breach of Contract. The violation of, or the failure to comply with, any of the provisions of this chapter shall constitute a breach of contract on the part of the customer, and the customer's use of the facilities provided for in this chapter shall be terminated by the Department of Public Works.

(g) Separate Ownership. In cases where a number of persons or premises are supplied through one meter and one service, and one or more of the buildings or premises are sold or transferred or otherwise pass under separate ownership, the owners of the building or premises shall disconnect such buildings or premises and provide direct, individual installations for each separate owner.

(h) Temporary Service. Temporary use of water and sewer facilities may be provided on approval of the Director under such terms as may be directed by the Director, which terms shall, in all instances, be sufficient to compensate the City for all expense incurred and water used.

(i) Liability. The City, in supplying the facilities provided for in this chapter, shall use reasonable care but shall not be liable for any damage caused by shut-off, breakage, stoppage, variation in pressure, explosion or failure of any kind whatsoever in the operation of water and sewer facilities.

(j) Change of Ownership or Occupancy. Whenever a customer ceases to use the facilities provided for in this chapter through a sale of property, a change of tenancy or otherwise, such customer shall notify the City in writing of his or her termination of the use of such facilities. Failure of a customer to give such notice to the City shall continue the contract between the City and the customer, at the option of the City, and the customer may be held liable for all of the services provided or furnished the premises until such notice is properly given.

(k) Use of Facilities Terminated. Whenever the Department receives notice of the termination of the use of the facilities provided for in this chapter, it shall, forthwith, proceed to disconnect or shut off such facilities as may have been provided and make a final reading of any meter located upon the premises affected. However, if a new customer has obtained a permit for continuing the use of such facilities, the Department shall only make a final reading of a meter located upon the premises, and the use of such facilities shall be continued under the new permit.

(l) Shut-Off for Violation. If a person violates or fails to comply with any of the provisions of this chapter, the Department

shall, forthwith, terminate the use of the facilities provided to such person by disconnecting or shutting off the same, in which event the use of such facilities shall not again be permitted until all liability to the City is fully satisfied and assurance is provided, as may be required by the City Clerk, that no further violations will occur.

(m) Waste of Water. Every customer shall at all times exercise due diligence to prevent the waste of water, and to this end the customer shall be charged with the immediate stopping of all leaks and the proper operation of all shut-off cocks included in his or her installations. At no time shall he or she allow a shut-off cock to remain open and unattended without good use being made thereof.

(n) Fire Hydrants. The Department shall compile and maintain a complete record of all fire hydrants and shall install such additional hydrants, or remove or change the location of such existing hydrants, as the Manager may direct. The Department shall at all times be charged with the replacement, repair and operation of such hydrants.

(o) Emergency Restrictions. If an emergency is created due to a shortage of water, the City reserves the right to restrict the use of water from its mains to whatever degree is deemed necessary in the opinion of the Manager, in which event the Manager shall give notice of such restriction by publication, loudspeaker, handbill or mail distribution.

(Ord. 623. Passed 10-30-95.)

#### **1044.05. PERMITS AND CONNECTIONS; PIPE SPECIFICATIONS; REPAIRS.**

(a) Permit Required. No person shall make or change an installation which may affect the City water or sewer facilities, or tap into or use any such facility, without first obtaining a permit therefor from the Building Inspector.

(b) Permit Application. Such a permit may be obtained by making written application to the office of the Building Inspector on forms provided by the City.

(c) Connecting Water Lines. Whenever a permit is issued under this section for tapping into City water lines, the person obtaining the permit, or his or her other successors or assigns, shall provide and maintain such connecting lines as the City may require, from the curb box shut-off, which shall be located near the customer's property line, to the place of use upon his or her premises. Only type "K" copper pipe of a minimum size of one inch shall be used between the City water line and the curb box installed at a minimum depth of four feet, six inches below the surface of the ground.

(d) Connecting Sewer Lines. Whenever a permit is issued under this section for tapping into City sewer lines, it shall be the duty and obligation of the person obtaining such permit, or his or her successors or assigns, to provide and maintain such connecting lines, as the City may require, from the City sewer line to the place of use upon his or her premises. Unless otherwise specifically approved by the City Manager, connecting sewer lines shall meet City's existing engineering specifications, a copy of which is available in the City Manager's office.

Sanitary sewer pipe joints shall meet the sewer pipe manufacturer's specifications, as approved by the Department of Public Works.

The size of the connecting line shall be not less than six inches in diameter.

(e) Storm Sewers. Whenever any permit is issued to build or repair a storm sewer, it shall be the duty and obligation of the person obtaining such permit, or his or her successors or assigns, to provide and maintain such connecting lines, as the City may require, from the City storm sewer line to the place of use upon his or her premises. Unless otherwise specifically approved by the City Manager, storm sewer lines shall meet the City's existing engineering specifications, a copy of which is available in the City Manager's office.

All pipe must be at a minimum depth of two feet to the top of the pipe.

(f) Damage and Repairs. Whenever any damage occurs to any sanitary sewer line or storm sewer line between the sewer main and the place of use on the owner's premises, the landowner shall be financially responsible for repairing such damage. The City may contract to repair such damage if, in the opinion of the Manager, the resources are available to do so. The City Manager shall have the power to order the repairs done by the City if the failure of the owner to make the repairs is continuing, and the City may enter upon the owner's premises to do so, and unpaid charges therefor may be added to the owner's tax bill in accordance with the City's usual procedure, if the damage is, in the City Managers opinion, dangerous to public health or safety. Charges for work done by the City pursuant to this subsection shall be in such amounts as are from time to time established by Council. If any owner elects to use plastic pipe, in accordance with this section, any damage caused by freezing shall be the sole financial responsibility of such owner. Further, if any such plastic pipe freezes and the City is involved with thawing such pipe and damage to such pipe occurs because of the thawing procedure, the owner shall hold the City harmless and indemnify it for any consequential damages.

(Ord. 623. Passed 10-30-95; Ord. 916. Passed 8-13-18.)

#### **1044.06 WATER METERS.**

(a) Meters Provided. All water meters and related meter reading equipment shall be provided by the City. One meter shall be provided for each tap to the City water line, on payment of charges as provided in this chapter, but all such meters shall remain the property of the Department of Public Works and shall at all times be under its control. A meter charge will be levied on a first time installation to cover the actual cost of the meter and related meter reading equipment. There is no charge for installation.



(b) Maintenance. The expense of maintaining meters shall be borne by the Department except in cases where replacements, resealing, repairs and adjustments of a meter are made necessary by the act, negligence or carelessness of the customer. The expense to the Department caused thereby shall be charged and collected from the customer in the same manner as other charges provided for in this chapter.

(c) Location. A meter shall be set in an accessible location approved by, and in a manner satisfactory to, the Director of the Department of Public Works. All new construction shall have a telephone jack located near the water meter in an accessible location approved by the Director.

(d) Outside Meters. If the premises contain no basement or cellar, or other approved location satisfactory to the Director, the meter must be installed outside the premises in a meter pit, the location of which shall be approved by the Director.

(e) Cost of Meter Pits. If it is necessary to set the meter in a pit, such pit shall be built at the expense of the customer, as directed by, and to the entire satisfaction of, the Director.

(f) Meters Sealed. All meters shall be sealed by the Department, and no person except an authorized employee of the Department may break such a seal. In the event a seal is broken in any other manner than by an authorized representative of the Department, the cost of resealing shall be charged to the customer.

(g) Responsibility for Meter. The customer on whose premises a meter is installed shall be held responsible for its care and protection from freezing or from injury or interference by any person.

(h) Injury or Imperfection. In case of injury to a meter, its stoppage, imperfect operation or the breaking of a seal, the customer shall give immediate notice thereof to the Department.

(i) Change in Location. Once a meter has been installed, its location shall not be changed except by a permit from the Department, the cost thereof to be borne by the customer.

(j) Reading. A meter required under this chapter shall be read by the Department at intervals designated by the City Manager, and bills to customers shall be rendered in accordance with such reading and with charges as provided in this chapter by the City Clerk.

(k) Testing. A meter shall be carefully tested before it is installed, and after its installation it shall be tested as frequently as the Department deems advisable. The Department reserves the right to remove and test a meter at any time and to substitute meters, either temporarily or permanently, if deemed advisable by the Department.

Should the customer, at any time, question the accuracy of a meter serving his or her premises, the Department shall, upon the written request of the customer, accompanied by a deposit of twenty dollars (\$20.00) for each meter in question, remove and test such meter. If the test shows that the meter has been over-registering more than two percent, such deposit shall be returned to the customer and an accurate meter shall be installed. Otherwise, the deposit shall be retained by the City to cover the cost of testing.

(l) Bill Adjustments. If, upon the testing of a meter, it is found that such meter is over- registering or under-registering by more than two percent, an adjustment in billing shall be made in accordance with the provisions of this chapter relating to billing in the event of meter failures.

(Ord. 623. Passed 10-30-95.)

#### **1044.07 WATER RATES AND TAP-IN CHARGES.**

(a) Scope. The provisions of this section apply to all water rates and charges made by the City for water services provided hereunder.

(b) Meter Failures. If any meter becomes faulty or fails to register, the customer will be charged at the average consumption rate as shown by the meter reading for the last four billings to such customer when the meter was accurately registering, provided the customer has been using water for such period; otherwise, a full-year's experience of usage on that meter is used to compute the billing.

(c) Inaccessible Meters. In cases where the meter reader is unable to gain access to read a meter, a billing shall be made on the basis of consumption or the average of the last four billings to such customer and adjusted upon the billing made for the next time a reading is obtained. If more than two consecutive billings lapse without a reading, the City Clerk shall notify the customer by first class mail as to the date and time when a representative will be present to read the meter. Failure to make permanent arrangements, satisfactory to the Department, to read such meter within sixty days of said notification, shall result in the service being discontinued in the same manner as provided for nonpayment of bills, and the aforesaid notice to the customer shall recite such fact.

(d) Construction Water. Water used during construction shall be properly metered with approved backflow preventer and billed to the customer on a monthly basis. A permit and deposit will be required prior to the connection to the water supply system.

(e) Tap-Ins.

(1) Water line inspection fee (new construction and replacements) When a new building connecting water line is installed, the property owner shall obtain a water and sewer application and right of way permit from the Building Department or Department of Public Works. Replacement of existing water lines will only require a right of way permit. The

fee for said right of way permit shall be twenty-five dollars (\$25.00), and the fee shall be paid prior to the commencement of work. If a building's sewer and water line are installed and ready for inspection at the same time, no additional fee shall be charged.

(2) Charges. For any taps performed by the Department of Public Works, such tap, including curb box, making the connection and running the copper line from the main to the curb box, shall be based on the actual cost of all labor, equipment and materials, including a twenty percent charge for overhead, with an estimated amount determined by the Director, to be deposited by the permit holder and placed in an escrow account prior to construction, provided that:

A. The tap size shall be one inch only and shall be for residential customers.

B. With the approval of the Director, the customer may arrange to have a competent contractor make such excavation, installation of tap to the curb stop, backfilling and temporary street repairs as are necessary, provided such work is done in strict accordance with the City regulations and policy and the public is adequately protected; and

C. Where the cutting and replacing of concrete or blacktop street surfaces is required, an additional deposit shall be made equal to the cost of making such permanent pavement repairs as are required. The Director of the Department of Public Works will determine the deposit amount.

(3) Payment of charges and deposits. All capital connection charges, meter costs, and escrow deposits shall be paid before any permit is issued or work started.

(4) Responsibilities for damage. Any damage to sidewalks or grass, shrubs, trees or similar improvements in the street right of way shall be solely the responsibility of the customer and/or the permit holder.

(f) Water Capital Connection Charge.

(1) All users connecting to City owned or private owned water mains furnished water by the City water supply system after the effective date of this section shall pay a capital connection charge at the rate of three thousand three hundred dollars (\$3,300) per 1" Meter Equivalent unit. For water taps larger than 1", the following conversion factors from the American Water Works Association (AWWA) for meter sizes shall apply.

<i>Tap Size</i>	<i>AWWA Conversion</i>	<i>Water Connection Fee</i>
1" or Less	1.00	\$3,300
1 ½	2.00	\$6,600
2	3.20	\$10,560
3	6.00	\$19,800
4	10.00	\$33,000
6	20.00	\$66,000
8	32.00	\$105,600

(2) The capital charge shall be paid in advance of a building permit being issued or a connection being installed to an existing building.

(3) Capital charges collected pursuant to this section shall be segregated for accounting purposes into a water capital account. Funds in such capital improvement account shall be expended solely for labor, material and equipment for capital improvements to the system. Nothing in this section shall be construed so as to prohibit the City from commingling the capital improvement funds with other City funds for investment purposes. Any interest earned upon the investment thereof shall be placed in the Water Fund of the City.

(4) An additional capital connection charge will be levied for any new water connection made to increase the size of the service line to an existing building. The additional charge shall be an amount equal to the difference in Water Connection Fee charges shown in Subsection (1) above for the existing water connection size and the proposed water connection size.

(5) An additional Capital connection charge shall not be applied for connections made for private fire service only. Should a private fire service line be converted to a domestic water service, capital connection charges shall apply based on the size of the connection.

(g) Rates. For all treated water consumed, charges shall be made according to the following schedule:

(1) Readiness-to-serve charge: Flat bi-monthly rate, based on meter size, as follows:

<i>Meter/Size (in)</i>	<i>2021</i>	<i>2022</i>	<i>2023</i>	<i>2024</i>	<i>2025</i>
<i>Meter/Size (in)</i>	<i>2021</i>	<i>2022</i>	<i>2023</i>	<i>2024</i>	<i>2025</i>

5/8	\$20.75	\$22.25	\$24.00	\$25.75	\$27.75
3/4	\$25.00	\$27.00	\$29.75	\$32.00	\$34.75
1	\$37.00	\$40.00	\$43.75	\$46.75	\$51.00
1-1/2	\$80.00	\$85.50	\$93.00	\$100.50	\$110.00
2	\$129.50	\$140.00	\$153.00	\$166.00	\$181.00
3	\$215.00	\$230.00	\$248.00	\$266.00	\$285.00
4	\$317.50	\$335.00	\$360.00	\$385.00	\$410.00
6	\$532.50	\$555.00	\$590.00	\$625.00	\$660.00

(2) Usage charge per 1,000 gallons(to be adjusted annually by Council pursuant to CPI as set forth herein):

<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
\$5.30	\$5.65	\$6.00	\$6.40	\$6.80

For users billed on a monthly basis, the debt service charge and the usage charge shall be the same as shown above. The readiness-to-serve charge shall be one-half of the amount shown above.

For all raw or untreated water consumed, the charge shall be as follows per 1,000 gallons.

<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
\$1.06	\$1.13	\$1.21	\$1.29	\$1.38

Raw water users shall be approved by City Council. Any increase in treated water rates shall increase the raw water rate by the same percentage.

The usage rate for raw/untreated and treated water shall be adjusted after July 1 of each year based on the CPI for the past calendar year by Council resolution. "CPI" means the Consumer Price Index for all urban consumers, Detroit-Ann Arbor, all items, issued by the Bureau of Labor Statistics of the United States Department of Labor (1982-1984 = 100). The City Manager shall report to the City Council the actual amount of the inflationary rate adjustment which is scheduled to be implemented each year as part of the presentation of the annual budget pursuant to the City Charter. The CPI adjustment shall not exceed five percent annually. Notwithstanding anything in this section to the contrary, City Council may set the usage rate in an amount over and above five percent if in the opinion of City Council such an increase is necessary for the optimum operation and maintenance of the City's water system.

(h) Private Fire Service.

(1) Annual standby charge. Whenever private fire service is provided on public or private property, there shall be an annual standby charge, in addition to the regular tap and usage charge, as follows:

- For a one-inch connection           \$ 25.00
- For a one and one-half inch connection   25.00
- For a two-inch connection           25.00
- For a three-inch connection        50.00
- For a four-inch connection         80.00
- For a six-inch connection         160.00
- For an eight-inch connection       255.00
- For a ten-inch connection         410.00
- For a twelve-inch connection       655.00

All charges shall be billed annually (January 1 to December 31).

Services installed after January 1 will be charged on a pro-rated basis. This charge shall be the responsibility of the property owner.

(2) Periodic testing and inspection. All water-sprinkler and extinguishing systems shall be maintained, periodically inspected and tested on an annual basis in accordance with NFIPA 13 (National Fire Protection Code). An annual report shall be filed with the Howell Fire Chief verifying the annual testing of the system.

If the property owner does not provide the annual report on the testing of the system, the Fire Chief, after reasonable notice to the property owner, may schedule a test of the system. All cost of performing such test, including a twenty percent overhead charge, shall be billed to the property owner. The charge for said testing shall be a lien on the property and any such charges delinquent for six months or more shall be entered upon the next tax roll against the premises to which such services have been rendered, and such charges shall be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon such roll and the enforcement of the lien therefor.

(3) Standards. All private fire protection service shall be made in accordance with specifications, rules and regulations prescribed by the applicable plumbing codes and/or the Fire Department.

(4) Purpose of service. No private fire protection service shall be used for any purpose other than the extinguishment of fires or be connected in any manner with any tap that may be used for other than fire purposes.

(5) Cross connections prohibited. Because of the danger of pollution, no fire protection service shall have any connection with any other source of supply unless check valves are installed and approved by the City and the State Health Department as being adequate to prevent unsafe water from running back into City mains.

(6) Tests. If a customer desires to test any private service facility, he or she shall contact the Department of Public Works. The Department shall furnish a representative to witness such test and no such test shall be made without such representative being present.

(7) Meters. The Department may at any time instruct the customer to install a weighted check valve in a private fire protection service line, which valve and the installation thereof shall be approved by the Department and shall be fitted with a bypass on which shall be set a meter, the purpose of which shall be to indicate whether or not water is being used through this connection and also to show any leakage in the private lines.

(8) Seals. All valves or connections on private fire protection lines shall be sealed by the Department. Whenever such a seal is broken, the customer shall immediately notify the Department, and a representative of the Department shall forthwith reseal any of such valves or connections. The cost thereof shall be charged to the customer and added to his or her next water bill.

(i) Outside Services and Miscellaneous Water Sales. For all services provided in this section outside the City limits and for bulk water sales, except as provided by contract, all charges shall be double the amounts specified in this section. However, fees for tap charges and capital charges shall not be doubled.

(j) Temporary Shut-Off. In the event of temporary vacancy of any premises, the water will be turned off at the curb box by the City and, if so requested by the owner, the meter will be removed to prevent damage due to freezing or other causes. The water will then be turned on again upon proper notice. The minimum charge for all billing periods in which such vacancy occurs will be reduced in proportion to such vacancy, but no rebate will be allowed for a period of less than thirty consecutive days in any quarterly period. Where the premises are left unoccupied with the water not turned off by the City, no credit will be allowed on the minimum charge nor will any allowance be made for water registered by the meter which may leak or waste through the plumbing fixtures. It shall be the owner's responsibility to notify the City of each change of tenancy in property which he or she rents or leases so that a temporary shut-off can be made and a deposit collected before the water is turned on. For a request of a temporary shut-off or turn on during normal work hours there will be no charge to the customer. For a request of a temporary shut-off or turn on during non-scheduled work hours, a cost to the customer to cover the overtime incurred to perform the necessary work plus twenty percent overhead will be charged. This charge shall be collected prior to the water being turned on and shall be the responsibility of the person requesting that the water be turned on.

(k) Service to City Facilities and Fire Hydrants. For the use of water through fire hydrants and for the availability of such water and for water service to the City and its several departments, the City shall pay an amount from funds legally available for such purpose or from the proceeds of taxes which the City shall levy within Charter limitations, such amount to be determined by resolution of Council.

(Ord. 623. Passed 10-30-95; Ord. 632. Passed 5-13-96; Ord. 651. Passed 6-9-97; Ord. 672. Passed 5-26-98; Ord. 698. Passed 11-22-99; Ord. 703. Passed 2-14-00; Res. 00-28. Passed 6-19-00; Res. 01-11. Passed 6-4-01; Res. 02-14. Passed 6-17-02; Res. 03-14. Passed 6-16-03; Res. 04-10. Passed 6-14-04; Res. 05-11. Passed 6-13-05; Res. 06-27. Passed 10-9-06; Res. 06-33. Passed 11-20-06; Res. 07-14. Passed 6-25-07; Res. 07-18. Passed 7-23-07; Res. 08-09. Passed 5-19-08; Res. 10-05. Passed 2-22-10; Res. 11-13. Passed 6-27-11; Res. 13-07. Passed 6-24-13; Res. 14-15. Passed 6-23-14; Res. 15-13. Passed 7-27-15; Res. 16-17. Passed 7-25-16; Res. 17-14. Passed 6-12-17; Ord. 916. Passed 8-13-18; Res. 19-18. Passed 7-8-19; Res. 20-24. Passed 12-21-20.)

#### **1044.08 SEWER RATES AND TAP-IN CHARGES.**

(a) Scope. The provisions of this section apply to all sewage disposal rates and charges made by the City for sewer services provided hereunder.

(b) Rates for Water Meter Customers.

(1) Generally. Charges for sanitary sewer service shall be levied upon those customers with a sewer connection to the sanitary sewer, as follows:

A. Readiness-to-serve-charge: Flat bi-monthly rate, based on meter size as follows:

<b>Meter/Size (in)</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
5/8	\$24.00	\$25.00	\$26.00	\$27.25	\$28.75
3/4	\$33.50	\$35.25	\$37.00	\$39.00	\$41.50
1	\$57.00	\$60.50	\$64.00	\$68.00	\$72.00
1-1/2	\$110.00	\$115.00	\$120.00	\$125.00	\$130.00
2	\$200.00	\$200.00	\$200.00	\$210.00	\$220.00
3	\$330.00	\$360.00	\$385.00	\$410.00	\$435.00
4	\$540.00	\$605.00	\$660.00	\$708.00	\$756.00
6	\$970.00	\$1,060.00	\$1,100.00	\$1,150.00	\$1,200.00

B. Usage charge (to be adjusted annually by Council pursuant to CPI as set forth herein) per 1,000 gallons of water consumed (collection system 27% + treatment plant 73%):

<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
\$5.00	\$5.40	\$5.85	\$6.30	\$6.78

For users billed on a monthly basis, the usage charge shall be the same as shown above. The readiness-to-serve charge shall be one-half of the amount shown above.

The usage charge shall be adjusted after July 1 of each year based on the CPI for the past calendar year by Council resolution. "CPI" means the Consumer Price Index for all urban consumers, Detroit-Ann Arbor, all items, issued by the Bureau of Labor Statistics of the United States Department of Labor (1982-1984 = 100). The City Manager shall report to the City Council the actual amount of the inflationary rate adjustment which is scheduled to be implemented each year as part of the presentation of the annual budget pursuant to the City Charter. The CPI adjustment shall not exceed five percent annually. Notwithstanding anything in this section to the contrary, City Council may set the usage rate in an amount over and above five percent if in the opinion of City Council such an increase is necessary for the optimum operation and maintenance of the City's water system.

C. Summer sewer residential rate. Single-family residential users shall have an adjustment made to their sewerage service bill for the summer to account for water which is not disposed of into the City's sanitary sewers. The quantity of water used for the summer sewer billing shall be the actual metered amount or the highest metered amount from the winter billing period, whichever is less. For purposes of this section the summer sewer billing period shall be the customer's two bi-monthly billings during the period of May through September, and the winter billing period shall be the customer's two bi-monthly billings during the period of November through March. Where it is evident that such adjustment does not accurately reflect the actual amount of sewage being placed in the sanitary sewerage system, the City Clerk may use an average usage or the usage during any billing period which in his or her judgment, does reflect the actual amount.

D. Summer sewer rates - metered commercial and industrial. Any other user (commercial, industrial, etc.) who or which does a large amount of lawn sprinkling on his, her or its premises, or in some other manner uses a large amount of water which is not disposed of into the City's sanitary sewers, may request that such usage be separately metered by the City and no sewerage service charge shall be made for such usage. The customer shall pay the City the actual cost of the meter and related meter reading equipment, and the meter shall remain the property of the City. There is no charge for installation. Residential customers may also request this service.

(2) Surcharges. If the character of the sewage of any manufacturing or industrial plant or any other building or premises is such as to impose any unreasonable burden upon the sewers or the system or upon the sewage treatment plant in excess of the maximum when it is prescribed by resolution of Council, an additional charge shall be made and assessed over and above the regular rates, said charge to be governed by Chapter 1043.

(c) Rates for Customers With Private Water Sources. If a customer has a private water source and his or her sewage is dumped into City lines, the City shall require that a meter be set in the private water line at the cost to the customer, which meter shall be read and billed by the City to the customer in the same manner as water meters on City lines.

(d) Tap-Ins.

(1) Sewer line inspection fee (new construction and replacements) When a new building sewer line is installed, the property owner shall obtain a water and sewer application and right of way permit from the Building Department or Department of Public Works. Replacement of an existing sewer line shall require a right of way permit. The fee for said right of way permit shall be twenty-five dollars (\$25.00), and the fee shall be paid prior to the commencement of work. If a building's sewer and water line are installed and ready for inspection at the same time, then no additional fee shall be charged.

(2) Charges. Residential taps performed by the Department of Public Works shall be the actual cost of all labor, equipment and materials, including a twenty percent charge for overhead with an estimated amount to be deposited by the permit holder and placed in an escrow account. Upon specific approval of the Director, the permit holder may engage a competent contractor to tap into the City sewer. All such work shall be fully inspected by the Director.

All tap charges shall be estimated by the Director and paid in advance of a permit being issued or the tap being permitted.

(e) Street Cut Deposit. Where cutting and replacing of concrete or blacktop street surfaces is required, an additional deposit shall be made equal to the cost of making such permanent pavement repairs as are required. The Director of the Department of Public Works will determine the deposit amount.

(f) Sewerage Capital Connection Charge.

(1) All users connecting to City owned or privately owned sewers served by the City sewage disposal system after the effective date of this section shall pay a capital connection charge based on the rate of three thousand three hundred dollars (\$3,300) per 1" Meter Equivalent unit. For sewer taps larger than 1", the following conversion factors from the American Water Works Association (AWWA) for meter sizes shall apply.

<i>Tap Size</i>	<i>AWWA Conversion</i>	<i>Wastewater Connection Fee</i>
1" or Less	1.00	\$3,300
1 ½	2.00	\$6,600
2	3.20	\$10,560
3	6.00	\$19,800
4	10.00	\$33,000
6	20.00	\$66,000
8	32.00	\$105,600

(2) The capital charge shall be paid in advance of a building permit being issued or a connection being installed to an existing building.

(3) Capital charges collected pursuant to this section shall be segregated for accounting purposes into a sewer capital account and a capital improvement account. Funds in such capital improvement account shall be expended solely for labor, material and equipment for capital improvement of the existing system. Nothing in this section shall be construed so as to prohibit the City from commingling the capital improvement funds with other City funds for investment purposes. Any interest earned upon the investment thereof shall be placed in the Sewer Fund of the City.

(4) An additional capital connection charge will be levied for any new sewer connection made to increase the size of the service line to an existing building. The additional charge shall be an amount equal to the difference in Wastewater Connection Fee charges shown in Subsection (1) above for the existing sewer connection size and the proposed sewer connection size.

(g) Outside Service. For all services provided in this section outside the City limits, except as provided by contract, all charges shall be double the amounts specified in this section. However, fees for tap-in and capital charges shall not be doubled.

(Ord. 623. Passed 10-30-95; Ord. 632. Passed 5-13-96; Ord. 651. Passed 6-9-97; Ord. 672. Passed 5-26-98; Ord. 703. Passed 2-14-00; Res. 00-28. Passed 6-19-00; Res. 01-11. Passed 6-4-01; Res. 02-14. Passed 6-17-02; Res. 03-14. Passed 6-16-03; Res. 04-10. Passed 6-14-04; Res. 05-11. Passed 6-13-05; Res. 06-27. Passed 10-9-06; Res. 07-14. Passed 6-25-07; Res. 08-09. Passed 5-19-08; Res. 10-05. Passed 2-22-10; Res. 11-13. Passed 6-27-11; Res. 13-07. Passed 6-24-13; Res. 14-15. Passed 6-23-14; Res. 15-13. Passed 7-27-15; Res. 16-17. Passed 7-25-16; Res. 17-14. Passed 6-12-17; Ord. 916. Passed 8-13-18; Res. 19-18. Passed 7-8-19; Res. 20-24. Passed 12-21-20.)

**1044.09 LIENS, DEPOSITS AND CONNECTIONS.**

(a) Tax Lien. As security for the collection of water service and sewage disposal supplied to any house or any other building or any premises, lot or lots, or parcel or parcels of land, the City shall have a lien upon the house or other buildings and upon the premises, lot or lots, or parcel or parcels of land, upon which the house or other building is situated. This lien shall become effective immediately upon the distribution of the water service and sewage disposal to the premises or property supplied. This lien created herein shall be collected and enforced in the same manner as provided for the collection of taxes assessed upon the tax roll pursuant to City Charter, except that the same shall not be enforceable for more than three years after it becomes effective.

(b) Lease Exception. Charges for water services and sewage disposal services of any nature whatsoever, furnished to any premises as described in the preceding paragraph, shall not be a lien thereon if all of the following exist:

(1) A legally executed written lease between the owner of the premises and the tenant containing a provision that the

owner of the premises shall not be liable for the paying of water services or sewage disposal services accruing subsequent to the filing of an affidavit by the owner with the City Clerk;

(2) An affidavit filed by the owner with the City Clerk containing statements as to the date of the execution of the lease, that the lease contains a provision holding the tenant liable for water services and sewage disposal services on said premises, and the expiration date of the lease; and

(3) In the case of multiple tenancies in one building, the owner shall provide, at his or her cost, a separate meter, service line and curb box to each apartment or leasehold within the building that is to be servicing the tenants responsible for charges under this section.

(g) Deposit Required by Tenant. If notice of a tenant's liability has been filed with the City Clerk, the Department shall render no further service to such premises until a cash deposit in such sum as is fixed by the City Clerk has been made as security for the payment of such charges.

(h) Deposit Required by Outsider. Whenever services are applied for under this chapter for premises located outside the City, the City Clerk shall forthwith advise Council of such application, and no such service shall be furnished without the approval of Council, nor until a deposit in an amount set by the City Clerk has been made with the City to secure all bills and charges. However, no such deposit shall be required of the United States, the State or any agency or political subdivision of either.

(i) Amount of Deposit. In no case where a deposit is required shall the amount set by the City Clerk be less than the estimated cost of all services required plus two estimated period billings, which billings shall be reviewed from time to time by the City Clerk and increased or decreased so as to comply with this section, based upon actual billings. All moneys so deposited shall be returned to the depositor when all services provided for in this chapter have been paid for in full and further services are not required.

(j) Shut-Off Requirement.

(1) In addition to the lien provided for in this section, when any person fails or refuses to pay to the City any sum due for water or sewer service, or charges in connection therewith, for a period of ten days from the due date, the Department may shut off or discontinue any services provided under this chapter and suit may be instituted by the City for the collection of the same in any court of competent jurisdiction, and no services shall again be rendered to the premises involved until the indebtedness is paid in full, together with all costs in connection therewith.

(2) For all development accounts where shut-off becomes necessary in order to secure payment of the delinquent account, a twenty dollar (\$20.00) service charge will be levied to cover the cost of turning the service off and then back on to the premises. If it is necessary to do a service turn-on during non-scheduled work hours, then the service charge to the customer will be the actual cost for overtime incurred by the Department plus a twenty percent overhead charge.

(g) Billing. The City Manager shall provide for either monthly or bi-monthly billing to customers, covering all charges as provided herein, and shall establish a due date for payment thereof.

(h) Payment of Bills. All bills and charges provided for in this chapter shall be payable to the City Treasurer on or before the due date established. Failure of payment as required shall result in the account being classified as delinquent and ten percent of the amount of the bills and charges shall be added thereto.

(Ord. 623. Passed 10-30-95.)

#### **1044.10 PROHIBITED ACTS.**

(a) Use of Sewers. Chapters 1042 and 1043 shall govern the use of all sanitary sewers, including the requirements for connecting thereto and the liquid and solid wastes which can be disposed of therein.

(b) Permit Required. No person shall make any connection with City water or sewer lines without first obtaining a permit as provided in this chapter.

(c) Use Limited. The use of a water or sewage connection is hereby limited to the property for which a permit has been issued, and the connection thereto by any other property owner or his or her tenant shall constitute a violation of this chapter by both the person having the direct connection to the City water and/or sewer lines and also the person who makes and/or uses the extended connection.

(d) Private Sales. No person shall supply water or sewer service to any other person without the written permission of Council.

(e) Protection. No person shall molest, injure, deface or obstruct the use of any water or sewer facility in the City.

(f) Emergency. No person shall violate any emergency order issued by the Director or Manager under this chapter. (Ord. 623. Passed 10-30-95.)

#### **1044.11 FISCAL YEAR; REVISION OF RATES; USE OF MONEYS.**

(a) Fiscal Year for Water and Sewerage System. The water and sewerage systems shall be operated on the basis of a fiscal year commencing on July 1 and ending June 30.

(b) Revision of Rates; Audit The rates set forth in this chapter are estimated to be sufficient to provide for the payment of any indebtedness, to provide for the expenses of administration and operation, to provide for the expenses of maintenance of such system as necessary to preserve the same in good repair and working order, and to build up a reasonable reserve for equipment replacement. Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts. An annual audit shall be prepared. Based on such audit, rates for water and sewage service shall be reviewed annually and revised as necessary to meet system expenses and to ensure that all user classes pay their proportionate share of operation, maintenance and equipment replacement costs. (Ord. 623. Passed 10-30-95.)

**1044.99 PENALTY.**

Whoever violates any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99.

## **CHAPTER 1046**

### **Gas**

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EDITOR'S NOTE: Natural gas service is provided for the City and its inhabitants by the Consumers Power Company of Jackson, Michigan.

There are no sections in Chapter 1046. This chapter has been established to provide a place for cross references and any future legislation.

#### **CROSS REFERENCES**

Gas plants and systems in home rule cities - see M.C.L. Secs. 117.4e, 117.4f

Oil and gas generally - see M.C.L. Secs. 319.1 et seq., 486.251 et seq.

Costs for extensions to new developments - see S.U. & P.S.1050.01

## **CHAPTER 1048**

### **Electricity**

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EDITOR'S NOTE: The City contracts periodically for electric service with the Detroit Edison Company. Copies of the latest relevant legislation may be obtained, at cost, from the City Clerk.

There are no sections in Chapter 1048. This chapter has been established to provide a place for cross references and any future legislation.

#### **CROSS REFERENCES**

Electricity generally - see Mich. Const. Art. 7, Secs. 24, 25; M.C.L. Secs. 486.201 et seq.

Electrical Code in home rule cities - see M.C.L. Secs. 117.3, 117.4b et seq., 117.4f

Wires and lines interfering with trees - see S.U. & P.S.1024.02

Costs for extensions to new developments - see S.U. & P.S.1050.01

## **CHAPTER 1049**

### **Street Lighting**

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1049.01 Definitions.

1049.02 Residential developments on public streets.

1049.03 Nonresidential developments on public streets.

1049.04 Variances in type and style of lights in nonresidential developments.

1049.05 Installation in developments on private streets and in all other developments.

1049.99 Penalty.



## **CROSS REFERENCES**

Use of streets by utilities - see CHTR. Sec.15.10

Streets and excavations - see S.U. & P.S.Ch. 1020

Electricity - see S.U. & P.S.Ch. 1048

Street lights in subdivisions - see P. & Z.1228.08

### **1049.01 DEFINITIONS.**

As used in this chapter:

- (a) "Detroit Edison" means the Detroit Edison Company, the sole provider of electrical service to the City.
- (b) "Granville Style Pole and Fixture" means a street light named and provided by the Detroit Edison Company.
- (c) "Municipal Street Lighting Program" means a program of street lighting, including, but not limited to, the installation, style and design of the street light pole and fixture, and design standards not specifically set forth in this chapter.
- (d) "Nonresidential developments" means developments meeting the zoning classification requirements for developments other than residential, pursuant to the Zoning Code.
- (e) "Private streets" means those streets which have not been dedicated to the public by a developer or owner of land and are not maintained in any fashion by the City.
- (f) "Public streets" means a public thoroughfare which affords the principal means of access to abutting property and is maintained by the City.
- (g) "Residential developments" means developments meeting the zoning classification requirements of the same as provided in the Zoning Code.

(Ord. 595. Passed 12-13-93.)

### **1049.02 RESIDENTIAL DEVELOPMENTS ON PUBLIC STREETS.**

(a) Installation. The developer of a residential development on public streets shall coordinate with the Detroit Edison Company and the City on all plans for the installation of street lighting during the site plan process as set forth in the Zoning Code. All street lighting installed shall be of the Granville Style Pole and Fixture and be installed pursuant to Detroit Edison's Municipal Street Lighting Program.

(b) Design Standards. All street lights in residential developments on public streets shall be twelve-foot poles with fixtures containing 100 watt, high pressure sodium lamps. All street lights shall be spaced in an alternating pattern with the space between each light pole to be no less than 150 feet and no more than 225 feet. The residential development shall obtain a lighting level of .3 footcandle throughout the entire development.

(c) Costs of Installation. All costs of installation shall be borne by the developer of the residential development.

(d) Costs of Operation, Maintenance and Replacement. On and after the acceptance of the streets and street lights in the residential development by the City, the City shall be responsible for all costs associated with said street lights, including, but not limited to, the cost of operation, maintenance and replacement.

(Ord. 595. Passed 12-13-93.)

### **1049.03 NONRESIDENTIAL DEVELOPMENTS ON PUBLIC STREETS.**

(a) Installation. The developer of a nonresidential development on public streets shall coordinate with the Detroit Edison Company and the City on all plans for the installation of street lighting during the site plan process as set forth in the Zoning Code. All street lighting installed shall be of the Granville Style Pole and Fixture and be installed pursuant to Detroit Edison's Municipal Street Lighting Program.

(b) Design Standards: Determination and Approval of Spacing and Layout by Planning Commission. All street lights in nonresidential developments on public streets shall be twelve-foot poles with fixtures containing 100 watt, high-pressure sodium lamps. The spacing between street lights and the layout of said lights shall be determined and approved by the Planning Commission after recommendations are received and reviewed from the Detroit Edison Company and an engineer of the developer's choosing. In no event shall the spacing between each light pole be less than sixty feet or more than 225 feet. The nonresidential development shall obtain a lighting level of .3 to .4 footcandle throughout the entire development.

(c) Costs of Installation. All costs of installation shall be borne by the developer of the nonresidential development.

(d) Costs of Operation, Maintenance and Replacement. On and after the acceptance of the streets and street lights in the nonresidential development by the City, the City shall be responsible for all costs associated with said street lights, including, but not limited to, the cost of operation, maintenance and replacement.

(Ord. 595. Passed 12-13-93.)

#### **1049.04 VARIANCES IN TYPE AND STYLE OF LIGHTS IN NONRESIDENTIAL DEVELOPMENTS.**

Upon application to the Planning Commission, a developer of a nonresidential development may request a variance from the Planning Commission as to the type and style of light to be installed within the development. In its review of an application, the Planning Commission shall take into account the zoning classification of the development, the use to which the development will be devoted, the public health, safety and welfare served by granting such a variance, and any and all other information which the Planning Commission deems necessary to either grant or deny the application.

(Ord. 595. Passed 12-13-93.)

#### **1049.05 INSTALLATION IN DEVELOPMENTS ON PRIVATE STREETS AND IN ALL OTHER DEVELOPMENTS.**

(a) Street lighting shall be installed upon all private streets and in all developments of any zoning classification, whether the same are residential or nonresidential.

(b) Street lighting plans for all developments on private streets shall be submitted during the site plan review process pursuant to the Zoning Code and be approved by the Planning Commission.

(Ord. 595. Passed 12-13-93.)

#### **1049.99 PENALTY.**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

## **CHAPTER 1050**

### **Utilities Generally**

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1050.01 Costs for extensions to new developments.

1050.99 Penalty.

#### **CROSS REFERENCES**

Use of streets by utilities - see CHTR. Sec. 15.10

Municipal utilities - see CHTR. Ch. 16

Water - see S.U. & P.S. Ch. 1040, Ch. 1044

Sewers - see S.U. & P.S. Ch. 1042, Ch. 1043, Ch. 1044

Gas - see S.U. & P.S. Ch. 1046

Electricity - see S.U. & P.S. Ch. 1048

Street lighting - see S.U. & P.S. Ch. 1049

Private utilities in subdivisions - see P. & Z. 1228.07

Utilities in MXD Districts - see P. & Z. Chapter 1240 (Zoning Code)

#### **1050.01 COSTS FOR EXTENSIONS TO NEW DEVELOPMENTS.**

(a) For new developments, the developer shall cover all costs for the extension of utilities from where they currently exist to serve the needs of the new development. In cases where the City desires to have the utilities upsized to serve future development, the City will pay for the cost of the upsizing.

(b) If a developer extends utility lines past already developed property that needs the City utility service, the City may decide to establish a special assessment district to cover the costs of this utility extension. In such cases the City will cover thirty-four percent of the cost to extend utility service to the already developed areas, and the property owners will cover the remaining sixty-six percent based on the City's existing special assessment policy.

(c) When extending utility lines, the developer need only extend the lines far enough onto his or her property to serve his or her development needs. Generally, the City will require the developer to extend the lines along a street or other City right of way as opposed to going diagonally across the developer's property. In all cases, the City shall make the final decision as to the location of the utility lines.

(d) For all new developments, the developer shall provide the City with utility easements across the full length of the property. This will allow for the reasonable extension of the lines past the developer's property to serve future areas.

(Res. 91-35. Passed 12-2-91.)

#### **1050.99 PENALTY.**

## CHAPTER 1051

### Telecommunications Rights-of-Way Oversight

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- 1051.01 Purpose.
- 1051.02 Conflict.
- 1051.03 Definitions.
- 1051.04 Permit required.
- 1051.05 Issuance of permit.
- 1051.06 Construction/engineering permit.
- 1051.07 Conduit or utility poles.
- 1051.08 Route maps.
- 1051.09 Repair of damage.
- 1051.10 Establishment and payment of maintenance fee.
- 1051.11 Modification of existing fees.
- 1051.12 Savings clause.
- 1051.13 Use of funds
- 1051.14 Annual report.
- 1051.15 Cable television operators.
- 1051.16 Existing rights.
- 1051.17 Compliance.
- 1051.18 Reservation of police powers.
- 1051.19 Severability.
- 1051.20 Authorized city officials.
- 1051.99 Penalty.

#### **1051.01 PURPOSE.**

The purposes of this ordinance 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. 739. Passed 3-24-03.)

#### **1051.02 CONFLICT.**

Nothing in this Ordinance shall be construed in such a manner as to conflict with the Act or other applicable law.

(Ord. 739. Passed 3-24-03.)

#### **1051.03 DEFINITIONS.**

The terms used in this Ordinance shall have the following meanings:

(a) "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.

(b) "Authority" means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

(c) "City" means the City of Howell.

(d) "City Council" means the City Council of the City of Howell 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.

(e) "City Manager" means the City Manager or his or her designee.

(f) "MPSC" means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "Commission" in the Act.

(g) "Permit" means a non-exclusive permit issued pursuant to the Act and this Ordinance to a telecommunications provider to use the public rights-of-way in the City for its telecommunications facilities.

(h) "Person" means an individual, corporation, partnership, association, governmental entity or any other legal entity.

(i) "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.

(j) "Telecommunication Facilities or Facilities" means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 322(d) of Part I of Title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 C.F.R. 20.3, and service provided by any wireless, two-way communication device.

(k) "Telecommunications Provider, Provider and Telecommunications Services" means those terms as defined in Section 102 of the Michigan Telecommunications Act, Act 179 of the Public Acts of 1991, being M.C.L.A. Section 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of Part I of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 C.F.R. 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.

(3) A person providing broadband internet transport access service.

(Ord. 739. Passed 3-24-03.)

#### **1051.04 PERMIT REQUIRED.**

(a) Permit Required. Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the City for its telecommunications facilities shall apply for and obtain a permit pursuant to this Ordinance.

(b) Application. Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the City Clerk, one copy with the City Manager and one copy with the City Attorney. Upon receipt, the City Clerk shall make additional copies of the application and distribute a copy to the City Department of Public Services Superintendent and the City Engineering Department. 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 contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, Act 442 of the Public Acts of 1976, M.C.L.A. Sections 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, Act 179 of the Public Acts of 1991, being M.C.L.A. Section 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 requirement of this Ordinance.

(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, Act 179 of the Public Acts of 1991, being M.C.L.A. Section 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 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. 739. Passed 3-24-03.)

#### **1051.05 ISSUANCE OF PERMIT.**

(a) Approval or Denial. The authority to approve or deny an application for a permit is hereby delegated to the City Manager. Pursuant to Section 15(3) of the Act, the City Manager shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit under Section 1051.04 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, including information regarding the date on which the application was filed and the date on which 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. 739. Passed 3-24-03.)

#### **1051.06 CONSTRUCTION/ENGINEERING PERMIT.**

A telecommunications provider shall not commence construction upon, over, across or under the public rights-of-way in the City without first obtaining a construction or engineering permit as required by the City policy for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(Ord. 739. Passed 3-24-03.)

#### **1051.07 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 Ordinance does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. 739. Passed 3-24-03.)

#### **1051.08 ROUTE MAPS.**

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the City, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the City. The route maps should be in paper format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act.

(Ord. 739. Passed 3-24-03.)

#### **1051.09 REPAIR OF DAMAGE.**

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the City, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

(Ord. 739. Passed 3-24-03.)

#### **1051.10 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.**

In addition to the non-refundable application fee paid to the City set forth in Section 1051.04, a telecommunications provider with telecommunications facilities in the City's public rights-of-way shall pay an annual maintenance fee to the Authority.

(Ord. 739. Passed 3-24-03.)

#### **1051.11 MODIFICATION OF EXISTING FEES.**

In compliance with the requirements of Section 13(1) of the Act, the City hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of Section 13(4) of the Act, the City also hereby approves modification of the fees of providers with 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 this Ordinance, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the City's policy and intent, and upon application by a provider or discovery by the City, shall be promptly refunded as having been charged in error.

(Ord. 739. Passed 3-24-03.)

#### **1051.12 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 1051.11 above shall be void from the date the modification was made.

(Ord. 739. Passed 3-24-03.)

#### **1051.13 USE OF FUNDS.**

Pursuant to Section 10(4) of the Act, all amounts received by the City from the Authority shall be used by the City solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the City from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the City under Act No. 51 of the Public Acts of 1951.

(Ord. 739. Passed 3-24-03.)

#### **1051.14 ANNUAL REPORT.**

Pursuant to Section 10(5) of the Act, the City Manager shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.

(Ord. 739. Passed 3-24-03.)

#### **1051.15 CABLE TELEVISION OPERATORS.**

Pursuant to Section 13(6) of the Act, the City shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. 739. Passed 3-24-03.)

#### **1051.16 EXISTING RIGHTS.**

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this Ordinance 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. 739. Passed 3-24-03.)

#### **1051.17 COMPLIANCE.**

The City hereby declares that its policy and intent in adopting this Ordinance is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The City shall comply in all respects with the requirements of the Act, including but not limited to the following:

(a) Exempting certain route maps from the Freedom of Information Act, Act 442 of the Public Acts of 1976, being M.C.L.A. Sections 15.231 to 15.246, as provided in Section 1051.04(c);

(b) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with Section 1051.04(f).

(c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with Section 1051.04(g).

(d) Approving or denying an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the City, in accordance with Section 1051.05(a).

(e) Notifying the MPSC when the City has granted or denied a permit, in accordance with Section 1051.05(a);

(f) Not unreasonably denying an application for a permit, in accordance with Section 1051.05(a);

(g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 1051.05(b);

(h) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with Section 1051.05(c);

(i) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with Section 1051.05(d);

(j) Not charging any telecommunications providers any additional fees for construction or engineering permits in accordance with Section 1051.06;

(k) Providing each telecommunications provider affected by the City's right-of-way fees with a copy of this Ordinance, in accordance with Section 1051.11;

(l) Submitting an annual report to the Authority, in accordance with Section 1051.14; and

(m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Section 1051.15.

(Ord. 739. Passed 3-24-03.)

#### **1051.18 RESERVATION OF POLICE POWERS.**

Pursuant to Section 15(2) of the Act, this Ordinance shall not limit the City's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the City's authority to ensure and protect the health, safety, and welfare of the public.

(Ord. 739. Passed 3-24-03.)

#### **1051.19 SEVERABILITY.**

The various parts, sentences, paragraphs, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this Ordinance 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 Ordinance.

(Ord. 739. Passed 3-24-03.)

#### **1051.20 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 chapter violations bureau) for violation under this Ordinance as provided by the City Code.

(Ord. 739. Passed 3-24-03.)

#### **1051.99 PENALTY.**

A person who violates any provision of this Ordinance or the terms or conditions of a permit is responsible for a municipal civil infraction. Nothing in this Section shall be construed to limit the remedies available to the City in the event of a violation by a person of this Ordinance or a permit.

(Ord. 739. Passed 3-24-03.)

## **TITLE SIX - Other Public Services**

### **CHAPTER 1060**

#### **Solid Waste Collection and Disposal**

EDITOR'S NOTE: Resolution 83-25, passed December 12, 1983, approved the Solid Waste Management Plan prepared for the County pursuant to Act 641 of 1978, as well as the rules promulgated thereunder. Resolution 00-10, passed March 27, 2000, approved the Solid Waste Management Plan Update of Livingston County. Copies of such Resolutions, and the Plan, as updated, may be obtained, at cost, from the City Clerk.

From time to time, Council establishes rates to be charged for garbage and rubbish collection and disposal for residential

units, commercial containers and compactor containers. Because of the frequency of change, these rates are not codified. Copies of the latest relevant legislation may be obtained, at cost, from the City Clerk.

1060.01 Definitions.

1060.02 General provision for collection and disposal of solid waste.

1060.03 Containers in R-1, R-T and HL Districts actually used as residential zones.

1060.04 Containers in R-M, O-1, CBD, B-1, B-2, I-1, I-2, P-1, TC and HL Districts actually used as office zones.

1060.05 Building materials.

1060.06 Collection schedule and regulations.

1060.07 General prohibition against accumulation of solid waste.

1060.08 Unlawful transportation of solid waste.

1060.09 Rules and regulations.

1060.10 Enforcement.

1060.11 Surcharge for delinquency.

1060.99 Penalty.

### **CROSS REFERENCES**

Garbage and refuse generally - see M.C.L. Secs. 46.171 et seq., 123.241 et seq., 123.361 et seq.

Municipal authority - see M.C.L. Secs. 123.301 et seq.

Filthy accumulations - see GEN. OFF. 622.03, 622.04

Abandoned refrigerators - see GEN. OFF. 622.11

Littering - see GEN. OFF. 652.05

Purchase of recycled products by City - see ADM. 230.10

### **1060.01 DEFINITIONS.**

As used in this chapter:

(a) "Bag" means a garbage bag or yard bag of suitable size and material.

(b) "Commercial generator" means generators of waste within the City Limits of Howell on land zoned other than R-1 (Single-Family Residential), or R-T (Two-Family Residential), or HL (Historical Limited Use), which is actually used as residential.

(c) "Commercial hauler" means anyone providing hauling services within the City, whether or not they are properly licensed.

(d) "Computerized compactor" means a machine which has a compartment within it for the temporary storage of compacted solid waste and garbage and also has a compartment into which persons can place solid waste and garbage for compaction. Access to this second compartment may only be gained by use of a code number which unlocks the access compartment.

(e) "Curb cart" means a weatherproof receptacle with a lid and wheels not exceeding 100 gallons or 100 pounds, designed for use with automated cart dumping equipment on a commercial hauler's truck and capable of holding residential garbage or residential waste.

(f) "Garbage" means all putrescible wastes and other water-carried wastes, except wastes of the human body, and includes all vegetable and animal wastes resulting from the handling, preparation, cooking or consumption of foods. Containers that contained food or liquids for consumption by humans or other beings shall also be classified as garbage.

(g) "Person" means an individual, a partnership, limited liability company or a corporation.

(h) "Recycle cart" means a weatherproof receptacle with a lid and wheels not exceeding 100 gallons or 100 pounds, designed for use with automated cart dumping equipment on a commercial hauler's truck, capable of holding all recyclable materials and designated for recyclable materials, only. Yard clippings and yard waste shall be disposed of in a yard waste bag and not in a recycle cart.

(i) "Recyclable materials" means source separated materials, site separated materials, high grade paper, glass, metal, plastic, aluminum, newspaper, corrugated paper, yard clippings, yard waste and other materials that may be recycled or composted.



(j) "Refuse building materials" means wood, plaster, brick, block, scrap, waste and unusable building materials resulting from the construction or repair of any structure.

(k) "Residential waste" means those items normally disposed of by residences or noncommercial dwellings, excluding bricks, blocks, tree stumps, tires, furniture, appliances, construction or demolition materials, oils, paint, solvents or any substance which is considered a hazardous or toxic waste under regulations of the U.S. Environmental Protection Agency (the "EPA") or the Michigan Department of Natural Resources (the "DNR").

(l) "Solid waste" means garbage, refuse building materials, residential waste, recyclable materials and all other things collected and disposed of under the provisions of this chapter.

(m) "User fee" means that charge collected by the City from those who produce solid waste to defray the cost of collecting and disposing of the same.

(n) "Yard waste bag" means a bag designated and capable of holding all types of yard clippings and yard waste.

(Ord. 515. Passed 11-6-89; Ord. 906. Passed 8-8-16.)

#### **1060.02 GENERAL PROVISION FOR COLLECTION AND DISPOSAL OF SOLID WASTE.**

In order to protect the public health, safety and general welfare within the City, it is hereby declared that all solid waste shall be collected and disposed of in accordance with this chapter. It shall be unlawful for any person to collect solid waste within this City unless that person is licensed in the State of Michigan to collect and dispose of solid waste and has obtained a permit for such collection and disposal.

(Ord. 515. Passed 11-6-89; Ord. 906. Passed 8-8-16.)

#### **1060.03 CONTAINERS IN R-1, R-T AND HL DISTRICTS ACTUALLY USED AS RESIDENTIAL ZONES.**

(a) The owner, proprietor or person in charge of every dwelling house shall place or cause to be placed all garbage, rubbish and solid waste accumulated on the premises in bags and placed within the provided curb cart. The City shall thereupon charge and collect a user fee as determined from time to time by City Council resolution.

(b) Garbage and residential waste is to be placed at the curb in accordance with the City's rubbish collection policy.

(c) The owner, proprietor or person in charge of every dwelling house shall be able to dispose of one bulky item per week as set out in the City's rubbish collection policy.

(d) Brush, branches, leaves and lawn clippings shall be bagged or otherwise placed at the curb for collection as set out in the City's rubbish collection policy.

(Ord. 515. Passed 11-6-89; Ord. 906. Passed 8-8-16.)

#### **1060.04 CONTAINERS IN R-M, O-1, CBD, B-1, B-2, I-1, I-2, P-1, TC AND HL DISTRICTS ACTUALLY USED AS OFFICE ZONES.**

(a) The owner, proprietor or person in charge of properties contained in the CBD District shall place all residential waste and garbage in computerized or non-computerized compactors placed throughout the CBD District by the City. Garbage, refuse building materials and residential waste shall not be placed or commingled in containers designated for recyclable materials.

(b) The owner, proprietor or person in charge of properties contained in R-M, O-1, B-1, B-2, I-1, I-2, P-1, TC and HL Districts shall provide space for the placement of containers for the storage of waste awaiting collection. The type and style of container shall be supplied by the City's contractor and approved by the City Manager based upon the maximum anticipated amount of residential waste and garbage generated.

(c) If an alley is located at the rear or side of the developed property of any zoning classification referenced above, curb carts and recycle carts shall be placed in such alley or at such other location as may be designated by the City Manager.

(d) Containers must be located so that they are in the least visible location possible from public thoroughfares and neighboring properties.

(Ord. 515. Passed 11-6-89; Ord. 906. Passed 8-8-16.)

#### **1060.05 BUILDING MATERIALS.**

The owner, contractor or other person responsible for construction work shall remove from the premises, within seven calendar days after the completion of such construction work, all surplus construction materials and refuse building materials. Such materials shall be removed from the building site and shall not be picked up by the City's normal garbage collector except as provided in this chapter.

(Ord. 515. Passed 11-6-89; Ord. 906. Passed 8-8-16.)

#### **1060.06 COLLECTION SCHEDULE AND REGULATIONS.**

The City Manager shall provide a program for the collection and disposal of all solid waste accumulated in the City. This

program shall be adopted by City Council resolution from time to time and is hereby incorporated by reference for enforcement purposes.

(Ord. 515. Passed 11-6-89; Ord. 906. Passed 8-8-16.)

#### **1060.07 GENERAL PROHIBITION AGAINST ACCUMULATION OF SOLID WASTE.**

(a) No owner, occupant or other person in charge of a business shall permit any solid waste or combustible material to accumulate in any alley, street or other public place, or in any private place outside of an approved building, more than twenty-four hours before the regular scheduled time for collection in any week. See also Chapters 622 and 652 of the General Offenses Code.

(b) If there is a violation of this chapter, the City Manager is authorized to cause to be collected such materials at any time at the owner's expense. At the discretion of the City Manager, this charge shall either be incorporated into a special assessment roll to be processed in the manner prescribed by the City Charter and these Codified Ordinances or shall be entered upon the next tax roll as a charge against such premises and be collected and the lien thereof be enforced in the same manner as general City taxes against such premises are collected and liens enforced.

(Ord. 515. Passed 11-6-89; Ord. 906. Passed 8-8-16.)

#### **1060.08 UNLAWFUL TRANSPORTATION OF SOLID WASTE.**

(a) No person shall transport, cart, carry or convey through or over the streets, alleys or other public places of the City any garbage, residential waste, unwashed refuse, unwashed food containers, animal carcasses or other decaying organic matter, unless the same are transported in a watertight vehicle with suitable covering.

(b) No commercial hauler shall conduct business within the City limits unless licensed in the State of Michigan to collect and dispose of solid waste and has obtained a permit for such collection from the City Manager.

(Ord. 515. Passed 11-6-89; Ord. 906. Passed 8-8-16.)

#### **1060.09 RULES AND REGULATIONS.**

(a) The City Manager shall make rules and regulations concerning the collection and disposal of rubbish and garbage from the Central Business District and/or industrial, commercial and institutional establishments as he or she may deem proper.

(b) Such rules and regulations shall modify this chapter to provide for the method and time of collection and disposing of the garbage, residential waste and refuse of the special enterprises covered by the rules and regulations.

(c) If the owner, manager or operator of an industrial, commercial or institutional enterprise objects to any of the rules and regulations herein provided for, he or she shall, within fifteen days after receipt thereof, file notice of his or her objection with the City Clerk, who shall place upon the next available City Council agenda the rules and regulations in question for consideration, ratification, modification or dissolution.

(Ord. 515. Passed 11-6-89; Ord. 906. Passed 8-8-16.)

#### **1060.10 ENFORCEMENT.**

Officers of the Police Department, the Building Inspector and the Fire Chief are hereby authorized to issue citations to any person violating any of the provisions of this chapter.

(Ord. 515. Passed 11-6-89; Ord. 906. Passed 8-8-16.)

#### **1060.11 SURCHARGE FOR DELINQUENCY.**

Failure to make payment for solid waste service on or before the due date on the bill shall result in the account being classified as delinquent and ten percent of the amount of the bill and charges shall be added thereto.

(Res. 90-43. Passed 1-14-91; Ord. 906. Passed 8-8-16.)

#### **1060.99 PENALTY.**

Whoever violates any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99.

## **CHAPTER 1062**

### **Parks and Recreational Facilities**

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- 1062.02 Use of City Park by nonresidents.
- 1062.03 Violation of Commission's regulations.
- 1062.99 Penalty.

**CROSS REFERENCES**

- Parks generally - see Mich. Const. Art. 7, Sec. 23
- Parks in home rule cities - see M.C.L. Secs. 117.4e, 117.5
- Misapplication of funds - see M.C.L. Sec. 123.67
- Litter in parks - see M.C.L. Secs. 752.901 et seq.; GEN. OFF.652.05(g)
- Park and Recreation Commission - see ADM.Ch. 272
- Prohibited vehicles in public parks - see TRAF.440.03

**1062.01 TRAFFIC CONTROL.**

No person shall use a City recreational facility located upon Thompson Lake, be it at the City Park, Bathing Beach or Boat Launching Livery, without having upon his or her vehicle a current park permit issued by the City Clerk. Further, Council may from time to time establish traffic control regulations for vehicular traffic and parking of vehicles upon such premises. No person shall violate or fail to comply with any of such regulations. Upon the establishment of such regulations, and upon the City placing upon such property signs indicating such restrictions in a manner and means so as to be viewable by anyone using the facilities, the City police may remove motor vehicles parked in prohibited zones or parked without the benefit of a park permit. Such removal shall be in addition to the penalty provided in Section 1062.99.

(Ord. 264. Passed 5-20-69.)

**1062.02 USE OF CITY PARK BY NONRESIDENTS.**

Permits for the use of Howell City Park may be issued by the City Clerk, at his or her discretion, to residents of all noncontributing municipalities in the County upon the payment of a fee established by Council.

(Ord. 289. Passed 10-18-71.)

**1062.03 VIOLATION OF COMMISSION'S REGULATIONS.**

No person shall violate or fail to comply with any of the rules and regulations established by the Park and Recreation Commission under the authority of Section 272.07 of the Administration Code.

(Ord. 205. Passed 12-11-61; Ord. 420. Passed 4-5-82.)

**1062.99 PENALTY.**

Whoever violates any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99

## **CHAPTER 1064**

### **Cemeteries**

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- 1064.01 Speed limits; driving restriction.
- 1064.02 Transfer of lots and columbarium niches.
- 1064.03 Grave, columbarium niche and service charges.

**CROSS REFERENCES**

- Cemetery Commission - see ADM.Ch. 266
- Prohibited vehicles in cemeteries - see TRAF.440.03

**1064.01 SPEED LIMITS; DRIVING RESTRICTION.**

No person shall drive his or her motor vehicle upon any street or roadway of Lakeview Cemetery at a speed greater than fifteen miles an hour. No person shall drive his or her motor vehicle upon the outer drive or roadway in the Cemetery which circles around the shore of Thompson Lake, except as follows: Motorists entering the Cemetery and wishing to drive around the outer roadway shall proceed in a northerly direction from the entrance to the shore of Thompson Lake and then in an easterly direction around the Lake to the roadway leading westerly and southwesterly back to the main entrance roadway.

(Ord. 523. Passed 3-26-90.)

**1064.02 TRANSFER OF LOTS AND COLUMBARIUM NICHES.**

Lots and columbarium niches owned by a person in Lakeview Cemetery, which is owned and operated by the City, may be sold, transferred or assigned to the grantees, heirs and assigns of such owner by filing with the City Clerk the proper deed of conveyance or other legal instrument covering such sale, transfer or assignment. At the time such document is filed with the City Clerk and transfer is made upon the records of the City, the new owner shall pay a transfer fee to the City, the amount of which shall be determined from time to time by City Council resolution.

(Ord. 523. Passed 3-26-90; Ord. 861. Passed 11-19-12.)

**1064.03 GRAVE, COLUMBARIUM NICHE AND SERVICE CHARGES.**

Charges for graves, columbarium niches and services at the Lakeview Cemetery shall be determined from time to time by City Council resolution and are hereby set as follows:

<u>Grave Sites &amp; Columbarium Niche</u>	<u>Grave Site &amp; Columbarium Fee</u>	<u>Perpetual Care Fee</u>	<u>Total Fee</u>
Adult resident	\$400.00	\$400.00	\$800.00
Adult nonresident	800.00	800.00	1,600.00
Infant resident	250.00	250.00	500.00
Infant nonresident	450.00	450.00	900.00
Transfer fee-immediate family*		100.00	100.00
Transfer fee-other than immediate family*		200.00	200.00

\* Immediate family is the owner's grandparent, parent, brother, sister, child or grandchild.

	<u>Fee Structure</u>		
<u>Grave &amp; Niche Openings</u>	<u>Mon.-Fri.</u>	<u>Saturday</u>	<u>Sunday and Holidays</u>
Adults (graves)	\$600.00	800.00	1,200.00
Infants (graves)	250.00	375.00	500.00
Ashes (niche)	200.00	300.00	400.00

<u>Holidays</u>	<u>Holidays</u>
New Year's Eve	New Year's Day
Martin Luther King Day	Presidents' Day
Good Friday	Memorial Day
4th of July	Labor Day
Thanksgiving Day	Friday after Thanksgiving Day
Christmas Eve	Christmas Day

**Monument Foundations**

The fee for monument foundations shall be forty cents (40¢) per square inch with a seventy dollars (\$70.00) minimum charge.

**Disinterments**

Two times the appropriate opening and closing fees.

**Engraving Fee**

The fee for engraving columbarium niche plates shall be two hundred and fifty dollars (\$250.00). This will include name, date of birth and date of death.

(Ord. 624. Passed 1-8-96; Ord. 721. Passed 11-5-01; Res. 07-22. Passed 8-27-07; Ord. 861. Passed 11-19-12.)

## Fire and Burglar Alarm Systems

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1066.01 Definitions.

1066.02 False alarms; inspections; orders to correct.

1066.03 Application of chapter.

1066.99 Penalty.

### **CROSS REFERENCES**

Fires and fire protection generally - see M.C.L. Secs. 29.1 et seq.

Arson - see M.C.L. Secs. 750. 71 et seq.

Theft generally - see M.C.L. Secs. 750.356 et seq.

Police Department - see ADM. Ch. 236

False alarms; tampering with alarm boxes - see GEN. OFF.658.02

False fire alarms - see GEN. OFF.662.01(b)(12)

### **1066.01 DEFINITIONS.**

As used in this chapter:

(a) "Defective" does not apply to mechanical, electrical or electronic problems that are beyond the control of the owner or lessee of the system.

(b) "False alarm" means the activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner or lessee of an alarm system or of his or her employee or agent. "False alarm" does not include the alarm caused by severe weather or other violent conditions beyond the control of the owner or lessee of an alarm system or his or her employee or agent.

(Ord. 394. Passed 2-11-80.)

### **1066.02 FALSE ALARMS; INSPECTIONS; ORDERS TO CORRECT.**

(a) An alarm system experiencing more than two false alarms within a thirty-day period or four false alarms within the calendar year is deemed defective. Upon written notice to the owner or lessee of the alarm system by the Chief of Police or the Howell City Fire Chief, the owner or lessee shall have the system inspected by an alarm system contractor who shall, within fifteen days, file a written report to the Chief of Police or the Fire Chief of the results of his or her inspection, the probable cause of the false alarms and his or her recommendation for eliminating false alarms.

(b) Upon receipt of the report, the Chief of Police or the Fire Chief shall forward the same to the owner or lessee, ordering corrections, based upon recommendations contained in the report.

(c) The owner or lessee shall have three working days from receipt of the order to make such corrections. Thereafter, to defray the cost of responding to false alarms, the owner or lessee of an alarm system shall pay to the City two hundred fifty dollars (\$250.00) for each false alarm received and responded to by the Police Department or the Fire Department during the calendar year in which the order to correct the system was issued. The amount due the City shall be paid forthwith upon demand by the City and if not so paid, the City shall have the right, along with all of the other rights it may have, to impose a lien on the real and personal property of the owner or lessee and such lien shall be enforced in the same manner as are delinquent taxes.

(Ord. 603. Passed 9-19-94.)

### **1066.03 APPLICATION OF CHAPTER.**

This chapter is intended to regulate remote sensing burglary alarms, hold-up alarms, fire alarms and residential alarm systems. Alarm systems that signal the presence of hazards other than those stated herein are exempt from this chapter.

(Ord. 394. Passed 2-11-80.)

### **1066.99 PENALTY.**

Whoever violates any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99.

## City Library

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EDITOR'S NOTE: Resolution 87-17, passed June 8, 1987, established a District library with the Howell School District pursuant to Act 164 of the Public Acts of Michigan, 1955, as amended.

There are no sections in Chapter 1068. This chapter has been established to provide a place for cross references and any future legislation.

### **CROSS REFERENCES**

City Library - see CHTR. Ch. 17

Library Board - see CHTR. Secs. 17.1 et seq.; ADM.Ch. 276

## PART TWELVE - PLANNING AND ZONING CODE

### TITLE TWO - Planning

Chap. 1210. Planning Commission.

Chap. 1212. Master Plan.

Chap. 1214. Highway Plan.

Chap. 1216. Land Divisions.

Chap. 1218. Large Development Projects.

Chap. 1219. Development Plan and Tax Increment Financing Plan.

### TITLE FOUR - Subdivision Regulations

Chap. 1220. General Provisions and Definitions.

Chap. 1222. Administration, Enforcement and Penalty.

Chap. 1224. Subdivision Procedures.

Chap. 1226. Design Standards.

Chap. 1228. Improvements.

### TITLE SIX- Zoning

Chap. 1240. Adoption of Zoning Code.

Chap. 1250. Historic District.

## CHAPTER 1210

### Planning Commission

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1210.01 Establishment; membership; terms.

1210.02 Compensation.

1210.03 Rules, regulations, duties and authority.

### **CROSS REFERENCES**

Municipal planning commissions - see M.C.L. Secs. 125.31 et seq.

Howell Historical Preservation Commission - see ADM.Ch. 280

Administration of Subdivision Regulations - see P. & Z.1222.01

Planning Commission as Zoning Commission - see P. & Z.Chapter 1240 (Zoning Code)

Approval of zoning uses by the Planning Commission - see P. & Z.Chapter 1240 (Zoning Code)

Planning Commission review of land divisions - see P. & Z.1216.06

### **1210.01 ESTABLISHMENT; MEMBERSHIP; TERMS.**

(a) In accordance with the Michigan Planning Enabling Act (Act 33 of 2008), as amended, there is hereby established a Planning Commission consisting of seven members. Up to five of the members shall be residents of the City, and shall,

insofar as possible, represent important segments and major interests of the City, and shall not hold any elective office. The remaining two members shall be the Mayor and a member of Council. Planning Commission members shall be qualified electors of the City, except that one member may, when appropriate, be an individual who is not a qualified elector of the City but is a qualified elector in another local unit of government.

(b) The Mayor shall appoint the five citizen members of the Commission with the approval of Council. The terms of such members shall commence on May 1 and shall be for three years, except that two members of the first Planning Commission to be appointed under this chapter shall serve for a term of one year, two for a term of two years and two for a term of three years. The Council member shall be recommended by the Mayor with approval by Council and shall serve for a period of one year.

(c) All members of the Commission shall hold office until their successors are appointed or, in the case of the Mayor, until his or her successor is elected. Members of the Commission may, after a public hearing, be removed by the Mayor, with the approval of Council, for misfeasance, malfeasance or nonfeasance in office. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term as provided in subsection (b) hereof for first appointments.

(Ord. 262. Passed 5-20-69; Ord. 845. Passed 7-11-11; Ord. 909. Passed 8-22-16.)

#### **1210.02 COMPENSATION.**

There shall be no compensation for a member of the Planning Commission, except that reasonable expenses may be allowed in case of necessity.

(Ord. 262. Passed 5-20-69.)

#### **1210.03 RULES, REGULATIONS, DUTIES AND AUTHORITY.**

(a) The rules, regulations, duties and authority of the Planning Commission, as outlined by the Michigan Planning Enabling Act (Act 33 of 2008), as amended, shall apply in all cases.

(b) The duties of the Planning Commission shall include, but are not limited to, the following:

(1) Make and approve a master plan as a guide for development within the City subject to the procedural requirements of the Michigan Planning Enabling Act (Act 33 of 2008).

(2) Adopt bylaws for the transaction of business.

(3) Keep a public record of its resolutions, transactions, findings and determinations.

(4) Make an annual written report to the City Council concerning its operations and the status of planning activities, including recommendations regarding actions by the City Council regarding planning and development.

(c) The Planning Commission is exempt from preparing an annual Capital Improvement Plan (CIP). Preparation of the CIP is delegated to City Staff subject to final approval by the City Council.

(Ord. 262. Passed 5-20-69; Ord. 845. Passed 7-11-11.)

## **CHAPTER 1212**

### **Master Plan**

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EDITOR'S NOTE: Planning Commission, by a Resolution passed on December 11, 2002, adopted a Master Plan for the city pursuant to Action 285 of 1931, as amended. Copies are available, at cost, from the City Clerk.

There are no sections in Chapter 1212. This chapter has been established to provide a place for cross references and any future legislation.

#### **CROSS REFERENCES**

Planning Commission - see P. & Z. Ch. 1210

Highway Plan - see P. & Z. Ch. 1214

Conformity of subdivisions with Master Plan - see P. & Z.1226.01

Subdivision Open Space Plan - see P. & Z.Chapter 1240 (Zoning Code)

## **CHAPTER 1214**

### **Highway Plan**

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1214.01 Adoption.

**CROSS REFERENCES**

Streets - see S.U. & P.S.Ch. 1020

Planning Commission - see P. & Z.Ch. 1210

Comprehensive Land Use Plan - see P. & Z.Ch. 1212

**1214.01 ADOPTION.**

The highway plan and right-of-way requirements proposed by the Inter-County Highway Commission of Southeastern Michigan, as listed below, are hereby adopted.

Public Way Right-of-Way Width (ft.)

Michigan Ave. between M-59 and Mason Rd. 86

Pinckney Rd. from Mason Rd. to the south City limits 120

Byron Rd. from Grand River Ave. to M-59 86

Mason Rd. 120

Grand River from Byron Rd. to Catrell Dr. 100

Grand River from Byron Rd. to the west City limits 120

Grand River from Catrell Dr. to the east City limits 120

M-59 (Highland Rd.) all within the Howell City limits 120

(Res. Unno. Passed 8-21-72.)

## CHAPTER 1216

### Land Divisions

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EDITOR'S NOTE: This chapter, previously a codification of Ordinance 513, passed September 11, 1989, and previously titled Lot Divisions, was re-enacted in its entirety by Ordinance 619, passed October 16, 1995, which also changed the title to Land Divisions.

1216.01 Purpose.

1216.02 Scope.

1216.03 Rules of construction.

1216.04 Definitions.

1216.05 Applications.

1216.06 Preliminary approval.

1216.07 Standards for approval.

1216.08 Final approval.

1216.09 Appeals.

1216.10 Fees.

1216.11 Violations as nuisance; abatement.

1216.12 Inconsistent ordinances.

1216.99 Penalty.

**CROSS REFERENCES**

Subdivision Regulations - see P. & Z.Ch. 1220 et seq.

Reduction of lots; land for common use; Subdivision Open Space Plan - see P. & Z.Chapter 1240 (Zoning Code)

Averaged lot sizes - see P. & Z.Chapter 1240 (Zoning Code)



#### **1216.01 PURPOSE.**

The purpose of this chapter is to regulate and control the division of all land within the City of Howell in order to ensure that the minimum standards of the Zoning Code are met and that the public health, safety and welfare are protected.

(Ord. 619. Passed 10-16-95.)

#### **1216.02 SCOPE.**

(a) This chapter shall apply to the division of all land located within the City of Howell.

(b) Any division of land which has not been first approved by the City under the terms of this chapter shall not be considered a valid division of such property and shall not be placed on the City tax rolls as separate and individual property.

(Ord. 619. Passed 10-16-95.)

#### **1216.03 RULES OF CONSTRUCTION.**

For the purpose of this chapter, certain rules of construction apply to the text, as follows:

(a) Words used in the present tense include the future tense, and the singular includes the plural, unless the context clearly indicates the contrary.

(b) The term "shall" is always mandatory and not discretionary; the word "may" or "should" is permissive.

(c) Any word or term not interpreted or defined by this chapter shall carry the meaning of common or standard utilization.

(Ord. 619. Passed 10-16-95.)

#### **1216.04 DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this chapter, unless otherwise specifically stated:

(a) "Division" or "divide" means to separate any land into parts.

(b) "Land" means a lot, outlot or parcel of real property.

(c) "Lot" means that measured portion of a parcel or tract of land which is described and fixed in a recorded plat.

(d) "Outlot" means a lot included within the boundary of a recorded plat set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use.

(e) "Owner" means any person who holds the legal title or the equitable title, the equitable title being evidenced by a duly executed land contract signed by the holders of legal title, or by a duly executed purchase agreement signed by the owners of legal title. If there are holders of both legal and equitable title, "owner" shall be construed to mean all such persons. Wherever the word "owner" appears in this chapter, all persons holding any legal or equitable interest shall be deemed to be referred to, and, in the event that signatures are required, all of such persons shall be deemed to be required to sign.

(f) "Parcel" means a continuous area or acreage of land which can be described.

(g) "Registered land surveyor" or "civil engineer" means a person so licensed by the State.

(Ord. 619. Passed 10-16-95.)

#### **1216.05 APPLICATIONS.**

(a) An owner who desires a land division shall make written application to the City.

(b) The application shall be in a form provided by the City and shall contain at least the following information:

(1) The names of all owners of any legal or equitable interest, and their signatures.

(2) The legal description of the parcel, which description shall contain the acreage.

(3) A copy of the most recent paid tax bill pertaining to the parcel, including proof that all delinquent taxes have been paid.

(4) A drawing of the land as it exists prior to the proposed division, which may be incorporated in paragraph (b)(5) hereof.

(5) A drawing of the land as it will appear following the proposed division, including the following information:

A. North arrow, date and scale.

B. Existing and proposed lot lines and dimensions.

C. Existing utilities and drainage courses within fifty feet of the land to be split.

- D. Location and dimensions of existing and proposed easements, lot numbers, roadways and lot irons.
- E. Existing structures on the land and all structures within fifty feet of the proposed lot lines.
- F. Zoning classification of the land to be divided and all abutting land.
- G. All required front, rear and side yard setbacks resulting from the requested split.

(6) A copy of all existing and/or proposed restrictions or covenants which apply to the land.

(7) The person to whom all correspondence concerning the division is to be directed, with the specific designation of the person acting as the agent for all other owners.

(Ord. 619. Passed 10-16-95.)

#### **1216.06 PRELIMINARY APPROVAL.**

(a) All land division applications shall be submitted to the Building Official, who shall review the application for completeness and compliance with the Zoning Code and all other applicable ordinances. The Building Official shall schedule the land division application for review by the Planning Commission on the next available agenda.

(b) In reviewing the application, City staff and/or the Planning Commission may seek the advice of the City Attorney, the City Planner, any administrative official or any other person whose knowledge or understanding might assist in determining the merits and effects of the proposed division.

(c) The Planning Commission shall review the information submitted in accordance with the standards set forth in Section 1216.07 and approve, approve with conditions or deny the application. The Planning Commission shall reflect in its minutes any reasons for approval with conditions or denial to the applicant.

(Ord. 619. Passed 10-16-95.)

#### **1216.07 STANDARDS FOR APPROVAL.**

(a) Zoning Compliance. No application for the division of land shall be approved unless the minimum requirements of the Zoning Code are met.

(b) Access. No division shall be created unless accessibility is provided by either a public road, a private road of record at the time of enactment of this chapter or a private road constructed on a permanent, unobstructed easement and approved by the City Council.

(c) Layout. The size, shape and orientation of the land division shall be appropriate for the type of development and land use contemplated. Access to remaining or abutting properties shall be considered. No division shall be approved which would conflict with existing drainage courses, easements or public rights of way.

(d) Utility Easements. No application for the division of land shall be approved without adequate provisions made for utility easements. Where such utility easements are needed, written evidence of their availability shall be submitted prior to approval.

(e) Compliance With Subdivision Control Act. In no event shall approval be granted where the divisions are contrary to, or in violation of, the Michigan Subdivision Control Act, being Act 288 of the Public Acts of 1967, as amended.

(Ord. 619. Passed 10-16-95.)

#### **1216.08 FINAL APPROVAL.**

Prior to the entry of any approved division on the City records and the assignment of a tax identification number by the City Assessor, the applicant shall provide the Assessor with the following:

(a) Survey and Legal Description. The applicant shall provide the address of the property or property in closest proximity to the subject property, a survey and legal description of the land divisions as prepared by a land surveyor or engineer registered in the State of Michigan and the common name of the subdivision in which the property is located.

(b) Proof of Acceptance and/or Approval of Improvements Prior to Final Approval Where access to a land division is provided by a public road, proof that said road has been constructed and accepted by the City shall be provided prior to final approval. Where access is provided by a private road, proof that said road has been constructed and approved by the City shall be provided prior to final approval. Where other improvements, such as storm drainage facilities and public sewer and water are required, proof that said improvements have been constructed and approved by the City shall be provided prior to final approval.

(c) Financial Guarantees. In lieu of completion of all improvements prior to final approval, the City may permit a cash deposit, certified check, irrevocable letter of credit or surety bond acceptable to the City to be deposited with the Clerk to cover the estimated cost of improvements. The financial guarantee shall be provided prior to final approval of the parcel division.

The applicant shall provide a cost estimate of the improvements to be covered by the guarantee and such estimate shall be verified as to amount by the City. The form of the guarantee shall be approved by the City Attorney.

If the applicant shall fail to provide any site improvements according to the approved plans within the time period specified in the guarantee, the City shall be entitled to enter upon the site and complete the improvements. The City may defray the cost thereof from the deposited security or may require performance by the bonding company.

If a cash deposit or irrevocable bank letter of credit is used, rebate to the applicant shall be made in a reasonable proportion of the work completed to the entire project, as determined by the Clerk.

(Ord. 619. Passed 10-16-95.)

#### **1216.09 APPEALS.**

In the event an interested person is aggrieved by the decision made by the Planning Commission, an appeal may be filed with the City Council, unless the appeal is the result of lack of compliance with the Zoning Code. Appeals resulting from lack of compliance with the Zoning Code shall be filed with the Zoning Board of Appeals. All appeals must be filed within twenty-one days of the date of a decision by the Planning Commission.

(Ord. 619. Passed 10-16-95.)

#### **1216.10 FEES.**

Each application under this chapter shall be accompanied by a fee in the amount established by the City Council as set forth in the Zoning Code.

(Ord. 704. Passed 4-10-00.)

#### **1216.11 VIOLATIONS AS NUISANCE; ABATEMENT.**

Any violation of the terms of this chapter shall be and the same is hereby declared to be a nuisance per se, and such use may be abated, restrained, enjoined and prohibited upon the commencement of an appropriate action in the Circuit Court, in addition to the penalty provided in Section 202.99 of the Administration Code.

(Ord. 619. Passed 10-16-95.)

#### **1216.12 INCONSISTENT ORDINANCES.**

Where a provision of any other ordinance is found to be inconsistent with this chapter, the most restrictive provision shall apply.

(Ord. 619. Passed 10-16-95.)

#### **1216.99 PENALTY.**

Whoever violates any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99.

## **CHAPTER 1218**

### **Large Development Projects**

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1218.01 Deposit required for site plan review (Repealed).

#### **CROSS REFERENCES**

Subdivision Regulations - see P. & Z.Ch. 1220 et seq.

Review of building permit applications - see B. & H. 1440.05

Review of subdivision proposals - see B. & H. 1440.06

#### **1218.01 DEPOSIT REQUIRED FOR SITE PLAN REVIEW. (REPEALED)**

(EDITOR'S NOTE: Section 1218.01 was repealed by Ordinance 704, passed April 10, 2000.)

## **CHAPTER 1219**

### **Development Plan and Tax Increment Financing Plan**

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1219.01 Findings.

- 1219.02 Public purpose.
- 1219.03 Best interest of the public.
- 1219.04 Approval and adoption of plan.
- 1219.05 Preparation of base year assessment roll.
- 1219.06 Preparation of annual tax increment assessment roll.
- 1219.07 Establishment of Project Fund; approval of depository.
- 1219.08 Payment of tax increments to authority.
- 1219.09 Use of moneys in the Project Fund.
- 1219.10 Annual report.
- 1219.11 Refund of surplus tax increments.
- 1219.12 Conflict and severability.
- 1219.13 Section headings.
- 1219.14 Publication and recordation.
- 1219.15 Effective date.

### **CROSS REFERENCES**

Municipal bonds - see M.C.L.A. Secs. 117.4a, 117.4b, 117.4e, 117.4g, 117.5, 117.14a, 117.35a

Improvements in home rule cities - see M.C.L.A. Secs. 117.4d et seq.

Downtown Development Authority - see M.C.L.A. Secs. 125.1651 et seq.; ADM.Ch. 185

Planning Commission - see P. & Z. Ch. 1210

Commercial and industrial developments - see P. & Z. 1226.12

Tax Increment Finance Authority - see B.R. & T.Ch. 896

### **1219.01 FINDINGS.**

(a) The Development Area Citizens Council has reviewed the Development Plan and Tax Increment Financing Plan (hereinafter "the Plan") for the Development Area in the Downtown District in the City, and, after discussions with the Downtown Development Authority concerning its findings and recommendations, has approved the Plan.

(b) The Development Plan included in the Plan meets the requirements set forth in Section 17(2) of Act 197 of the Public Acts of Michigan, 1975, and the tax increment financing plan meets the requirements set forth in Section 14(2) of the Act.

(c) The proposed method of financing the development is feasible and the Authority has the ability to arrange the financing.

(d) The development is reasonable and necessary to carry out the purposes of the Act.

(e) The land included within the Development Area to be acquired is reasonably necessary to carry out the purposes of the Act.

(f) The Development Plan is in reasonable accord with the Master Plan of the City.

(g) Public services, such as fire and police protection and utilities, are or will be adequate to serve the Development Area.

(h) Changes in zoning, streets, street levels, intersections, and utilities, to the extent required by the Plan, are reasonably necessary for the project and for the City.

(Ord. 543. Passed 5-6-91.)

### **1219.02 PUBLIC PURPOSE.**

The City Council hereby determines that the Plan constitutes a public purpose.

(Ord. 543. Passed 5-6-91.)

### **1219.03 BEST INTEREST OF THE PUBLIC.**

The City Council hereby determines that it is in the best interest of the public to halt property value deterioration, to increase property tax valuation, to eliminate the causes of the deterioration in property values, and to promote growth in the Downtown District to proceed with the Plan.

(Ord. 543. Passed 5-6-91.)

#### **1219.04 APPROVAL AND ADOPTION OF PLAN.**

The Plan is hereby approved and adopted. The duration of the Plan shall be fifteen years from the date of this chapter or the date of issuance of the last series of bonds pursuant to the Plan, whichever is later, except as it may be extended by subsequent amendment of the Plan pursuant to the Act. A copy of the Plan and all amendments thereto shall be maintained on file in the City Clerk's office.

(Ord. 543. Passed 5-6-91.)

#### **1219.05 PREPARATION OF BASE YEAR ASSESSMENT ROLL.**

(a) Within sixty days of the publication of this chapter, the City Assessor shall prepare the initial base year assessment roll. The base year assessment roll shall list each taxing jurisdiction in the Development Area of the Downtown District on the effective date of this chapter, the initial assessed value of each parcel of property within the Development Area, and the amount of tax revenue derived by each taxing jurisdiction from ad valorem taxes on the property in the jurisdiction of the Downtown Development Authority.

(b) The City Assessor shall transmit copies of the base year assessment roll to the City Treasurer, County Treasurer, the Authority and each taxing jurisdiction, together with a notice that the base year assessment roll has been prepared in accordance with this chapter and the tax increment financing plan contained in the Plan approved by this chapter.

(Ord. 543. Passed 5-6-91.)

#### **1219.06 PREPARATION OF ANNUAL TAX INCREMENT ASSESSMENT ROLL.**

Each year, within fifteen days following the final equalization of property in the Downtown District, the City Assessor shall prepare the tax increment assessment roll. The tax increment assessment roll shall show the information required in the base year assessment roll and, in addition, the amount by which the current assessed value as finally equalized for all taxable property in the Downtown District exceeds the assessed value of the property as shown on the base year assessment roll (the "captured assessed value"). Copies of the annual tax increment assessment roll shall be transmitted by the Assessor to the same persons as the base year assessment roll, together with a notice that it has been prepared in accordance with this chapter and the Plan.

(Ord. 543. Passed 5-6-91.)

#### **1219.07 ESTABLISHMENT OF PROJECT FUND; APPROVAL OF DEPOSITORY.**

The Treasurer of the Downtown Development Authority shall establish a separate fund which shall be kept in a depository bank account or accounts in a bank or banks approved by the Treasurer of the City, to be designated the Downtown Development Authority Project Fund. All moneys received by the Authority pursuant to the Plan shall be deposited into the Project Fund. All moneys in the Project Fund and earnings thereon shall be used only in accordance with the Plan.

(Ord. 543. Passed 5-6-91.)

#### **1219.08 PAYMENT OF TAX INCREMENTS TO AUTHORITY.**

The City Treasurer and the County Treasurer shall, as ad valorem taxes are collected on the property in the Downtown District, pay to the Treasurer of the Downtown Development Authority, for deposit into the Project Fund, that proportion of the taxes, except for penalties and collection fees, that the captured assessed value bears to the initial assessed value. The payments shall be made on the date or dates on which the City Treasurer and the County Treasurer are required to remit taxes to each of the taxing jurisdictions.

(Ord. 543. Passed 5-6-91.)

#### **1219.09 USE OF MONEYS IN THE PROJECT FUND.**

The moneys credited to the Project Fund and on hand therein from time to time shall be used annually in the following manner and the following order of priority:

(a) First, to pay into the debt retirement fund, or funds, for all outstanding series of bonds issued pursuant to the 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.

(b) Second, to establish a reserve account for payment of principal of and interest on bonds issued pursuant to the Plan to the extent required by any resolution authorizing bonds.

(c) Third, to pay the administrative, auditing and operating costs of the Authority and the City pertaining to the Downtown District, including planning and promotion, to the extent provided in the annual budget of the Authority.

(d) Fourth, to repay amounts advanced by the City for project costs, including costs of preliminary plans, and fees for other professional services.

(e) Fifth, to pay the cost of completing the remaining public improvements as set forth in the Development Plan to the

extent that such costs are not financed from other sources.

(Ord. 543. Passed 5-6-91.)

#### **1219.10 ANNUAL REPORT.**

Within ninety days after the end of each fiscal year, the Authority shall submit to the City Council, with copies to each taxing jurisdiction, a report on the status of the Project Fund. The report shall include the amount and source of revenue in the account, the amount and purpose of expenditures from the account, the amount of principal and interest on any outstanding indebtedness, the amount in any bond reserve account, the initial assessed value of the Downtown District, the captured assessed value of the Downtown District and the amount of captured assessed value retained by the Authority, the tax increments received and the amount of any surplus from the prior year, and any additional information requested by the City Council or deemed appropriate by the Authority. The secretary of the Authority shall cause a copy of the report to be published once in full in a newspaper of general circulation in the City.

(Ord. 543. Passed 5-6-91.)

#### **1219.11 REFUND OF SURPLUS TAX INCREMENTS.**

Any surplus money in the Project Fund at the end of a year, as shown by the annual report of the Downtown Development Authority, shall be paid by the Authority to the City Treasurer or the County Treasurer, as shown by the annual report of the Authority, as the case may be, and rebated by each to the appropriate taxing jurisdiction.

(Ord. 543. Passed 5-6-91.)

#### **1219.12 CONFLICT AND SEVERABILITY.**

All ordinances, resolutions and orders or parts thereof in conflict with the provisions of this chapter are to the extent of such conflict hereby repealed, and each section of this chapter and each subdivision of any section thereof is hereby declared to be independent, and the finding or holding of any section or subdivision thereof to be invalid or void shall not be deemed or held to affect the validity of any other section or subdivision of this chapter.

(Ord. 543. Passed 5-6-91.)

#### **1219.13 SECTION HEADINGS.**

The section headings in this chapter are furnished for convenience of reference only and shall not be considered to be a part of this chapter.

(Ord. 543. Passed 5-6-91.)

#### **1219.14 PUBLICATION AND RECORDATION.**

This chapter shall be published in full promptly after its adoption in the Livingston County Press, a newspaper of general circulation in the City, qualified under State law to publish legal notices, and shall be recorded in the Ordinance Book of the City, which recording shall be authenticated by the signature of the City Clerk.

(Ord. 543. Passed 5-6-91.)

#### **1219.15 EFFECTIVE DATE.**

This chapter is hereby determined by the City Council to be immediately necessary for the preservation of the peace, health and safety of the Downtown Development Authority and shall be in full force and effect from and after its passage and publication as required by law.

(Ord. 543. Passed 5-6-91.)

## **TITLE FOUR - Subdivision Regulations**

### **CHAPTER 1220**

#### **General Provisions and Definitions**

---

1220.01 Title.

1220.02 Purpose.

1220.03 Legal basis.

1220.04 Scope.

1220.05 Amendments.

1220.06 Severability.

1220.07 Definitions.

### **CROSS REFERENCES**

Approval of plats; street system - see M.C.L. Sec. 125.43

Regulations governing subdivision of land; bond to secure improvement; publication of regulations - see M.C.L. Sec. 125.44

Approval or disapproval of plats; procedure; effect - see M.C.L. Sec. 125.45

Certification of city plats - see M.C.L. Secs. 125.51 et seq.

Utility extensions to new developments - see S.U. & P.S.1050.01

Planning Commission - see P. & Z. Ch. 1210

Subdivision Open Space Plan - see P. & Z. Chapter 1240 (Zoning Code)

Review of subdivision proposals - see B. & H. 1440.06

### **1220.01 TITLE.**

These Subdivision Regulations shall be known and may be cited as the "City of Howell Subdivision Ordinance" or just the "Subdivision Regulations."

(Ord. 421. Passed 6-1-82.)

### **1220.02 PURPOSE.**

The purpose of these Subdivision Regulations is to regulate and control the subdivision of land in the City in order to promote the safety, public health and general welfare of the community. The Subdivision Regulations are specifically designed to:

- (a) Provide for the orderly growth and harmonious development of the community, consistent with adopted growth and development policies of the City;
- (b) Secure adequate traffic circulation through coordinated street systems with proper relation to major thoroughfares, adjoining subdivisions, public facilities and pertinent elements of the adopted Master Plan for the City;
- (c) Achieve individual property lots of maximum utility and livability and lots of such layout and size as to be in harmony with existing and proposed development patterns of the area;
- (d) Ensure adequate provisions for water, drainage and sanitary sewer facilities and other health requirements; and
- (e) Plan for and ensure the provision of adequate recreational areas, school sites and other public facilities.

(Ord. 421. Passed 6-1-82.)

### **1220.03 LEGAL BASIS.**

These Subdivision Regulations are enacted pursuant to the statutory authority granted by Act 288 of the Public Acts of 1967, as amended, Act 285 of the Public Acts of 1931, as amended, and Act 222 of the Public Acts of 1943, as amended.

(Ord. 421. Passed 6-1-82.)

### **1220.04 SCOPE.**

These Subdivision Regulations do not apply to a lot forming a part of a subdivision created and recorded prior to June 9, 1982, except for further dividing of existing lots. These Subdivision Regulations are not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations; with private restrictions placed upon property by deed, covenant or other private agreements; or with restrictive covenants running with the land to which the City is a party. Where these Subdivision Regulations impose a greater restriction upon land than is imposed or required by an existing provision of any other ordinance, these Subdivision Regulations shall control.

(Ord. 421. Passed 6-1-82.)

### **1220.05 AMENDMENTS.**

Council may, from time to time, amend, supplement or repeal the provisions of these Subdivision Regulations. A proposed amendment, supplement or repeal may be originated by Council or the Planning Commission or by petition. All proposals not originating with the Commission shall be referred to it for a report thereon before any action is taken on the proposal by Council.

(Ord. 421. Passed 6-1-82.)

#### **1220.06 SEVERABILITY.**

These Subdivision Regulations and the various parts, sentences and clauses thereof are hereby declared to be severable. Should any section, clause or provision of these Subdivision Regulations be declared by the courts to be invalid, the same shall not affect the validity of these Subdivision Regulations as a whole or any part thereof, other than the part so declared to be invalid.

(Ord. 421. Passed 6-1-82.)

#### **1220.07 DEFINITIONS.**

As used in these Subdivision Regulations, unless otherwise specifically stated:

- (1) "Alley" means a public or private right of way shown on a plat which provides secondary access to a lot, block or parcel of land.
- (2) "As-built plans" means revised construction plans in accordance with all approved field changes.
- (3) "Block" means an area of land within a subdivision that is entirely bounded by streets, highways or other ways except alleys, exterior boundaries of the subdivision, streams or rivers, railroad rights of way or combinations thereof.
- (4) "Building line" or "setback line" means a line parallel to a street right-of-way line, a shore of a lake, or edge of a stream or river bank, established on a parcel of land or on a lot for the purpose of prohibiting construction of a building between such line and a right of way, other public area, shore of a lake or edge of a stream or river bank.
- (5) "Caption" means the name by which a plat is legally and commonly known.
- (6) "City Manager" means the City Manager of Howell or his or her designate.
- (7) "Commercial development" means a planned commercial center providing building areas, parking areas, service areas, screen planting and widening, turning movement and safety lane roadway improvements.
- (8) "Comprehensive Development Plan" or "Master Plan" means a unified document of text, charts, graphics or maps, or any combination thereof, designed to portray general long-range proposals for the arrangement of land uses, which document is intended primarily to guide government policy toward achieving orderly and coordinated development of the entire community, including a unit or part of, or amendment to, such Plan.
- (9) "Construction standards" or "specifications" means the detailed engineering requirements for the design, construction and installations of improvements, which may be obtained from the office of the City Manager.
- (10) "County Drain Commissioner" means the Livingston County Drain Commissioner.
- (11) "County Health Department" means the Livingston County Health Department.
- (12) "County Plat Board" means the Livingston County Plat Board.
- (13) "County Road Commission" means the Livingston County Road Commission.
- (14) "Crosswalkway" ("pedestrian walkway") means a right of way, dedicated to public use, which crosses a block to facilitate pedestrian access to adjacent streets and properties.
- (15) "Dedication" means the intentional appropriation of land by the owners to public use.
- (16) "Filing date" means the date of the Planning Commission meeting at which the Commission receives the application for approval of a proposed plat from the City Clerk.
- (17) "Floodplain" means that area of land adjoining the channel of a river, stream, watercourse, lake or other similar body of water which will be inundated by a flood which can reasonably be expected for that region.
- (18) "Government survey" means land surveyed, subdivided and monumented by the United States public land survey.
- (19) "Greenbelts or buffer parks" means a strip or parcel of land, privately restricted or publicly dedicated as open space located between incompatible uses for the purpose of protecting and enhancing the residential environment.
- (20) "Improvements" means any structure incident to servicing or furnishing facilities for a subdivision, such as grading, street surfacing, curb and gutter, driveway approaches, sidewalks, crosswalks, water mains and lines, sanitary sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals and other appropriate items, with appurtenant construction.
- (21) "Industrial development" means a planned industrial area designed specifically for industrial use and providing screened buffers, wider streets and turning movement and safety lane roadway improvements, where necessary.
- (22) "Lot" means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.
  - A. "Lot area" means the total area within the lot lines of the lot.



B. "Lot depth" means the horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

C. "Lot width" means the horizontal distance between the side lot lines measured at the set-back line and at right angles to the lot depth. In case of lots on the inside of the curve of a street, the lot width shall be the distance between side lot lines measured at the rear line of the dwelling or thirty feet behind the front building line parallel to the street or street chord. However, no lot on a cul-de-sac street or on the inside curve of a street shall have a frontage, measured on the chord of the curves, of less than forty feet.

D. "Lot coverage" means the part or percent of the lot occupied by buildings or structures including accessory buildings or structures.

(23) "Outlot", when included within the boundary of a recorded plat, means a lot set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use.

(24) "Parcel" or "tract" means a continuous area or acreage of land which can be described as provided for in the Subdivision Control Act.

(25) "Planning Commission" means the Planning Commission of the City as established under Act 285 of the Public Acts of 1931, as amended.

(26) "Planned unit development" means a land area which has both individual building sites and common property, such as a park, and which is designated and developed under one owner or organized group as a separate neighborhood or community unit.

(27) "Plat" means a map or chart of a subdivision of land.

A. "Prepreliminary plat" means an informal plan or sketch drawn to scale and in pencil, if desired, showing the existing features of a site and its surroundings and the general layout of a proposed subdivision.

B. "Preliminary plat" means a map showing the salient features of a proposed subdivision of land submitted to an approving authority for purposes of preliminary consideration.

C. "Final plat" means a map of a subdivision of land made up on final form ready for approval and recording.

(28) "Proprietor" means any person or government agency, or a combination thereof, which may hold any ownership interest in land, whether recorded or not. The proprietor is also commonly referred to as the subdivider, developer or owner.

(29) "Public open space" means land dedicated or reserved for use by the general public. It includes parks, parkways, recreation areas, school sites, community or public building sites, streets and highways and public parking spaces.

(30) "Public sewer" means the sewerage system, as defined in Act 98 of the Public Acts of 1913, as amended, being Sections 325.201 to 325.214 of the Compiled Laws of 1948, as amended.

(31) "Public utility" means all persons or municipal or other public authorities providing gas, gas pipeline, cable television, electricity, water, steam, telephone, telegraph, storm sewer, sanitary sewer, transportation or other services of a similar nature.

(32) "Public water" means the water works system, as defined in Act 320 of the Public Acts of 1927, as amended, being Sections 123.241 et seq. of the Michigan Compiled Laws of 1948, as amended.

(33) "Replat" means the process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.

(34) "Right of way" means land reserved, used or to be used for a street, alley, walkway or other public purpose.

(35) "Sidewalk" means a public way or right of way dedicated to public use, provided for pedestrian traffic and located adjacent to streets and properties.

(36) "Sight distance" means the minimum extent of unobstructed vision on a horizontal plane along a street from a point four feet above the centerline of a street.

(37) "Sketch plan" means a pre-preliminary plat.

(38) "Street" means a right of way which provides for vehicular and pedestrian access to abutting properties.

A. "Freeway" means those streets designed for high speed, high volume through traffic, with completely controlled access, no grade crossings and no private driveway connections.

B. "Expressway" means those streets designed for high speed, high volume traffic, with full or partially controlled access, some grade crossings but no driveway connections.

C. "Parkway" means a street designed for noncommercial, pleasure oriented traffic moving at moderate speeds, between and through scenic areas and parks.

D. "Arterial street" means those streets of considerable continuity which are used or may be used primarily for fast or heavy traffic, commonly referred to as major streets.

E. "Collector street" means those streets used to carry traffic from minor streets to arterial streets, including principal entrance streets to large residential developments, commonly referred to as local streets.

F. "Cul-de-sac" means a minor or local street of short length having one end terminated by a vehicular turn-around.

G. "Boulevard street" means those streets of two one-way pavements of two or more lanes each, separated by a grassed island.

H. "Marginal access street" means a minor or local street which is parallel and adjacent to arterial streets and which provides access to abutting properties and protection from through traffic.

I. "Minor or local street" means a street which is intended primarily for access to abutting properties.

J. "Street width" means the shortest distance between the lines delineating the right of way of streets.

(39) "Structure" means any object constructed, erected or placed with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground.

(40) "Subdivider," "proprietor" or "developer" means a person or combination of persons which may hold any recorded or unrecorded ownership interest in land. The proprietor is also commonly referred to as the owner.

(41) "Subdivision Control Act" means Act 288 of the Public Acts of 1967, as amended.

(42) "Subdivision" or "subdivide" means the partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development, where the act of division creates:

A. Five or more parcels of land each of which is ten acres or less in area;

B. Five or more parcels of land each of which is ten acres or less in area by successive divisions within a period of ten years; or

C. Two, three or four parcels of land involving the dedication of a new street.

(43) "Subdivision Regulations" means Ordinance 421, passed June 1, 1982, as amended, codified herein as Title Four of Part Twelve - the Planning and Zoning Code.

(44) "Surveyor" means either a land surveyor who is registered in this State as a registered land surveyor, or a civil engineer who is registered in the State as a registered professional engineer.

(45) "Topographical map" means a map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

(46) "Water Resources Commission" means the Water Resources Commission of the Michigan Department of Natural Resources.

(Ord. 421. Passed 6-1-82.)

## CHAPTER 1222

### Administration, Enforcement and Penalty

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1222.01 Administration by Council and Planning Commission.

1222.02 Fees.

1222.03 Plat approval by Council and compliance with regulations required.

1222.04 Variances.

1222.99 Penalty.

#### **CROSS REFERENCES**

Approval of plats; street system - see M.C.L. Sec. 125.43

Regulations governing subdivision of land; bond to secure improvement; publication of regulations - see M.C.L. Sec. 125.44

Approval or disapproval of plats; procedure; effect - see M.C.L. Sec. 125.45

Certification of city plats - see M.C.L. Secs. 125.51 et seq.

Planning Commission - see P. & Z. Ch. 1210

Subdivision Open Space Plan - see P. & Z. Chapter 1240 (Zoning Code)

#### **1222.01 ADMINISTRATION BY COUNCIL AND PLANNING COMMISSION.**

These Subdivision Regulations shall be administered by Council in accordance with the Subdivision Control Act and by the Planning Commission in accordance with Act 285 of the Public Acts of 1931, as amended, and Act 222 of the Public Acts of 1943, as amended.

(Ord. 421. Passed 6-1-82.)

#### **1222.02 FEES.**

Any and all fees or costs required under this section shall be paid as required by the Zoning Code.

(Ord. 704. Passed 4-10-00.)

#### **1222.03 PLAT APPROVAL BY COUNCIL AND COMPLIANCE WITH REGULATIONS REQUIRED.**

No subdivision plat required by these Subdivision Regulations or the Subdivision Control Act shall be admitted to the public land records of the County or received or recorded by the County Register of Deeds, until such subdivision plat has received final approval by Council. No public board, agency, commission, official or other authority shall proceed with the construction of, or authorize the construction of, any of the public improvements required by these Subdivision Regulations unless such public improvement has already been accepted, opened or otherwise received the legal status of a public improvement prior to the adoption of these Subdivision Regulations and unless such public improvement is in compliance with the requirements of these Subdivision Regulations.

(Ord. 421. Passed 6-1-82.)

#### **1222.04 VARIANCES.**

(a) Generally. The Planning Commission may recommend to Council a variance from these Subdivision Regulations on a finding that undue hardship may result from strict compliance with a specific provision or requirement of these Subdivision Regulations or that the application of such provision or requirement is impractical. The Commission shall only recommend variances that it deems necessary to or desirable for the public interest. In making its findings, as required in this section, the Commission 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 recommended unless the Commission finds, after a public hearing, the following:

(1) That there are such special circumstances or conditions affecting the property that the strict application of these Subdivision Regulations would clearly be impractical or unreasonable. In such a case, the proprietor shall first state his or her reasons in writing as to the specific provision or requirement involved and submit them to the Commission.

(2) That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the property in question is situated;

(3) That such variance will not violate the provisions of the State Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended;

(4) That such variance will not have the effect of nullifying the intent and purpose of these Subdivision Regulations and the Master Plan.

The Commission shall include its findings and the specific reasons therefor in its report of recommendations to Council and shall also record its reasons and actions in its minutes.

(b) Topographical/Physical Limitation Variances. Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with these Subdivision Regulations would result in extraordinary hardship to the proprietor because of unusual topography, other physical conditions or such other conditions which are not self-inflicted or that these conditions would result in inhibiting the achievement of the objectives of these Subdivision Regulations, the Planning Commission may recommend to Council that a variance, modification or waiver of these Subdivision Regulations be granted.

(c) Planned Unit Development Variances. The developer may request a variance from specified portions of these Subdivision Regulations in the case of a planned unit development. If in the judgment of the Planning Commission such a plan provides adequate public space and includes provisions for efficient circulation, light and air and other needs, it shall make findings, as required in this subsection. The Commission shall take into account the nature of the proposed use of land and 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. The Commission shall report to Council regarding whether or not:

(1) The proposed project will constitute a desirable and stable community development; and

(2) The proposed project will be in harmony with adjacent areas.

(d) Variances from Required Public Improvements or Utilities. The Planning Commission may recommend to Council that waivers be granted for the installation of a public sanitary sewer system, a public water system or both, when in its best

judgment such an installation is impractical. However, the average width of a lot in the proposed subdivision, as measured at the street frontage line or the building set-back line, shall be more than 150 feet, and the average area of a parcel or lot resulting from the subdivision of land exceeds one acre. The Commission may also recommend that waivers be granted for the installation of gas mains and/or service connections, stubs, communications or electrical conduits, when in its best judgment such an installation is impractical.

(e) Applications.

(1) Required improvement and topographical variances. An application for a required improvement or topographical variance shall be submitted in writing by the proprietor when the preliminary plat is filed for the consideration of the Planning Commission. The petition for variance shall state fully the grounds for the application and all the facts relied upon by the proprietor.

(2) Planned unit development variances. An application for a planned unit development variance shall be made in writing by the proprietor at the time when the preliminary plat is filed for the consideration of the Commission, stating fully and clearly all facts relied upon by the proprietor, and shall be supplemented with maps, plans or other additional data which may aid the Commission in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions, subdivision plats or other legal provisions necessary to guarantee the full achievement of the plan.

(f) Public Hearings. Prior to making a recommendation to Council on an application for a variance from these Subdivision Regulations, the Planning Commission shall hold a public hearing. Notice of the public hearing shall be provided in the manner specified in Section 1224.02(b)(3). (Ord. 421. Passed 6-1-82.)

**1222.99 PENALTY.**

(a) Whoever violates or fails to comply with any of the provisions of these Subdivision Regulations shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than ninety days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The proprietor, land owner, tenant, subdivider, builder, public official or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this section.

(c) Nothing contained in these Subdivision Regulations shall prevent Council or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent a violation of or noncompliance with these Subdivision Regulations or of the Subdivision Control Act.

(d) The City may bring an action to restrain or prevent a violation of or noncompliance with these Subdivision Regulations or such Act in the Circuit Court in the County where the land is located, the defendant resides or the defendant has his or her principal place of business.

(Ord. 421. Passed 6-1-82.)

## **CHAPTER 1224**

### **Subdivision Procedures**

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1224.01 Preapplication and pre-preliminary plats.

1224.02 Submission of preliminary plat.

1224.03 Contents of preliminary plat.

1224.04 Submission of final plat.

1224.05 Form of final plat; required information.

1224.06 Improvements; performance contracts.

#### **CROSS REFERENCES**

Approval of plats; street system - see M.C.L. Sec. 125.43

Regulations governing subdivision of land; bond to secure improvement; publication of regulations - see M.C.L. Sec. 125.44

Approval or disapproval of plats; procedure; effect - see M.C.L. Sec. 125.45

Certification of city plats - see M.C.L. Secs. 125.51 et seq.

Planning Commission - see P. & Z. Ch. 1210

Fees - see P. & Z. 1222.02

Subdivision Open Space Plan - see P. & Z.Chapter 1240 (Zoning Code)

Review of subdivision proposals - see B. & H. 1440.06

#### **1224.01 PREAPPLICATION AND PRE-PRELIMINARY PLATS.**

(a) Purpose. The purpose of the preapplication stage is to provide the proprietor with guidelines concerning the development policies of the City and to acquaint him or her with the platting procedures and requirements of Council, thereby saving the proprietor time and money and improving the quality of development in the City. Nothing in this section shall be construed to require a preapplication contact. A proprietor may elect to begin the subdivision process by submitting a preliminary plat in accordance with Section 1224.02.

(b) Procedure. The following process shall be followed in obtaining tentative approval of a pre-preliminary plat or sketch plan:

(1) Proprietor's submittal. The proprietor shall submit two copies of the pre-preliminary plat, surveyor's letter and proof of ownership to the City Clerk at least fourteen days prior to a regular meeting of the Planning Commission.

(2) Clerk's transmittal. The Clerk shall promptly transmit the two copies of the pre-preliminary plat, surveyor's letter and proof of ownership to the Commission.

(3) Planning Commission review and recommendation. The Commission or a committee of the Commission shall review the plan with the proprietor or his or her agent. The Commission may require that copies of the pre-preliminary plat be submitted to other affected public agencies for review. The Commission shall inform the proprietor or his or her agent of the development policies of the City and make appropriate comments and suggestions concerning the proposed development scheme.

(Ord. 421. Passed 6-1-82.)

#### **1224.02 SUBMISSION OF PRELIMINARY PLAT.**

(a) Purpose. This section is intended to implement Sections 112 through 119 of the Subdivision Control Act.

(b) Procedure. The proprietor shall submit copies of the preliminary plat to authorities as provided in Sections 111 through 119 of such Act.

(1) Proprietor's submittal. The proprietor shall submit a written application and ten copies of the preliminary plat and other data to the City Clerk, at least one of such copies to be paper or Mylar reproducible.

(2) Clerk's transmittal. The Clerk shall promptly transmit nine copies of the preliminary plat to the Planning Commission and the reproducible copy to the City Manager.

(3) Public hearing. The Commission shall hold a public hearing regarding the issue of the approval of the preliminary plat, subject to the following:

A. The Clerk shall give notice of the public hearing by publishing the notice at least once in a newspaper of general circulation in the City at least fifteen days prior to the hearing date. The notice shall state the date, time and place of the public hearing, the substance of the proposed preliminary plat and the location where additional information may be obtained.

B. The Clerk shall provide a notice of the hearing containing the same information as the published notice to each public utility and railroad affected by the proposed preliminary plat at least fifteen days prior to the hearing date. Such notice shall be given by certified United States mail.

C. The Clerk shall provide a notice of the hearing containing the same information as the published notice to each owner of property within 300 feet of the subject parcel or tract, as found in the records of the City Assessor, at least fifteen days prior to the hearing date. Such notice shall be given by certified United States mail.

D. The parcel or tract covered by the proposed preliminary plat shall be posted by the subdivider for at least fifteen days prior to the public hearing, which posting shall include the same information as the published notice.

(4) Planning Commission action. The Commission shall approve, modify or reject the preliminary plat within sixty days of the filing date, but after the public hearing. The proprietor may waive the deadline by consenting to an extension in writing. An extension granted to the Commission by the proprietor shall not reduce the time allowed for Council's consideration of the preliminary plat.

(5) Tentative approval.

A. Council, within ninety days of the date of filing, but not before the Planning Commission action provided for in paragraph (4) hereof, shall reject or grant tentative approval of the preliminary plat. Council shall return to the proprietor a copy of the preliminary plat with tentative approval duly noted, or a written notice of rejection and requirements for tentative approval.

B. Tentative approval of a preliminary plat shall confer upon the proprietor, for a period of one year from the date of action, approval of lot sizes, lot orientation and street layout.

C. Tentative approval may be extended by Council by resolution if applied for in writing by the proprietor.

(6) Final approval.

A. After tentative approval of the preliminary plat by Council, the proprietor shall:

1. Submit copies of the preliminary plat to all authorities as required by Sections 112 through 119 of the Subdivision Control Act;

2. Submit a list of all such authorities to the City Clerk, certifying that the list shows all authorities as required by Sections 112 through 119 of such Act; and

3. Submit all approved copies from such authorities to the Clerk.

B. The City Manager shall promptly review the submitted preliminary plat to verify that all conditions and requirements imposed upon the plat at the time of tentative approval are complied with, and shall report the results of such review to Council.

C. Council, after receipt of the necessary approved copies of the preliminary plat and the Manager's report, shall consider and review the preliminary plat at its next meeting or within twenty days of the date of submission of all necessary data by the proprietor. Council shall approve the preliminary plat if the proprietor has met all specified conditions. The Clerk shall promptly notify the proprietor in writing of Council's approval or rejection with reasons for rejection specified in the notice.

D. The Clerk shall note all proceedings in the minutes of the meeting, which minutes shall be open for inspection.

E. Council's approval of a preliminary plat shall be valid for two years from the date of such approval and shall confer upon the proprietor for such period the conditional right that the general terms and conditions under which preliminary approval was granted will not be changed.

F. Council may extend the two-year period by resolution if applied for in writing by the proprietor.

(Ord. 421. Passed 6-1-82.)

**1224.03 CONTENTS OF PRELIMINARY PLAT.**

The preliminary plat shall be on a scale of 200 feet to one inch, or larger, and on a standard size sheet of paper or cloth, twenty-four inches by thirty-six inches. The following information shall be shown on the preliminary plat or may be submitted with it:

(a) General Data.

(1) The name of the proposed subdivision and a legal description of the site;

(2) The name, address and telephone number of the owner, subdivider, surveyor or engineer preparing the plat;

(3) The location of the subdivision, giving the numbers of section, township and range and the name of the city, county and state and showing adjoining roads, physical features or township or section lines to which reference may be made;

(4) The location of existing facilities and structures such as buildings, sewerage systems, high tension towers, utility easements of record or in use, excavations, bridges and culverts;

(5) Existing and proposed contours at intervals not to exceed two feet, to be indicated on the drawing. When extensive capping or filling of land is anticipated that will affect building sites and sewage and disposal facilities, the areas involved shall be indicated. The source, if known, and the type of fill material to be used, when filling is anticipated, shall be specified.

(6) Streets, street names and right-of-way and roadway widths;

(7) Lot lines and the total number of lots by block;

(8) A legend indicating the total acreage contained in the plat; the absolute and percentage breakdown of the total acreage into lots, road allowances, parks and other uses; the date; the north arrow and the scale;

(9) Other right-of-way easements, showing location, width and purpose as available; and

(10) The location and results of all soil borings performed on the site for the purpose of showing soil types and ground water elevations.

(b) Additional Maps and Specifications.

(1) A map of the entire area scheduled for development, if the proposed plat is a portion of a larger holding intended for subsequent development;

(2) A location map of the surrounding area within one-half mile of the boundaries of the proposed subdivision in all directions, showing the proposed plat in relation to schools, shopping centers and major community facilities and the names of abutting subdivisions;

(3) A map showing the land use and existing zoning of the proposed subdivision and the adjacent tracts;

(4) The location of floodplain areas, rivers, streams, creeks, lakes, county drains, lagoons, slips, waterways, bays, canals and artificial impoundments, either existing or proposed within or adjacent to the area to be platted; and

(5) Preliminary engineering plans and specifications for streets, water, sanitary and storm sewers, sidewalks and other required public improvements required in Chapter 1228. Such engineering plans shall contain enough information and detail to enable the Planning Commission to make a preliminary determination as to conformity of the proposed improvements with applicable City regulations and standards.

(c) Supporting Written Information.

(1) A legal opinion showing the legal and equitable owners (including mortgagees, contract purchasers and fee owners) of the land to be platted, plus all grants, reservations, deed restrictions and easements of record which may condition the use of property;

(2) A statement of the intended use of the proposed plat, such as residential single-family, two-family, condominium and multiple housing, commercial, industrial, recreational or agricultural. Such statement shall also set forth proposed sites, if any, for multifamily dwellings, shopping centers, churches, industry, other nonpublic uses exclusive of single-family dwellings, parks, playgrounds, schools or other public uses.

(3) A statement as to whether the high groundwater is less than or greater than six feet from either the existing or proposed finished ground surface. In those cases where the groundwater is less than six feet, the groundwater level shall be specified. A statement as to how and when the high groundwater level was established shall be included.

(4) A report of soil limitations based on a site inspection carried out by a soil specialist qualified in the area of soil classification and mapping, such report to include soils information as may be obtained from a modern soil map which meets the standards of the National Cooperative Soil Survey. The source of information shall be specified.

(5) A statement of the types of water and sewerage systems to be provided, including drawings and specifications of appropriate existing and proposed storm and sanitary sewer systems, water mains and systems and their respective plans and profiles; and

(6) Copies of any proposed protective covenant or deed restriction.

(Ord. 421. Passed 6-1-82.)

**1224.04 SUBMISSION OF FINAL PLAT.**

(a) Purpose. This section is intended to implement the preliminary plat as approved by Council.

(b) Procedure. The final plat shall conform substantially to the approved preliminary plat and shall conform to the provisions of the Subdivision Control Act and these Subdivision Regulations. The final plat procedure is as follows:

(1) Proprietor's application. After having received the final plat approval of the County Drain Commissioner, the County Road Commission and the County Health Department, if necessary, the proprietor shall file a written application for approval of the final plat with the City Clerk at least twenty days prior to a regular Council meeting. With the application, the proprietor shall submit five true copies of the final plat, one copy of the final plat on Mylar, one copy of the final engineering plans shown on Mylar and two copies of landscaping plans, if any, for street trees, street islands and boulevards.

(2) Review and approval.

A. The Clerk shall promptly notify Council of the application for final plat approval.

B. The City Manager shall review or cause to be reviewed the plat and accompanying engineering plans to determine their conformity to engineering specifications and improvement plans proposed in the preliminary plat.

C. Council shall review the final plat at its next regular meeting or within twenty days of the filing of the application for final approval. Based upon its review and that of the Manager, Council shall determine the plat's conformance or nonconformance to the provisions of the Subdivision Control Act, these Subdivision Regulations and the preliminary plat as it was approved. If the final plat is in conformity with the preliminary plat as approved, and meets the legal requirements of these Subdivision Regulations and such Act, Council shall approve the final plat. If approved, the Clerk shall sign all copies of the final plat for Council. The subdivider shall then follow the procedures set forth in Sections 168 through 172 of such Act. If rejected, the Clerk shall notify the proprietor in writing of its action and reasons for disapproval and shall return the plat to the proprietor.

(Ord. 421. Passed 6-1-82.)

**1224.05 FORM OF FINAL PLAT; REQUIRED INFORMATION.**

(a) Form. A final plat shall be prepared in accordance with the Subdivision Control Act and applicable rules, regulations and guidelines established pursuant to such Act.

(b) Final Engineering Plans. Final engineering plans, profiles, cross sections and specifications for improvements required to be installed by these Subdivision Regulations, including landscaping plans, shall meet the specifications established by the City Engineer and/or the specifications of the respective approving authorities as required by law. Such final engineering plans shall accompany the final plat. When construction has been completed at the time of filing of the final

plat, one complete copy of as-built engineering plans on reproducible paper or Mylar of each required public improvement shall be filed with the City Clerk with the final plat application.

(c) Proof of Ownership. The proprietor shall submit proof of ownership of the land included in the final plat in the form of an abstract of title, certified to the date of the proprietor's certificate, or a policy of title insurance currently in force.

(Ord. 421. Passed 6-1-82.)

#### **1224.06 IMPROVEMENTS; PERFORMANCE CONTRACTS.**

(a) Improvements and Facilities Required. Council may require all improvements and facilities to be completed before it approves the final plat. If the improvements and facilities are not required to be completed by Council before plat approval, the final plat shall be accompanied by a contract between the proprietor and Council for completion of all required improvements and facilities, and such contract shall be recorded and referred to on the plat.

(b) Financial Security Arrangement. In lieu of actual installation of public improvements, as required by Council, the proprietor may elect to provide a financial guarantee of performance in one, or a combination, of the following arrangements to ensure the conditions which will lead to the completion of all required public improvements deemed necessary:

(1) A performance bond with adequate surety to cover the costs of the contemplated improvements as estimated by the City or its agent shall be filed with the City Clerk. Such bond shall specify the time period in which the improvements are to be completed and shall be with a bonding company authorized to do business in the State and acceptable to the City.

(2) A cash deposit, or deposit by certified check, sufficient to cover the cost of the contemplated improvements as estimated by the City or its agent shall be deposited with the Clerk. The escrow deposit shall be for the estimated time period necessary to complete the required improvements.

(3) An irrevocable letter of credit, issued by a bank authorized to do business in the State, in an amount to cover the cost of the contemplated improvements as estimated, is required.

Council shall rebate or release to the proprietor, as the work progresses, amounts equal to the ratio of the completed and accepted work to the entire project.

(c) Improvements Prior to Final Plat Approval. The proprietor may elect to install or cause to be installed, prior to the approval of the final plat, all or a part of the required public improvements. In such case the proprietor shall, at the time of final plat approval, provide financial security for any remaining public improvement obligations.

(d) Inspections. Any improvement to the property by the proprietor shall be inspected by the Municipality for conformity to Municipal standards, and such inspections may be charged against the proprietor. These charges shall be paid in full prior to final plat approval.

(e) Failure to Complete Improvements. If the proprietor fails to complete the required public improvement work within such time as is required by the conditions or guarantees outlined in this section, Council may proceed to have such work completed and reimburse itself for the cost thereof, by appropriating the cash deposit, certified check or surety bond or by drawing upon the letter of credit, or take the necessary steps to require performance by the bonding company as included in the written agreement with Council and the proprietor.

(Ord. 421. Passed 6-1-82.)

## **CHAPTER 1226**

### **Design Standards**

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1226.01 Conformity to Master Plan.

1226.02 Uninhabitable areas.

1226.03 Natural features.

1226.04 Streets.

1226.05 Walkways.

1226.06 Easements.

1226.07 Blocks.

1226.08 Lots.

1226.09 Planting and reserve strips.

1226.10 Public land.

1226.11 Large scale developments.



**CROSS REFERENCES**

Approval of plats; street system - see M.C.L. Sec. 125.43

Regulations governing subdivision of land; bond to secure improvement; publication of regulations - see M.C.L. Sec. 125.44

Approval or disapproval of plats; procedure; effect - see M.C.L. Sec. 125.45

Certification of city plats - see M. C. L. Secs. 125.51 et seq.

Planning Commission - see P. & Z.Ch. 1210

Comprehensive Land Use Plan - see P. & Z.Ch. 1212

Subdivision Open Space Plan - see P. & Z.Chapter 1240 (Zoning Code)

Review of subdivision proposals - see B. & H. 1440.06

**1226.01 CONFORMITY TO MASTER PLAN.**

A proposed subdivision and its ultimate use shall be in conformity with the Master Plan, as adopted by the Planning Commission and Council.

(Ord. 421. Passed 6-1-82.)

**1226.02 UNINHABITABLE AREAS.**

Land which the Planning Commission has determined to be unsuitable for subdivision development, due to flooding, poor drainage, soil conditions or other features which are likely to be harmful to the health, safety and welfare of future residents, shall not be subdivided unless satisfactory methods of protection are formulated by the proprietor and approved by the Commission. In the absence of appropriate protection measures, such land shall be set aside for parks and other open space uses.

(Ord. 421. Passed 6-1-82.)

**1226.03 NATURAL FEATURES.**

Existing natural features, such as trees, woodlots, watercourses, historic spots and similar irreplaceable assets which add value to residential development and enhance the attractiveness of the community, shall be preserved in the design of the subdivision, insofar as possible. No structure shall be located in a floodplain except in accordance with the Zoning Code and the rules of the Water Resources Commission of the Department of Natural Resources. Alteration of a floodplain shall only be allowed based upon a plan approved by the City and the Water Resources Commission, and only as long as the floodplain's original discharge capacity is preserved and the revised stream flow does not affect the riparian rights of other owners. Restrictive deed covenants shall be filed and recorded with the final plat, provided that the floodplain area will be left essentially in its natural state.

(Ord. 421. Passed 6-1-82.)

**1226.04 STREETS.**

(a) Generally. The standards set forth in this section are the minimum standards for streets, roads and intersections. The arrangements, character, extent, width, grade and location of all streets shall conform to the Master Plan as adopted by the Planning Commission and to the standards of the Southeast Michigan Inter-County Highway Commission, and shall be considered in their relation to existing and planned streets, topographic conditions and public convenience and safety and in their appropriate relation to proposed uses of the land to be served. All streets shall be dedicated to public use.

(b) Rights of Way.

(1) Width. Public rights of way shall not be less than set forth in the following table:

<u>Type of Right of Way</u>	<u>Width (ft.)</u>
Parkway or boulevard	120
Arterial street	120
Collector street	90
Minor street, including a cul-de-sac	66

(2) Inadequate rights of way. Where a subdivision abuts or contains an existing street of inadequate right-of-way width, additional width for the existing street may be required to achieve conformity with the minimum standards.

(3) Additional right-of-way width in dense areas. Additional right-of-way width may be required to ensure adequate access, circulation and parking in high density residential, commercial or industrial areas of subdivisions.

(c) Location and Arrangement

- (1) Local or minor streets. Local or minor streets shall be so arranged as to discourage their use by through traffic.
- (2) Street continuation and extension. The arrangement of streets shall provide for the continuation of existing streets from adjoining areas into new subdivisions, unless otherwise approved by the Planning Commission.
- (3) Stub streets. Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall be extended to the boundary line of the tract to make provision for the future projection of streets into adjacent areas.
- (4) Relation to topography. Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets and reasonable gradients.
- (5) Alleys. Alleys are not permitted.
- (6) Marginal access streets. Where a subdivision abuts or contains an arterial street, the City may require:
  - A. Marginal access streets approximately parallel to and on each side of the right of way; and
  - B. Such other treatment as it deems necessary for the adequate protection of residential properties and to afford separation of through and local traffic.
- (7) Cul-de-sacs. A cul-de-sac shall be not more than 500 feet in length. Special consideration shall be given to a longer cul-de-sac under certain topographic conditions or other unusual situations. A cul-de-sac shall terminate with an adequate turn-around with a minimum external diameter of 150 feet.
- (8) Half streets. Half streets are prohibited, except where unusual circumstances make it essential to the reasonable development of the tract in conformity with these Subdivision Regulations and where satisfactory assurance for dedication of the remaining part of the street is provided. Whenever a tract to be subdivided borders on an existing half or partial street, the other part of the street shall be dedicated within such tract.
- (9) Private streets. Private streets and roads are prohibited.

(d) Gradients and Alignment

- (1) Gradients. Street grades shall not exceed five percent on either local streets or collector streets, except under unusual topographical conditions.
- (2) Alignment.
  - A. Horizontal alignment. When street lines deflect from each other by more than ten degrees in alignment, the centerlines shall be connected by a curve with a minimum radius of 500 feet for arterial streets, 300 feet for collector streets and 150 feet for local or minor streets. Between reverse curves, on minor streets, there shall be a minimum tangent distance of 100 feet, and on collector and arterial streets, 200 feet. This requirement may be less under unusual topographical conditions.
  - B. Sight distance. Minimum centerline sight distance shall be 200 feet for minor streets and 300 feet for collector streets, unless unusual topographical conditions dictate otherwise. Sight distance shall be measured at the eye height of three and three-fourths feet to an object height of six inches.
- (e) Street Names. A street name may not duplicate that of an existing street in the County except where a new street is a continuation of an existing street. Street names that may be spelled differently but sound the same shall also be avoided. Street names may be rejected by either the County Road Commission or the City.

(f)

(f) Intersections.

- (1) Angle. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than seventy-five degrees is not acceptable. An oblique street shall be curved approaching an intersection and shall be approximately at right angles for at least fifty feet therefrom.
- (2) Sight Triangles. Minimum clear sight distance at a minor street intersection shall permit vehicles to be visible to the driver of another vehicle when each is 125 feet from the center of the intersection. This requirement is increased to 180 feet for collector streets and 260 feet for arterial streets.
- (3) Number of streets. Not more than two streets shall cross at any one intersection.
- (4) "T" intersections. Except on arterial streets and certain collector streets, "T" intersections shall be used where practical.
- (5) Centerline offsets. Slight jogs at intersections shall be avoided. Where such jogs are unavoidable, parallel street centerlines shall be offset by a distance of 150 feet or more.
- (6) Vertical alignment. A nearly flat grade is desirable within intersections. The flat section shall be carried back sixty feet each way from the intersection measured from the nearest right-of-way line of the intersecting street.

(Ord. 421. Passed 6-1-82.)

#### **1226.05 WALKWAYS.**

(a) Crosswalks. Right of way for pedestrian crosswalks in the middle of long blocks is required where necessary to obtain convenient pedestrian circulation to schools, parks or shopping areas. The right of way shall be at least twenty feet wide, extend entirely through the block and not be included in a lot area.

(b) Sidewalks. Sufficient right of way shall be provided so that sidewalks may be installed on both sides of all streets.

(Ord. 421. Passed 6-1-82.)

#### **1226.06 EASEMENTS.**

(a) Location. Easements shall be provided along front lot lines and also along side lot lines and rear lot lines when necessary for utilities. The total width thereof shall be not less than ten feet along the side or rear of each lot, for a total of twenty feet with adjoining lots, or ten feet adjacent to a street. Where these requirements are greater than the building set-back requirements of the Zoning Code, the widths set forth in this subsection shall become the set-back requirements.

(b) Drainageways. The proprietor shall provide drainageway easements as required by the rules of the County Drain Commissioner and/or the City.

(Ord. 421. Passed 6-1-82.)

#### **1226.07 BLOCKS.**

(a) Arrangement. A block shall be so designed as to provide two tiers of lots, except where lots back onto an arterial street, natural feature or subdivision boundary.

(b) Length. A block shall be not less than 500 feet long unless they abut an existing plat where the blocks are less than 500 feet long.

The maximum length allowed for a residential block is 1,320 feet, from center of street to center of street.

(Ord. 421. Passed 6-1-82.)

#### **1226.08 LOTS.**

(a) Conformity to Zoning Code. Lot width, depth and area shall be not less than the particular district requirements of the Zoning Code, except where outlots are provided for an indicated and permitted purpose.

(b) Lot Lines. Side lot lines shall be essentially at right angles to straight streets and radial to curved streets.

(c) Width in Relation to Length. Narrow deep lots shall be avoided. The depth of a lot generally shall not exceed two and one-half times the width, as measured at the building line.

(d) Corner Lots. A corner lot shall have extra width to permit appropriate building setback from both streets or orientation to both streets. A lot abutting a pedestrian midblock crosswalk shall be treated as a corner lot.

(e) Back-Up Lots. A lot shall back into such features as freeways, arterial streets, shopping centers or industrial properties, except where there is a marginal access street provided. Such a lot shall contain a landscaped easement along the rear at least twenty feet wide, in addition to the utility easement to restrict access to the arterial street, to minimize noise and to protect outdoor living areas. A lot extending through a block and having frontage on two local streets is prohibited.

(f) Frontage. A lot shall front on a publicly dedicated street, but variances from this requirement may be permitted in an approved planned unit development.

(g) Division. The division of a lot in a recorded plat is prohibited, unless it is approved following application to Council. The application shall be filed with the City Clerk and shall state the reasons for the proposed division. No lot in a recorded plat shall be divided into more than four parts, and the resulting lots shall be not less in area than permitted by the Zoning Code. No building permit shall be issued, or building construction commenced, until the division has been approved by Council and the suitability of the land for building sites has been approved by the County or District Health Department. The division of a lot resulting in an area smaller than prescribed in this section may be permitted, but only for the purpose of adding to the existing building site. The application shall so state and shall be in affidavit form.

(h) Division of Unplatted Parcel. The division of an unplatted parcel of land into two, three or four lots involving the dedication of a new street shall comply with these Subdivision Regulations.

(Ord. 421. Passed 6-1-82.)

#### **1226.09 PLANTING AND RESERVE STRIPS.**

(a) Planting Strips. Planting strips may be required to be placed next to incompatible features such as highways, railroads and commercial or industrial uses, to screen the view from residential properties. Such strips shall be a minimum of twenty feet wide and shall not be a part of the normal roadway right of way or utility easement.

(b) Reserve Strips. A privately held reserve strip controlling access to a street is prohibited.

(Ord. 421. Passed 6-1-82.)

#### **1226.10 PUBLIC LAND.**

(a) Where a proposed park, playground or other public use shown on the Master Plan is located in whole or in part within a subdivision, a suitable area for this purpose may be dedicated to the public.

(b) If within ten years of the plat recording, the City has not accepted the dedicated land, the dedication may be rebutted by competent evidence, before the Circuit Court in which the land is located, by establishing either of the following:

(1) That the dedication, before the effective date of the Subdivision Control Act and before acceptance by the City, was withdrawn by the proprietor; or

(2) That the notice of withdrawal of the dedication is recorded by the proprietor with the County Register of Deeds Office and that a copy of the notice was forwarded to the State Treasurer within ten years after the date the plat was first recorded and before acceptance of the dedicated land by the City.

(c) Ten years after the date the plat is first recorded, land dedicated to use of the public in or upon the plat shall be presumed to have been accepted on behalf of the public by the City.

(Ord. 421. Passed 6-1-82.)

#### **1226.11 LARGE SCALE DEVELOPMENTS.**

(a) This chapter may be modified in accordance with Section 1222.04 in the case of a subdivision large enough to constitute a complete community or neighborhood consistent with the Master Plan and with a building and development program which provides and dedicates adequate public open space and improvements for the circulation, recreation, education, light, air and service needs of the tract when fully developed and populated. The entire approved plan shall be platted pursuant to these Subdivision Regulations.

(b) Such a subdivision shall generally be consistent with the Master Plan, contain 500 living units or more, contain or be bounded by major streets or natural physical barriers as necessary and contain reserved areas of sufficient size to serve its population. For schools and playgrounds, the subdivision shall conform to Section 1226.10. Dedication of parks and other public facilities shall be by means of platting.

(Ord. 421. Passed 6-1-82.)

#### **1226.12 COMMERCIAL AND INDUSTRIAL DEVELOPMENTS.**

This chapter may be modified in accordance with Section 1222.04 in the case of a subdivision specifically for commercial or industrial development, such as a shopping district, wholesaling area or planned industrial district. In all cases, however, adequate provision shall be made for off-street parking and loading areas as well as for traffic circulation.

(Ord. 421. Passed 6-1-82.)

## **CHAPTER 1228**

### **Improvements**

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- 1228.01 Construction plans.
- 1228.02 Monuments.
- 1228.03 Trafficways.
- 1228.04 Water.
- 1228.05 Sanitary sewers.
- 1228.06 Storm sewers; grading.
- 1228.07 Private utilities.
- 1228.08 Street lights.
- 1228.09 Land balancing.
- 1228.10 Parks, playgrounds and recreation areas.
- 1228.11 Optional public improvements.
- 1228.12 Ensured completion of public improvements.

#### **CROSS REFERENCES**

Approval of plats; street system - see M.C.L. Sec. 125.43

Regulations governing subdivision of land; bond to secure improvement; publication of regulations - see M.C.L. Sec. 125.44

Approval or disapproval of plats; procedure; effect - see M.C.L. Sec. 125.45

Certification of city plats - see M.C. L. Secs. 125.51 et seq.

Planning Commission - see P. & Z.Ch. 1210

Improvements; performance contracts - see P. & Z.1224.06

Subdivision Open Space Plan - see P. & Z.Chapter 1240 (Zoning Code)

Review of subdivision proposals - see B. & H. 1440.06

### **1228.01 CONSTRUCTION PLANS.**

The proprietor of a proposed subdivision shall have prepared, by a registered engineer, a complete set of construction plans, including profiles, cross sections, specifications and other supporting data, for the public streets, utilities and other facilities required in this chapter. All construction plans shall be prepared in accordance with this chapter and all such plans and specifications shall be submitted as provided in these Regulations.

(Ord. 421. Passed 6-1-82.)

### **1228.02 MONUMENTS.**

(a) Location. Permanent monuments shall be located in the ground at all angles in the boundaries of a plat; at the intersection lines of streets, at the intersection of the lines of streets with the boundaries of the plat and at the intersections of alleys with the boundaries of the plat; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.

(b) Material. All monuments shall be made of solid iron or steel bars, at least one-half inch in diameter and thirty-six inches long, and completely encased in concrete.

(c) Corner Lots. All lot corners shall be marked in the field by iron or steel bars, or iron pipe, at least one-half inch in diameter and eighteen inches long.

(Ord. 421. Passed 6-1-82.)

### **1228.03 TRAFFICWAYS.**

(a) Streets.

(1) Construction. All subdivisions shall have full street improvements, including adequate subgrade preparation, hard surfacing and curbs and gutters, in conformity with the construction standards of the City.

(2) Surfaces. The finished roadway surface shall be in conformity with such construction standards.

(3) Surface width. Minimum widths shall be as follows:

<u>Type of Street</u>	<u>Width (ft.)</u>
Parkway	48
Arterial	44
Collector	36
Minor	30

(4) Curbs and gutters. Concrete curbs and gutters of types approved by the City shall be provided for all streets within each subdivision and along all streets that border on the subdivision.

(5) Islands. Where the proprietor proposes street islands in the street pattern, the proprietor shall have suitable plans made for landscaping these areas. All such landscape plans shall be approved, as to height, size and type of plant material, by the City Manager before construction.

(6) Street and traffic signs. The subdivider shall provide and erect street name signs of the same type and design in general use in the City. The subdivider shall consult with the Chief of Police who shall inform the subdivider as to the type and placement of traffic control signs and devices. All such signs and devices shall comply with the uniform traffic control device regulations of the State.

(7) Trees. Street trees are required in each subdivision of a type, size and location as specified by the Planning Commission and/or Council.

(b) Sidewalks and Crosswalks. A concrete sidewalk shall be installed by the proprietor along each side of a street in the

subdivision and along the side of a street that borders on the subdivision, in accordance with the specifications of the City. A crosswalk, where required, shall have a five-foot paving width centered within the required right of way and shall be constructed pursuant to Act 8 of the Public Acts of 1973, as amended, regarding construction for use by the handicapped.

(c) Driveways. A driveway shall be in conformity with the construction standards of the City.

(Ord. 421. Passed 6-1-82.)

#### **1228.04 WATER.**

(a) Service. The subdivider shall install water mains, and service connections from the mains to the property lines, making the City water system available to each lot in the subdivision. The installation of mains and connections shall conform to plans and specifications which have been submitted to and approved by the City Manager and shall conform to the requirements of Act 98 of the Public Acts of 1913, as amended.

Fire hydrants shall be installed at each street intersection where the centerline-to-centerline distance of the rights of way is 300 feet or more, including ninety-degree bends in streets, and not more than 600 feet from each other or from any lot in the subdivision. Fire hydrant standards shall be subject to the approval of the Manager as to design and size.

(b) Construction Permits. A construction permit is required from the State prior to the start of the project, which permit shall be applied for by the City upon submission of the plans by the proprietor.

(Ord. 421. Passed 6-1-82.)

#### **1228.05 SANITARY SEWERS.**

(a) Service. Each lot in the subdivision shall be served by a connection to a sanitary sewer. Before a lift station is allowed, the City shall make a determination of the cost of maintaining the lift station. The City may require the subdivider to relocate an existing lift station, install additional sewer lines beyond the boundaries of the subdivision, enlarge an existing lift station or perform a combination of such actions.

(b) Construction. Sewer systems shall comply with the requirements of Act 98 of the Public Acts of 1913, as amended. A construction permit is required from the State before the start of the project, which permit shall be applied for by the City upon submission of the plans by the proprietor.

(Ord. 421. Passed 6-1-82.)

#### **1228.06 STORM SEWERS; GRADING.**

(a) A storm drainage system, including necessary storm sewers, drain inlets, manholes, culverts and other necessary appurtenances, is required and shall be constructed in conformity with the requirements of the City.

(b) A lot shall be finished graded so that all storm water shall drain therefrom in conformity with the construction standards of the City.

(Ord. 421. Passed 6-1-82.)

#### **1228.07 PRIVATE UTILITIES.**

All private utilities shall be placed underground within private easements or within public ways or other public and quasipublic utility rights of way. All facilities placed in public ways or other public and quasipublic utility rights of way shall be approved by the City Manager prior to installation.

(Ord. 421. Passed 6-1-82.)

#### **1228.08 STREET LIGHTS.**

The proprietor shall install street lights in conformity with the standards set forth in Chapter 1049 of the Streets, Utilities and Public Services Code.

(Ord. 594. Passed 12-13-93.)

#### **1228.09 LAND BALANCING.**

The subdivider shall balance the land in conformity with the construction standards of the City.

(Ord. 421. Passed 6-1-82.)

#### **1228.10 PARKS, PLAYGROUNDS AND RECREATION AREAS.**

(a) Standards. The Planning Commission shall require that land be reserved for parks and playgrounds or other recreation purposes in locations designated on the Master Plan or otherwise where such reservations would be appropriate. Each such reservation shall be of suitable size, dimension, topography and general character and shall have adequate road access, for the particular purposes envisioned by the Commission. The area shall be shown and marked on the plat, "Reserved for Park and/or Recreation Purposes."

When recreation areas are required, the Commission shall determine the number of acres to be reserved from the following table, which has been prepared on the basis of providing three acres of recreation area for every 100 dwelling units or pursuant to the Zoning Code. The Planning Commission may refer such proposed reservations to the Park and Recreation Commission for recommendation. The developer shall dedicate all such recreation areas to the City as a condition of final subdivision plat approval.

**RECREATION REQUIREMENTS**

Size of Single-Family Lot in Subdivision (sq. ft.)	Percentage of Total Land in Subdivision to be Reserved for Recreation Purposes
80,000 or more	1.5
50,000	2.5
40,000	3.0
35,000	3.5
25,000	5.0
15,000	8.0
10,000	12.0
8,400	15.0

(b) Multifamily and High Density Residential. The Planning Commission shall determine the acreage for each reservation based on the number of dwelling units per acre to occupy the sites as permitted by the table set forth in subsection (a) hereof and/or the Zoning Code.

(c) Size. In general, land reserved for recreation purposes shall have an area of at least two acres. When the percentages from the table set forth in subsection (a) hereof would create less than two acres, the Commission may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case

shall an area of less than one acre be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase its area. Where recreation land in a subdivision is not reserved, or the land reserved is less than the percentage set forth in subsection (a) hereof, subsection (e) here of shall apply.

(d) Sites. Land reserved for recreation purposes shall be of a character and location suitable for use as a playground or playfield (or for other recreation purposes), shall be relatively level and dry and shall be improved by the developer to the standards required by the Planning Commission. These improvements shall be included in the performance bond. A recreation site shall have a total frontage of one or more streets of at least 200 feet, and no other dimension of the site shall be less than 200 feet. All land to be reserved for dedication to the local government for park purposes shall have the prior approval of Council and shall be shown marked on the plat, "Dedicated for Park and/or Recreation Purposes."

(e) Deposit in Lieu of Land Reservation Where, with respect to a particular subdivision, the reservation of land required pursuant to this section does not equal the percentage of total land required to be reserved in subsection (a) hereof, the Planning Commission shall require, prior to final approval of the subdivision plat, that the applicant deposit with Council a cash payment in lieu of land reservation. Such deposit shall be placed in a neighborhood parks and recreation improvement fund to be established by Council. Such deposit shall be used by the City for improvement of a neighborhood park, playground or recreation area, including the acquisition of property. Such deposit must be used for facilities that will actually be available to and benefit the persons in the subdivision and be located in the general neighborhood of the subdivision.

The Commission shall determine the amount to be deposited, based on the following formula: one hundred dollars (\$100.00), multiplied by the number of times the total area of the subdivision is divisible by the maximum number of minimum sized lots of the zoning district in which the subdivision is located, less a credit for the amount of land actually dedicated for recreation purposes, if any, as the land dedicated bears in proportions to the land required for dedication in subsection (a) hereof, but not including any land reserved through density zoning.

(f) Land Utilizing Average Density. A subdivision plat in which the principle of average density of flexible zoning has been utilized shall not be exempt from this section, except as to such portion of land which is actually dedicated to the City for park and recreation purposes. If no further area, other than the area to be reserved through averaging, is required by the Planning Commission, the full fee shall be paid as required in subsection (e) hereof. If further land is required for reservation, apart from that reserved by averaging, credit shall be given as provided in subsection (e) hereof.

(g) Interpretation. The provisions of this section are minimum standards. Nothing in this section shall be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this section.

(Ord. 421. Passed 6-1-82.)

**1228.11 OPTIONAL PUBLIC IMPROVEMENTS.**

(a) Landscaping. Landscape plantings, louvered fences for screening or other suitable landscape treatment may be made by the proprietor within required greenbelts, buffer parks or other open spaces where he or she wishes to protect his or her development from the detrimental effects of adjacent expressways, major streets, railroads or other land uses. Landscape plans shall be indicated on the proprietor's improvement plans and shall be approved by the Planning

Commission.

(b) Greenbelts. It is desirable for the protection of residential properties to have greenbelts or landscaped screen plantings located between a residential development and adjacent major arterial streets and railroad rights of way. When a proprietor wishes to protect his or her development in this respect or where the Planning Commission deems it necessary for the public health, safety and welfare, a proposed subdivision plat shall show the location of such greenbelts.

(Ord. 421. Passed 6-1-82.)

#### **1228.12 ENSURED COMPLETION OF PUBLIC IMPROVEMENTS.**

To ensure completion of all required and optional public improvements, Council shall make arrangements for financial guarantees with the proprietor prior to final plat approval, as provided in Section 1224.06.

(Ord. 421. Passed 6-1-82.)

## **TITLE SIX- Zoning**

### **CHAPTER 1240**

#### **Adoption of Zoning Code**

1240.01 Adoption by reference.

##### **CROSS REFERENCES**

Zoning and planning in home rule cities - see M.C.L. Sec. 117.41

Regulation of location of trades, buildings and uses by local authorities - see M.C.L. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L. Sec. 125.582

Regulation of congested areas - see M.C.L. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L. Sec. 125.583a

MDOT permit required for activities on state trunk line highway - see B.R. & T. Secs.872.14, 873.08

#### **1240.01 ADOPTION BY REFERENCE.**

The City Zoning Ordinance, Articles 1 through 14 with Appendices, is hereby adopted. The full text of the City Zoning Ordinance is attached to Ordinance No. 722, passed November 19, 2001, and is hereby incorporated as Appendix A to this Chapter 1240.

(Ord. 722. Passed 11-19-01; Ord. 728. Passed 6-3-02; Ord. 729. Passed 7-29-02; Ord. 738. Passed 2-24-03; Ord. 744. Passed 9-22-03; Ord. 756. Passed 5-17-04; Ord. 757. Passed 6-28-04; Ord. 766. Passed 2-28-05; Ord. 767. Passed 3-14-05; Ord. 768. Passed 5-9-05; Ord. 770. Passed 6-13-05; Ord. 771. Passed 8-22-05; Ord. 772. Passed 8-22-05; Ord. 778. Passed 1-23-06. Ord. 779. Passed 3-13-06; Ord. 780. Passed 3-13-06; Ord. 781. Passed 3-13-06; Ord. 785. Passed 9-11-06; Ord. 787. Passed 10-9-06; Ord. 788. Passed 10-9-06; Ord. 789. Passed 10-9-06; Ord. 798. Passed 4-23-07; Ord. 800. Passed 4-9-07; Ord. 801. Passed 4-9-07; Ord. 802. Passed 8-27-07; Ord. 803. Passed 8-27-07; Ord. 810. Passed 5-19-08; Ord. 817. Passed 1-12-09; Ord. 823. Passed 7-27-09; Ord. 826. Passed 9-28-09; Ord. 827. Passed 10-26-09; Ord. 830. Passed 11-23-09; Ord. 831. Passed 2-8-10; Ord. 836. Passed 5-24-10; Ord. 838. Passed 8-23-10; Ord. 849. Passed 11-7-11; Ord. 859. Passed 9-10-12; Ord. 860. Passed 10-22-12; Ord. 862. Passed 2-11-13; Ord. 882. Passed 10-28-13; Ord. 884. Passed 3-24-14; Ord. 888. Passed 8-11-14; Ord. 898. Passed 10-26-15; Ord. 904. Passed 7-25-16; Ord. 910. Passed 11-21-16; Ord. 913. Passed 4-9-18; Ord. 921. Passed 1-28-19; Ord. 924. Passed 5-20-19; Ord. 929. Passed 3-9-20; Ord. 939. Passed 1-11-21.)

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**"The City of Howell"**

**Ordinance No. 722**

**THE CITY OF HOWELL ORDAINS:**

**ARTICLE 1**

**TITLE, PURPOSE, SCOPE AND CONSTRUCTION, VALIDITY AND SEVERABILITY**

**• Section 1.01 Title.**

This Ordinance shall be known and may be cited as the "City of Howell Zoning Ordinance" or just the "Zoning Ordinance."

**• Section 1.02 Purpose.**

The purpose of this Ordinance is to promote, protect, regulate, restrict and provide for the use of land and buildings within the City of Howell; to meet the needs of the residents for places of residence, recreation, industry, trade, service, and other uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare.

The City is divided into various districts that are considered best suited to carry out the intent of this section. For each of the districts, regulations are imposed designating the uses for which buildings or structures shall or shall not be erected or altered, and designating the trades, industries, and the land uses or activities that shall be permitted or excluded or subjected to special regulations.

It is also the purpose of this Ordinance to provide for the establishment of a Board of Appeals and its powers and duties; to provide for the administration and enforcement hereof and for penalties for its violation; and to provide for the repeal of any and all ordinances inconsistent herewith.

• **Section 1.03 Scope and Construction of Regulations.**

No *building* or *structure*, or part thereof, shall hereafter be *erected*, constructed, altered or maintained, and no *new use* or change of any *building*, *structure* or land, or part thereof, shall be made or maintained, except in conformity with this Zoning Ordinance.

• **Section 1.04 Validity and Severability Clause.**

Sections of this Zoning Ordinance shall be deemed to be separable, and should any section, paragraph or provision of this Zoning Ordinance be declared by a court to be unconstitutional or invalid, such holding shall not affect the validity of this Zoning Ordinance as a whole or any part hereof other than the part so declared to be unconstitutional or invalid.

• **Section 1.05 Conflict with Other Laws, Regulations, and Agreements.**

It is not intended by this Zoning Ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provision of law or ordinance, other than the Zoning Code previously adopted by the City, as amended, or with any rule, regulation or permit adopted or issued pursuant to the law relating to the *use of buildings* or premises. However, wherever this Zoning Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, this Zoning Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Zoning Ordinance the provisions of such other law or ordinance shall govern.

• **Section 1.06 Vested Right.**

Nothing in this Zoning Ordinance shall be interpreted or construed to give rise to any permanent vested right in the continuation of any particular *use*, *district*, zoning classification or permissible activity therein. Any such *use*, *district*, zoning classification or activity is hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of the public health, safety and welfare.

## ARTICLE 2

### DEFINITIONS AND RULES APPLYING TO TEXT

• **Section 2.01 Rules Applying to Text.**

The following rules shall apply to the text and language of this Ordinance:

- (a) The particular shall control the general.
- (b) In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.
- (c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (d) Words used in the present tense shall include the future, words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the contrary.
- (e) The word "used" or "occupied" as implied to any land *or building*, shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- (f) Any word or term not defined in this Ordinance shall be used with a meaning of common understanding.

• **Section 2.02 Definitions.**

**Accessory Building** – A *detached* or *attached* subordinate *building* located on the same lot as an existing *building*, the *use* of which is clearly incidental or secondary to that of the *mainbuilding* such as a private garage or implement shed.

**Accessory Structures** – A *structure*, such as a *deck*, which is incidental to that of the *mainbuilding* that is located on the same *lot* as the *mainbuilding*.

**Accessory Use** – A *use* subordinate to the *principal uses* of a *lot* and used for purposes clearly incidental to those of the *principal use*.

**Alcoholic Commercial Establishment** – Any hotel, motel, tavern, restaurant, park, nightclub, cocktail lounge, burlesque house, bar, cabaret, taproom, club of other similar establishment licensed by the State of Michigan Liquor Control Commission, or where alcoholic beverages, including beer, are dispensed and/or consumed. This definition shall exclude a theater or auditorium.

**Alley** – A dedicated public way affording a secondary means of access to abutting property, which is not intended for general traffic circulation.

**Alterations** – Any change, addition or modification in *construction* or type of occupancy or any change 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 in this Zoning Ordinance as "altered" or "reconstructed."

**Apartments** – The *dwellingunits* in a *multiplefamilydwelling* are defined as follows:

(a) **Efficiency Apartment.** A *dwellingunit* consisting of not more than one (1) room in addition to kitchen, dining and necessary sanitary facilities.

(b) **One-bedroom Unit.** A *dwellingunit* consisting of not more than two (2) rooms in addition to kitchen, dining and necessary sanitary facilities.

(c) **Two-bedroom Unit.** A *dwellingunit* consisting of not more than three (3) rooms in addition to kitchen, dining and necessary sanitary facilities.

(d) **Three or More Bedroom Unit.** A *dwellingunit* consisting of not more than four (4) rooms in addition to kitchen, dining and necessary sanitary facilities.

**Attached** – A *building* otherwise complete in itself, which depends, for structural support on complete enclosure, upon a division *wall* or *walls* shared in common with adjacent *building* or *buildings*.

**Automobile** – Unless specifically indicated otherwise, "automobile" shall mean any motorized vehicle intended to be driven on roads or trails, such as cars, pickup trucks, vans and motorcycles, and other vehicles defined as motor vehicles by the Motor Vehicle Code.

**Automobile Collision Services** – A *use* such as frame or fender straightening and repair, painting and undercoating of *automobiles*, and similar vehicle repair activities.

**Automobile Filling Station** – A place used for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. *Automobile filling stations* may also incorporate a convenience store and/or a single bay *car wash* operation as an *accessory use*.

**Automobile Fueling Station** – A facility limited to retail sales of *vehicle fuel*, motor oil, lubricants, and travel aides, and may include convenience food and beverages, but shall not include a *restaurant* and/or drive-through facility. Automobile fueling stations are limited to locations incidental to a principal retail use in a shopping center.

**Automobile Dealership** – A *building* or premises used primarily for the sale of new and used *automobiles* and other motor vehicles.

**Automobile Repair Garage** – An enclosed *building* where the following services may be carried out: general repair, engine *rebuilding* and reconditioning of *automobiles*.

**Automobile Service Station** – A place where gasoline or other vehicle engine fuel, kerosene, motor oil, lubricants and grease are sold directly to the public on the premises for the purposes of operating motor vehicles, including the sale of minor accessories for motor vehicles (such as tires, batteries, brakes, shock absorbers and window glass) and the servicing and minor repair of motor vehicles.

**Automobile Wash** – A *building* or portion thereof where *automobiles* are washed. Such facilities shall include the following:

(a) **Automatic Car Wash.** Any facility, including its *structures*, *accessory uses* and paved areas, used wholly or partly to wash, clean and dry the exterior of passenger *automobiles*, vans, pick-ups or panel trucks using conveyors to move the vehicle, or equipment that moves over or around the vehicle, or other automated equipment intended to mechanically wash such vehicles.

(b) **Self-Service Car Wash.** Any facility, including its *structures*, *accessory uses* and paved areas used wholly or partly to wash, clean and dry the exterior of passenger *automobiles*, vans, pick-ups or panel trucks using hand-held equipment.

**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*. See Figure 1 in the Appendix.

**Bed and Breakfast** – A *one-family* residential *structure* that meets the following criteria:

(a) Has eight (8) or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, one (1) or more of which are available for rent to transient tenants.

(b) Serves breakfast to its transient tenants.

**Block** – The property abutting one (1) side of a *street* and lying between the two (2) nearest intersecting *streets*; between the nearest such *street* and any railroad right-of-way, unsubdivided acreage, river or live stream; or between any of the foregoing and any other barrier to the continuity of development.

**Brewpub** – A facility that meets all requirements of a standard restaurant and produces no more than 18,000 barrels of beer per calendar year on-site.

**Build-to-Line** – A line running parallel to the road right-of-way which denotes the maximum *setback* for all *structures*.

**Building** – A *structure*, either temporary or permanent, used for the shelter or accommodation of persons, animals, goods or equipment, having a roof supported by columns or *walls* and including any tents or awnings which are situated on private property when so used.

**Building Frontage** – That portion of a *building* that faces a public right-of-way.

**Building Code** – The code that is in effect within the City of Howell.

**Building Height** – The vertical distance measured from the *finishedgrade* at the *front* of the *building* to the higher of the highest point of a flat roof, or the mean level between the eaves and the ridge of a pitched roof. See Figure 2 in the Appendix.

**Building Inspector** – The authorized representative designated by the *Building Official* to enforce the *Building Code*.

**Building Line** – A line formed by the face of the *building*. For the purposes of this Zoning Ordinance, a minimum *buildingline* is the same as a *front setback* line.

**Building Official** – The officer or other designated authority charged with the administration and enforcement of the *BuildingCode*, or a duly authorized representative.

**Church** – A *building* wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship.

**Clinic** – A *structure*, housing under one (1) roof, facilities for the medical and dental care, diagnosis and treatment of sick, ailing, infirm and injured persons, and those who are in need of medical, dental or surgical attention, who are not provided with board or room or kept overnight on the premises.

**Club** – An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics or the like, not operated for profit.

**Collection Bins** – Any metal container, receptacle, or similar object that is located on any parcel or lot of record within the City and that is used for soliciting and/or collecting the receipt of clothing, household items, or other personal property. This term applies to all such containers regardless of whether the solicitation of property is made by a for-profit or a non-profit entity. This term does not include recycle bins for the collection of recyclable material, any rubbish or garbage receptacle, or any collection box located within an enclosed building.

**Collector Street** – A *street* intended to serve as a major means of access to major thoroughfares, such *street* having considerable continuity within the framework of the City Thoroughfare Plan.

**Columbarium** – A *structure* designed for the purpose of storing the ashes of human remains that have been cremated.

**Commercial Equipment** – Any machinery, parts, accessories, construction equipment or other equipment used primarily in the course of conducting a trade or business.

**Commercial Vehicle** – A vehicle of the bus, truck, van or trailer-type, which is designed, constructed or used for the transportation of passengers for compensation, the delivery of goods, wares or merchandise, the drawing or towing of other vehicles or construction equipment, or for other commercial purposes. The term includes, but not to the exclusion of any other types not specifically mentioned herein, truck-trailers, step-vans, dump trucks, tow-trucks, pickup trucks and sedan or panel trucks in excess of three (3) ton pay load capacity primarily for commercial purposes, and pole trailers.

**Condominium** – *Condominiums* shall include the following elements:

- (a) Condominium Act. Refers to Act 59 of the Public Acts of 1978, as amended.
- (b) Condominium Documents. The *master deed*, recorded pursuant to the *Condominium Act*, and any other instrument referred to in the *Master Deed* or bylaws that affects the rights and obligations of a co-owner in the *condominium*.
- (c) Condominium Lot. The *condominium unit* includes the *condominium unit* and the contiguous *limited common element* surrounding the *condominium unit*, and shall be the counterpart of "lot" as used in connection with a project developed under the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended.
- (d) Condominium Unit. The portion of a *condominium* project designed and intended for separate ownership and use, as described in the *master deed*.
- (e) General Common Element. The *common elements* other than the *limited common elements* reserved in the *master deed* for use by all of the co-owners.
- (f) Limited Common Element. A portion of the *common elements* reserved in the *master deed* for the exclusive use of less than all of the co-owners.
- (g) Master Deed. The *condominium* document recording the *condominium* project, to which are *attached* as exhibits and incorporated by reference with 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*.
- (h) Site Condominium. A *condominium* development in which each co-owner owns exclusive rights to a volume of space within which a *structure* or *structures* may be constructed, herein defined as a *condominium unit*. Such developments are also described in the *master deed*.



**Congregate Care Housing** – A *dwelling* providing shelter and services for four (4) or more elderly persons (age 60 or older) within which are provided living and sleeping facilities, meal preparation, laundry services and room cleaning. Such facilities may also provide other services, such as transportation for routine social and medical appointments and counseling.

**Construction** – The placing of *construction* materials in permanent position and fastened in a permanent manner. However, where *demolition* or removal of an existing *building* has been substantially begun and preparatory to *rebuilding*, such *demolition* or removal shall be deemed to be actual *construction*, provided that the work is diligently carried on until completion of the *building* involved and that not more than twelve (12) months have elapsed since the permit was issued for such *construction*.

**Construction Equipment**– A bulldozer, front-end loader, backhoe, power shovel, cement mixer, trenchers, and any other equipment designed or used for commercial construction purposes, including parts and accessories thereto, or trailers designed for the transportation of such equipment.

**Country Inn** – A business generally located in a residential structure which offers overnight lodging and meals where the owner is actively involved in daily operations, often living on site. These establishments may serve up to three (3) full service meals a day in a dining room(s) which can serve up to twice as many people as the Inn's rated overnight capacity. Dining shall only be for the patrons of the Inn and their guests. The cost of any meal shall be included in the room charges.

**Crematorium** – A *building* fitted with the proper appliances for the purposes of the cremation of human remains and includes everything incidental or ancillary thereto.

**Day-Care Facility, Adult** – Means the following:

(a) Day-Care Center, Adult. A facility, other than a private residence, receiving one (1) or more adults, eighteen (18) years of age or older, for care for periods of less than twenty-four (24) hours a day. It includes facilities for adults who are aged, mentally ill, developmentally disabled or physically handicapped who require supervision on an ongoing basis. An adult *day-care center* does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities that do not meet the definition of adult *day-care center*.

(b) Group Day-Care Home, Adult. A private home in which more than six (6) but not more than twelve (12) adults, eighteen (18) years of age or older, receive care for periods of less than twenty-four (24) hours a day. It includes facilities for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis. An *adult day-care home* does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities that do not meet the definition of *adult day care-center*. The owner of an *adult day-care home* business must also be the occupant of the private home.

(c) Family Day-Care Home, Adult. A private home in which six (6) or less adults, eighteen (18) years of age or older, receive care for periods of less than twenty-four (24) hours a day. It includes facilities for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis. An *adult day-care home* does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities that do not meet the definition of *adult day-care center*. The owner of an *adult day-care home* business must also be the occupant of the private home.

**Day-Care Facility, Child** – Means the following:

(a) Day-Care Center, Child. A facility, other than a private residence, receiving one (1) or more preschool or school age children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. The term "*day-care center*" includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a childcare center, *day-care center*, day nursery, nursery school, parent cooperative preschool, play group or drop-in center. The term "*day-care center*" does not include any of the following:

(1) A Sunday school, a vacation bible school or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than three (3) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks during a twelve (12) month period.

(2) A facility operated by a religious organization where children are cared for not greater than three (3) hours while persons responsible for the children are attending religious services.

(b) Group Day-Care Home, Child. A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (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. The term "*group day-care home*" includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year. The owner of the *child group day-care home* business must also be the owner and resident of the private home.

(c) Family Day-Care Home, Child. A private home in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty-four (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. The term "*family day-care home*" includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year. *Child family day-care homes* shall be specifically exempt from regulations by this Ordinance but are otherwise subject to applicable State law. The owner of the *child family day-care home* business must also be the owner and resident of the private home.

**Deck** – A *structure* without a roof having a foundation to hold it erect, and *attached* to or abutting one (1) or more *walls* of a *building* or constructed separately from a *building*, with or without direct access to the ground, the floor of which is above *finished grade*, and intended for use as an outdoor living area.

**Demolition** – The destruction, all or in part, of a *building* or *structure*.

**Detached** – A self contained and enclosed *building* which does not depend on shared or common *walls* with adjacent *building* or *buildings*.

**District** – A portion of the incorporated area of the City within which certain regulations and requirements, or various combinations thereof, apply under this Zoning Ordinance.

**Domestic Unit** – A collective number of individuals living together in one dwelling unit whose relationship is of a regular and permanent nature and having a distinct domestic character or a demonstrable and recognizable bond where each party is responsible for the basic material needs of the other and all are living and cooking as a single housekeeping unit. As herein defined, a domestic unit shall be given the same rights and privileges and shall have the same duties as a *family*, as defined herein for the purposes of construing and interpreting this chapter. Anyone seeking the rights and privileges afforded a member of a domestic unit by this ordinance shall have the burden of proof by clear and convincing evidence of each of the elements of a domestic unit.

**Drive-In** – A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, regardless of whether self-service is involved, rather than within a *building* or *structure*.

**Driveway** – An access roadway between a public street and a parking space, structure or lot.

**Dwelling** – Any house, room, apartment, boarding house/rooming house, which is wholly or partly used or intended to be used for living, sleeping, cooking, eating and sanitation. *Hotels, motels, bed and breakfasts, country inns*, and resorts shall not be defined as a dwelling.

**Dwelling Unit** – A single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Dwelling, Multiple Family** – A *building*, or a portion thereof, designed exclusively for occupancy by three (3) or more families, living independently of each other.

**Dwelling, One-Family Detached** – A detached *one-family dwelling* is a *building* designed exclusively for, and occupied exclusively by, *one* (1) *family*.

**Dwelling, One-Family Attached** – A *building* divided vertically by a common *wall* extending from the foundation to the roof into two (2) or more *attached dwelling units*, each having a separate entrance.

**Dwelling, Two-Family** – A *building* designed exclusively for occupancy by two (2) families, living independently of each other.

**Erected** – Includes "built," "constructed," "altered," "reconstructed," "moved upon" or any physical operation on the premises that is required for *construction*. *Excavation*, fill, drainage and the like shall be considered a part of erection.

**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 systems or collection, communication, supply or disposal systems. Such systems include towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not *buildings* which are necessary for the furnishing of adequate service by such utilities or Municipal departments for the general health, safety or welfare.

**Excavation** – A breaking of ground, except common household gardening and ground care.

**Family** – One or two individuals related by blood, marriage or adoption, with their direct lineal descendants or adopted children (and including the domestic employees thereof), occupying a dwelling unit in accordance with the standards of section 5.14. Anyone seeking the rights and privileges afforded a member of a family by this Code shall have the burden of proof by clear and convincing evidence of their family relationship.

**Farm** – All of the contiguous neighboring or associated land operated as a single unit on which farming as defined by the Michigan Right-to-Farm-Act is carried on directly by the owner-operator, manager, or tenant-farmer, by his own labor or with the assistance of members of his household or hired employees. Land to be considered a *farm* hereunder shall include a continuous parcel of not less than ten (10) acres in area. *Farms* may be considered as including establishments operated as greenhouses, *sod farms, nurseries*, orchards, chicken hatcheries, livestock/poultry *farms*, and apiaries; but establishments keeping fur-bearing animals, game, or operating fish hatcheries, confined animal feedlots, stone quarries, or gravel or sand pits shall not be considered *farms* hereunder unless combined with *farm* operation on the same continuous tract of land.

**Fence** – A vertical *structure* intended to prevent entrance, to confine, or to mark a boundary.

**Filling** – The depositing or dumping of any matter onto or into the ground, except that which is done in connection with common household gardening and ground care.

**Floor Area** – For the purpose of computing, the minimum allowable *floor area* in a residential *dwelling unit*, which is the sum of the horizontal areas of each *story* of the *building* measured from the exterior faces of the exterior *walls*. The *floor area* measurement is exclusive of areas of *basements*, unfinished attics, *non-habitable attached accessory buildings*, *garages*, breezeways and enclosed and unenclosed *porches*.

**Floor Area, Usable** – For the purpose of computing parking, the *usable floor area* includes that area used for or intended to be used for the sale of merchandise or services or for use to serve patrons, clients or customers. Such *floor area* which is used or intended to be used principally for the storage or processing of merchandise, or for utilities, shall be excluded from this computation of *usable floor area*. Measurement of *floor area* shall be the sum of the gross horizontal areas of the several floors of the *building*, measured from the interior faces of the exterior *walls*. For the purpose of computing parking for those *uses* not enclosed within a *building*, the area used for the sale or display of merchandise and/or the area used to serve patrons or clients shall be measured to determine necessary parking spaces.

**Foster Care Facilities, Adult** – A governmental or non-governmental establishment that provides foster care to adults. It include facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision or an ongoing basis but who do not require continuous nursing care. An *adult foster care facility* does not include *nursing homes*, homes for the aged, *hospitals*, alcohol or substance abuse rehabilitation center, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of *adult foster care facility* by the Adult Foster Care Facility Licensing Act, MCL 400.701, et. seq.; M.S.A. 16.610 (61), et. seq., as amended. The types of licensed *Adult Foster Care Facilities* include the following:

(a) **Foster Care Small Group Home, Adult** A facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.

(b) **Foster Care Large Group Home, Adult** A facility with the approved capacity to receive at least thirteen (13), but not more than twenty (20) adults, to be provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.

(c) **Foster Care Family Home, Adult** A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The *adult foster care family home* licensee must be a member of the household and an occupant of the residence.

(d) **Foster Care Congregate Facility, Adult** An *adult foster care facility* with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

**Foster Family Facilities, Child** – Means the following:

(a) **Foster Family Home**. A private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to the adoption code, Chapter X of Act No. 288 of the Public Acts of 1939, being Sections 710.21 to 710.70 of the Michigan Compiled Laws, are given care and supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

(b) **Foster Family Group Home**. A private home in which more than four (4) but fewer than seven (7) minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to Chapter X of Act No. 288 of Public Acts of 1939, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

**Garage** – A non-habitable *attached* or *detached accessory building* which is designed for the storage of private automobiles, materials, tools or other equipment necessary to maintain the property.

**Grade** – The degree of rise or descent of a sloping *surface*. See Figure 3 in the Appendix.

**Grade, Finished** – The final elevation of the ground *surface* after development.

**Grade, Natural** – The elevation of the ground *surface* in its natural state, before man-made alternations.

**Gross Acres** - The total site area, including the existing public road right-of-way.

**Habitable** – A *building* or a portion of a *building* which is constructed for permanent living, sleeping, eating, cooking and sanitation purposes (See also *dwelling unit*). *Habitable* space may be *attached* or *detached* from the *main building*.

**Home Occupation** – An occupation or profession carried on as a subordinate *use* by a member of a *family* residing on the premises and conducted entirely within the *dwelling*, which occupation or profession is clearly incidental and secondary to the *use* of the *dwelling* for *dwelling* purposes and does not change the character thereof. In addition to this definition, an occupant of a *one-family* residence shall also be allowed to specifically give instruction in a craft or fine art within the residence, pursuant to Act 376 of the Public Acts of 1994, as amended.

**Hospital, General** – An installation providing health services primarily for in-patient medical or surgical care of the sick or injured, and includes related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices which are integral parts of the facilities.

**Hotel** – A *building* in which lodging, with or without meals, is offered to transient guests (no more than 6 months) for compensation and in which there are six (6) or more guest rooms. Such facilities may have in room cooking facilities

providing all *Building Code* requirements have been satisfied.

**Housekeeping Unit** – A *dwelling unit* organized as a single entity in which the members of the household share common facilities.

**Housing for the Elderly** – A *building* or group of *buildings* containing *dwellings* intended for, and solely occupied by, elderly persons as defined by the Federal Fair Housing Amendments Act of 1988. *Housing for the elderly* may include independent and/or assisted living arrangements but shall not include *nursing or convalescent facilities* regulated by the State of Michigan.

**kennel, Commercial** – A *lot* or premise on which three (3) or more animals are either permanently or temporarily boarded for a profit.

**Kennels** – any premises where more than three dogs, cats, or combination thereof, that are not owned by the property owner or tenant, are kept during the day or overnight in exchange for compensation.

**Landscaping** – The following definitions shall apply in the application of this Ordinance:

(a) **Berm.** A landscaped mound of earth that blends with the surrounding terrain.

(b) **Buffer.** A landscaped area composed of living material, *wall*, *berm*, or combination thereof, established and/or maintained to provide visual screening, noise reduction, and transition between conflicting types of *land uses*. See Figure 4 in the Appendix.

(c) **Conflicting Non-Residential Land Uses.** Any non-residential *land use*, such as office, commercial, industrial, research, parking or public road right-of-way that abuts a residential *land use*. See Figure 5 in the Appendix.

(d) **Conflicting Residential Uses.** Any residential *land use* developed at a higher density that abuts a residential *land use* developed at a lower density. See Figure 5 in the Appendix.

(e) **Greenbelt.** A landscaped area, established at a depth of the minimum required *frontyard setback* within a zoning *district*, which is intended to provide a transition between a public road right-of-way and an existing or proposed *land use* and/or between a conflicting *land use* and an existing or proposed *land use*. See Figure 6 in the Appendix.

(f) **Opacity.** The state of being impervious to sight.

(g) **Plant Material.** A collection of living evergreen and/or deciduous, woody-stemmed trees, shrubs, vines and ground cover.

**Lighting, Exterior** – The following words, terms and phrases related to lighting, when used in this Ordinance, shall have the following meanings, except where the context clearly indicates a different meaning:

(a) **Canopy Structure.** Any overhead protective structure that is constructed in such a manner as to allow pedestrians/vehicles to pass under.

(b) **Flood or Spot Light.** Any light fixture or lamp that incorporates a reflector or refractor to concentrate the light output into a directed beam in a particular direction.

(c) **Glare.** Direct light emitted by a lamp, luminous tube lighting, or other light source.

(d) **Lamp.** The component of the luminaire that produces the actual light including luminous tube lighting.

(e) **Light Fixture.** The assembly that holds a lamp and may include an assembly housing, mounting bracket or pole socket, lamp holder, ballast, reflector or mirror, and a refractor or lens. A light fixture also includes the assembly for luminous tube and fluorescent lighting.

(f) **Light Pollution.** Artificial light that causes a detrimental effect on the environment, enjoyment of the night sky, or causes undesirable glare or unnecessary illumination of adjacent properties or uses.

(g) **Light Trespass.** The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

(h) **Luminaire.** The complete lighting system including the lamp and light fixture.

(i) **Luminous Tube Lighting.** Gas filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g., neon, argon, etc.

(j) **Shielded Fixture.** Outdoor light fixtures shielded or constructed so that light rays emitted by the fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted, e.g. shoebox-type fixtures. A luminaire mounted in a recessed fashion under a canopy or other structure such that the surrounding structure effectively shields the light in the same manner is also considered fully shielded for the purposes of this Ordinance.

**Lot** – A parcel of land, excluding any portion in a *street* or other right-of-way, of at least sufficient size to meet minimum requirements for *use*, *coverage*, *lot area*, and to provide such *yards* as herein required. See Figure 7 in the Appendix. Such *lot* shall have *frontage* on a public *street*, or on an approved private *street*, and may consist of:

(a) a single *lot of record*, or,

(b) a parcel of land described by metes and bounds.

**Lot Area** – The total horizontal area within the *lot lines* of the *lot*.

**Lot, Corner** – A *lot* where the interior angle of two (2) adjacent sides at the intersection of two (2) streets is less than one hundred and thirty-five (135) degrees. A *lot* abutting upon a curved *street* or streets shall be considered a *cornerlot* for the purposes of this Zoning Ordinance if the arc is of less radius than one hundred (2) and fifty (150) feet and the tangents to the curve, at the two (2) points where the *lot lines* meet the curve or the straight *street* line extended, form an interior angle of less than one hundred and thirty-five (135) degrees.

**Lot Coverage** – That part or percentage of the *lot* occupied by *buildings*, including *attached* and *detached accessory buildings*.

**Lot Depth** – The horizontal distance between the *front* and *rear lot lines*, measured along the median between the *side lot lines*.

**Lot, Through** – Any *interiorlot* having *frontages* on two (2), more or less, parallel streets, as distinguished from a *cornerlot*. In the case of a row of *throughlots*, all sides of such *lots* adjacent to streets shall be considered *frontage*, and *frontyards* shall be provided as required. See Figure 7 in the Appendix.

**Lot, Interior** – Any *lot* other than a *cornerlot*. See Figure 7 in the Appendix.

**Lot Lines** – The lines bounding a *lot* is defined as follows (see Figure 8 in the Appendix):

(a) **Front Lot Line.** In the case of an *interiorlot*, that line separating the *lot* from the *street* right-of-way. In the case of a *corner lot* or a *through lot*, the "front lot line" is that line separating the *lot* from that *street* which is designated as the *front street* in the plat and in the application for a *building* permit.

(b) **Rear Lot Line.** That *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 (10) feet long and lying farthest from the *front lot line* and wholly within the *lot*.

(c) **Side Lot Line.** A *lot line* other than the *front lot line* or the *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 recorded plat on file with the County Register of Deeds at the time of adoption of this Zoning Ordinance.

**Lot Width** – The horizontal distance between the *sidelot lines*, measured at the two (2) points where the required *front setback* intersects the *sidelot lines*.

**Main Building** – A *building* in which is conducted the *principal use* of the *lot* upon which it is situated.

**Main Use** – The *principal use* to which the premises are devoted and the principal purpose for which the premises exist.

**Maneuvering Space** – An open space in a parking area that is immediately adjacent to a parking space, is used for and/or is necessary for turning, backing, or driving forward a motor vehicle into such parking space but is not used for the parking or storage of motor vehicles.

**Manufactured Home** – The following terms shall apply:

(a) **Mobile Home.** A detached portable *one-family dwelling*, prefabricated on its own chassis and intended for long-term occupancy. The unit contains sleeping accommodations, a flush toilet, a washbasin, a tub or shower, eating and living quarters. It is designed to be transported on its own wheels or flatbed arriving at the site where it is to be occupied as a complete *dwelling* without permanent foundation and connected to existing utilities.

(b) **Modular Home.** A *structure* whose parts are manufactured separately off-site, but fitted together on a site with a permanent residential foundation.

(c) **Pre-Manufactured Home.** A *structure* which is capable of being occupied exclusively as a *dwelling* and which is comprised of pre-fabricated components which are manufactured off-site, transported and *erected* on a *lot*.

**Master Plan** – The comprehensive land *use* plan, including graphic and written proposals, indicating the general location of *streets*, parks, schools, public *buildings* and all physical development of the City, and includes any unit or part of such Plan and any amendment to such Plan or parts thereof. The Planning Commission shall adopt such plans.

**Mausoleum** – A *building* or other *structure* used as a place for the interment of the dead in sealed crypts or compartments.

**Mezzanine** – An intermediate level between the floor and ceiling of any *story* with an aggregate *floor area* of no more than one-third (1/3) of the area of the room in which the level or levels are located.

**Microbrewery** – A facility that brews between 18,000 and 60,000 barrels per year for off-premise consumption.

**Mobile Home Park** – Any parcel of land intended and designed to accommodate more than one (1) *mobile home* for living *use* which is offered to the public for that purpose; and any *structure*, facility, area, or equipment used or intended for *use* incidental to that living *use*.

**Motel** – A series of *attached*, semi-detached or detached rental units containing bedroom, bathroom and closet space. Such

units shall provide for overnight lodging, are offered to the public for compensation and shall cater primarily to the public traveling by motor vehicle.

**Net Acres** – The gross acres or total site area, excluding the existing public road right-of-way.

**Nonconforming Building** – A *building* or portion thereof, existing on the effective date of this Zoning Ordinance, or amendments thereto, that does not conform to this Zoning Ordinance in the *district* in which it is located.

**Nonconforming Use** – A *use* that lawfully occupies a *building* or land on the effective date of this Zoning Ordinance, or amendments thereto, that does not conform to the *use* regulations of the *district* in which it is located.

**Non-Habitable** – A *building* or a portion of a *building* which cannot be defined as a *dwelling unit* whether *attached* or *detached* from the *main building*.

**Nudity or State of Nudity** – Nudity or State of Nudity means the showing of either of the following:

- (a) The human male or female genitals, pubic area, or buttocks with less than a fully opaque covering;
- (b) The female breast with less than a fully opaque covering on a part of the nipple.

**Nursery, Plant Material** – A *space*, *building* or *structure*, or a combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or *landscaping*.

**Nursing or Convalescent Home** – A state licensed facility for the care of children, of the aged or infirm, or a place of rest for those suffering bodily disorders. Said home shall conform and qualify for license under State law even though State law has different size regulations.

**Occupant** – Any individual living or sleeping in a *building*, or having possession of a space within a *building*.

**Off-Street 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 there from.

**Off-Street Parking Lot** – A facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit, for the parking of more than two (2) vehicles.

**Off-Street Parking Space** – An area of definite length and width, exclusive of drives, driveways, aisles or entrances giving access thereto, fully accessible for the storage or parking of permitted vehicles. See Figures 9-11 in the Appendix.

**Off-Street Stacking Spaces** – An area designated for vehicles waiting to enter a *drive-through* facility. See Figure 12 in the Appendix.

**Operator** – Operator means and includes the owner, permit holder, custodian manager, operator or person in charge of any sexually oriented business.

**Parking lot** – A total surface area on 1 parcel of 1,200 or more square feet or 5 parking spaces used for parking and maneuvering of motor vehicles and which shall also include unenclosed parking structures.

**Parking space** – A private area designed or used for the parking of a motor vehicle and properly accessed from a public street by a driveway or private street.

**Paved Surface Area** – An area covered with cobblestone, clay-fired bricks, concrete precast paver units (including, but not limited to, grasscrete), poured concrete with or without decorative *surface* materials, blacktop, or other asphaltic or rubber mixture which may include sand or gravel as an ingredient and which creates a hard *surface*. A *graded* natural *surface* or one covered with rolled stone or overlaid with loose gravel is not considered a paved surface.

**Person** – Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

**Plot Plan** – A *plot plan* shall include the following:

- (a) The actual shape, location and dimensions of the *lot*;
- (b) The shape, size and location of all *buildings* or other *structures* to be *erected*, altered or moved and of any *building* or other *structure* already on the *lot*;
- (c) The existing and intended *use* of the *lot* and all such *structures* upon it, including, in residential areas, the number of *dwelling units* the *building* is intended to accommodate; and
- (d) Such other information concerning the *lot* or adjoining *lots* as may be essential for determining whether or not this Zoning Ordinance is being complied with.

**Porch, Enclosed** – A roofed and potentially heated *structure* projecting from the exterior walls adjacent to an entrance to the building with walls that are more than 50% enclosed with permanent and/or removable windows, also referred to as a three season porch. When accessibility is limited to the interior of the *structure*, it may be referred to as a sleeping porch.

**Porch, Unenclosed** – A roofed, unheated *structure* projecting from the exterior walls adjacent to the entrance of the building with walls that are at least 50% open and unenclosed except for insect screening or retractable shades. These *structures*, also known as an open gallery or veranda, are principally used as outdoor living areas.

**Portico** – An open, covered or uncovered, level space located above grade between the front steps and the front door, also known as a stoop.

**Principal Use** – The *main use* to which the premises are devoted and the main purpose for which the premises exist.

**Public Park** – Public land which has been designated for park or recreational activities including a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the City, which is under the control, operation, or management of the City, the County Board of Commissioner's, the State of Michigan, or the U.S. Government.

**Public Utility** – A person, firm or corporation, or a Municipal department, board or commission, duly authorized to furnish and furnishing, under governmental regulations, to the public, the following: gas, steam, electricity, sewage disposal, communication, transportation or water.

**Recreational Equipment** – One (1) or more of the following, or modifications thereof: travel trailer, camp trailer, tent trailer, camper, pop-up camper, folding tent trailer, utility trailer, boat, boat trailer, personal water craft, float and/or raft, including transportation equipment, manufactured motorized home, manufactured motor bus, all designed to be used as a temporary *dwelling* for travel, recreational and vacation use or periodical and occasional *family* recreational and vacation use.

**Religious Institution** – Religious institution means any church, synagogue, mosque, temple or other similar building, which is used primarily for religious worship and related religious activities.

**Residential District** – Residential district means any zoning district that permits residential dwellings such as: single-family detached, single-family attached and multiple family dwellings.

**Residential Rental Structure** – Any *building* that contains one or more *residential rental units* regardless of whether or not one of the units is occupied by the owner.

**Residential Rental Unit** – Any *apartment*, room, rooming house, boarding house, dwelling house, or portion thereof or any *condominium* unit for which a *person* or group of person pays rent directly or indirectly to the owner thereof for the purpose of a *person* to reside therein. This definition includes *one- and two-family dwellings*, multiple and multi-family dwellings, apartment units, flats, rooming house rooms, and boarding houses. This definition does not include *hotels* and *motels* licensed and inspected by the state, *bed and breakfast* establishments, or *country-inn* establishments.

**Restaurant** – Any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a *carry-out restaurant*, *drive-in restaurant*, *drive-through restaurant*, *standard restaurant*, *tavern* or *sidewalk café*, or a combination thereof, as defined below:

(a) Carry-out Restaurant. A *restaurant* whose method of operation involves the sale of food, beverages and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.

(b) Drive-in Restaurant. A *restaurant* whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed *building*.

(c) Drive-through Restaurant. A *restaurant* whose method of operation involves the delivery of prepared food to the customer in a motor vehicle, typically through a *drive-through* window, for consumption off the premises.

(d) Standard Restaurant. A *restaurant* whose method of operation involves either:

(1) The delivery of prepared food by wait staff to customers seated at tables within a completely enclosed *building*; or

(2) The acquisition by customers of prepared food at a cafeteria line and its subsequent consumption by the customers at tables within a completely enclosed *building*.

(e) Tavern. A type of *restaurant* that is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a *tavern* is part of a larger dining facility, it shall be defined as that part of the *structure* so designated or operated.

(f) Sidewalk Café. An area adjacent to and directly *in front* of a *street-level* eating or drinking establishment located within the sidewalk area of the public right-of-way exclusively for dining, drinking, and pedestrian circulation. The encroachment area of a *sidewalk café* may be separated from the remainder of the sidewalk by railings, fencing, or *landscaping* planter boxes or a combination thereof.

**Rooming House** – A *building*, other than a *hotel* or dormitory, which is not occupied as a *one- or two-family dwelling*, containing rooming units, where for compensation and by prearrangement for definite periods, lodging is provided for 2 or more roomers.

**Rooming Unit** – Any room or group of rooms forming a single habitable unit, but which does not contain any cooking facilities.

**Salvage Yard** – An open area where waste, used or second-hand 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. "*Salvage yard*" includes *automobile wrecking yards* and any area of more than two hundred (200) square feet used for the storage, keeping or abandonment of salvaged materials, but does not include *uses* established entirely within enclosed *buildings*.

**School** – Any public or private educational facility including child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

**Self-Storage Facility** – A *building* consisting of individual, small self-contained units that are leased for the storage of personal and household goods.

**Setback** – The distance required to obtain the *front, side or rear yard* open space provided for in this Zoning Ordinance. See Figure 13 in the Appendix.

**Sexually Oriented Business** – An establishment that provides adult entertainment appealing to the sexual interests of its customers. Sexually Oriented Businesses and their operational characteristics are further defined as follows:

(1) **Adult Arcade** means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, internet or mechanically controlled still or motion picture machines, projectors or other image producing devices are maintained to show images and where the images so displayed are distinguished or characterized by the depicting or describing of "sexually explicit activities" or "specific anatomical areas".

(2) **Adult Bookstore of Adult Video Store** means an establishment which offers for sale or rental for any form of consideration, as one of its principal business purposes, any one or more of the following:

(a) Books, computer diskettes, tapes or hard drives, magazines, periodicals or other printed matter or photographs, films, motion pictures, video matter or photographs, cassettes or video reproductions, slides or other visual representation which depict or describe "sexually explicit activities" or "specified anatomical areas"; or

(b) Instruments, devices or paraphernalia which are designed for use in connection with "sexually explicit activities"; or

(c) Items, materials, gimmicks, or paraphernalia depicting, displaying, advertising or packaged as "sexually explicit activities" or depict or describe "specified anatomical areas".

(d) For purposes of this Section, "principal business purpose" means:

(i) The devotion of a significant or substantial portion, meaning at least twenty-five (25%) percent of its in-store inventory (either measured by display area or retail value) in the items listed above; or

(ii) The receipt of twenty-five (25%) percent of more of its revenues from the sale of the items listed above; or

(iii) The devotion of a significant or substantial portion of its advertising expenditures to the promotion of the sale, rental or viewing, of books, magazines, periodicals or other printed matter, or photographs, film, motion pictures, video cassettes, compact discs, slides or other visual representations, items, materials, gimmicks, or paraphernalia which are characterized by the depiction, description display, advertising or packaging of "sexually explicit activities" or "specified anatomical areas".

(e) An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing "sexually explicit activities" or "specified anatomical areas", and still be characterized as an adult book store, adult novelty or retail store or adult video store. Such other business purposes will not serve to exempt such establishment from being categorized as an adult bookstore, adult novelty store or adult video store, so long as the establishment falls within the definition of an adult bookstore, adult novelty store or adult video store as set forth above.

(3) **Adult Cabaret** means a nightclub, bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are sold, which features:

(a) persons who appear in a state of restricted nudity; or

(b) live performances, exhibitions, shows, dances, revues, floorshows, songs or other similar presentation which are characterized by the partial exposure of "specified anatomical areas"; or

(c) films, motion pictures, video cassettes, compact discs, slides or other photographic reproductions which are characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas".

(d) This definition does not include a theater which features occasional live nude performances with serious literary, artistic or political value and that have no adverse secondary effects.

(4) **Adult Massage Parlor** means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other manipulation of the human body occurs as part of or in connection with specified sexual activities, or where any person providing such treatment, manipulation, or service related thereto, exposes his or her specified anatomical areas. An Adult Massage Parlor, in contrast to a Myotherapy Establishment, is considered a sexually oriented business for purposes of these regulations.

(5) **Adult Motel** means a hotel, motel or similar commercial establishment which:

(a) offers accommodations to the public for any form of consideration and provide patrons with closed-circuit television transmission, films, motion pictures, video cassettes, compact discs, slides or other photographic reproductions which are regularly characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas"; or



which advertises the availability of this adult type of material by means of a sign, visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio, internet or television; or

(b) permits patrons to be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for electric transmission over the World Wide Web; or

(c) offer a sleeping room for rent for a period of time that is less than ten (10) hours; or

(d) allow a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

(6) **Adult Motion Picture Theater** means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, compact discs, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas".

(7) **Adult Theater** means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by the performance of "sexually explicit activities". This definition does not include a theater which features occasional live nude performances with serious literary, artistic or political value and that have no adverse secondary effects.

(8) **Adult Use Business** means an adult arcade, adult bookstore, adult novelty or retail store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude modeling studio and/or a sexual encounter establishment or any business determined by the Building Official, City Manager, and/or the Chief of Police, to be an adult use, due to the activities of the business which involve characteristic of adult uses, such as nudity, semi-nudity, exposure of "sexually explicit activities" and/or "specified anatomical areas". The definition of "adult use business" shall not include an establishment where a medical practitioner, psychologist, psychiatrists or similar professional person licensed by the State engages in medically approved and recognized sexual therapy.

(9) **Employee** means a person who works or performs in and/or for an adult use business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

(10) **Entertainer** means a person who performs some type of activity or pose with the intent of allowing others to witness that activity or pose.

(11) **Escort** means a person, who for consideration in any form, agrees or offers to act as a companion guide or date for another person, or who agrees or offers to privately perform as an entertainer, including, but not limited to, the modeling of lingerie, the removal of clothing, the performance of a dance or skit, or the providing of specified sexual activities for another person. Under this definition, "privately" shall mean a performance for an individual, or that individual's guests.

(12) **Escort Agency** means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes, for a fee, tip or other consideration.

(13) **Establishment** means and includes any of the following:

(a) the opening or commencement of any sexually oriented business as a new business;

(b) the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(c) the location or relocation of any sexually oriented business.

(14) **Licensee** means the individual listed as an applicant on the application of a sexually oriented business license, or a person whose name a license to operate an adult use business has been issued.

(15) **Licensing Officer** means the Clerk of the City of Howell or his/her designee.

(16) **Manager** means an operator, other than a licensee, who is employed by a sexually oriented business to act as a manager or supervisor of employees, or is otherwise responsible for the operation of the sexually oriented business.

(17) **Massage** means the treating of external parts of the body for remedial or hygienic purposes, consisting of stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating with the hands or with the aid of any mechanical or electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided shall pay any consideration whatsoever therefore. For purposes of this Ordinance, the term "bodywork" shall mean massage.

(18) **Myotherapy Establishment** means any individual, group of individuals, person or business which engages in the practice of massage as defined herein, and which has a fixed place of business where any person, firm, association, partnership, limited liability company or corporation carries on any of the activities as defined herein. Myotherapy establishment shall also include, but not be limited to, a Turkish bath parlor, steam bath, sauna, magnetic healing institute, health club, health spa, or physical fitness club or business that offers massages on occasion or incidental to its principal operation, as well as an individual's home where a person is engaged in the practice of massage for consideration. The definition of sexually oriented business shall not include the practice of massage in a licensed hospital, sanitarium, nursing

home, medical clinic or the offices of a physician, surgeon, chiropractor, osteopath, psychologist, clinical social worker and family counselor, who are licensed to practice their respective professions in the State of Michigan, or who are permitted to practice temporarily under the auspices of an associate or an establishment duly licensed in the State of Michigan, clergymen, certified members of the American Massage and Therapy Association and certified members of the International Myomassethics Federation. A Myotherapy Establishment engaged in the practice of massage as defined herein is considered a Regulated Use but not a sexually oriented business for purposes of these regulations.

(19) **Nude Model Studio** means any place where a person appears in a state of nudity or displays "specific anatomical areas", and is provided money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons. This includes modeling studios that provide for nude modeling on an occasional basis, but it does not include modeling studio whose primary function is to provide art classes as part of a college, university or educational institution and which is certified by the State of Michigan.

(20) **Operator** means the owner, licensee, manager or person in charge of any premises.

(21) **Peep Booth** means an adult motion picture theater with a viewing room or cubical of less than one hundred fifty (150) square feet of floor space.

(22) **Premises or Licensed Premises** means any premises that requires a sexually oriented business license and that is classified as a sexually oriented business.

(23) **Principal Owner** means any person owning, directly or beneficially: a) ten percent (10%) or more of a corporation's equity securities; b) ten percent (10%) or more of the membership interests in a limited liability company; or c) in the case of any other legal entity, ten percent (10%) or more of the ownership interests in the entity.

(24) **Private Room** means a room in a hotel/motel that is not a peep booth, has a bed and a bath in the room or adjacent room, and is used primarily for lodging.

(25) **Semi-Nude** means a state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(26) **Sexual Encounter Center** means a business or commercial enterprise that, as one (1) of its primary business purposes, offers a place where two (2) or more persons may congregate, associate or consort for the purpose of "sexually explicit activities" or the exposure of "specified anatomical areas" for any form of consideration, including, but not limited to:

(a) physical contact in the form of wrestling or tumbling between persons of the same or opposite sex; or

(b) activities when one or more of the persons is in a state of nudity or semi-nudity; or

(c) permits patrons to display or be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for recording or transmission over the World Wide Web or any other media.

(27) **Sexually Explicit Activities** means and includes any of the following:

(a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; or

(b) sex acts, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation or sodomy; or

(c) masturbation, actual or simulated; or

(d) any activity intended to arouse, appeal to or gratify a person's lust, passions or sexual desires; or

(e) human genitals in a state of sexual stimulation, arousal or tumescence; or

(f) excretory function as part of or in connection with any of the activity set forth in (a) through (e) above.

(28) **Sexually Oriented Business** means an adult arcade, adult bookstore or adult video store, adult novelty or retail store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center or similar establishment or any place that permits patrons to be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for electronic transmission over the World Wide Web, film, motion picture, videocassette, DVD or other photographic reproduction. "Sexually oriented" when used to describe film, motion picture, videocassette, DVD, slides, or other photographic reproductions shall mean film, movies, motion picture, videocassette, DVD, slides or other photographic reproductions that regularly depict material which is distinguished or characterized by an emphasis on matter depicting or describing "sexually explicit activities" or "specified anatomical areas" offered for observation by the patron(s) on the premises of a sexually oriented business. The definition of "sexually oriented business" shall not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the State engages in medically approved and recognized sexual therapy.

(29) **Specified Anatomical Areas** means and includes any of the following:

(a) less than completely and opaquely covered human genitals, pubic region or pubic hair, buttock, or female breast or breasts of any portion thereof that is situated below a point immediately above the top of the areola, or any combination of the foregoing; or

(b) human genitals in a state of sexual arousal, even if opaquely and completely covered.

(30) **Specified Criminal Acts** means sexual crimes against children, sexual abuse, criminal sexual conduct, rape, crimes classified as sexual crimes by the State of Michigan or any other state, or crimes connected with another adult use business, including, but not limited to, the distribution of obscenity, prostitution and/or pandering.

(31) **Significant or Substantial Portion** means twenty-five percent (25%) or more of the term modified by such phrase.

(32) **Substantial Enlargement** of a sexually oriented business means the increase in floor area occupied by the business by more than twenty-five percent (25%), as the floor area exists on the date of adoption of this ordinance.

(33) **Tenant Space** – Tenant Space means a securable area separated from other area by walls and doors that are available for lease or rent within a multi-tenant building, such as tenant spaces typically found within a shopping mall or strip.

(34) **Transfer of Ownership or Control** of a sexually oriented business means and includes any of the following:

(a) the sale, lease or sublease of the business;

(b) the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or

(c) the establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

**Shed** – A self contained and enclosed single story *building* of less than or equal to 200 square feet which does not depend on shared or common *walls* with adjacent *building* or *buildings*.

**Sign** – A name, identification, description, display, light, balloon, banner or illustration which is affixed to, or painted on, or otherwise located or set upon or in a *building*, *structure* or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business and which is visible from any public *street*, sidewalk, *alley*, park, public property or from other private property. The definition includes interior *signs* that are directed at persons outside the premises of the *sign* owners and exterior *signs*, but not *signs* primarily directed at persons within the premises of the *sign* owners. The definition does not include goods for sale displayed in a business window. Also, the definition does not include religious symbols or paintings which do not display lettering and do not advertise a business, product or service and which are not a trademark or logo for a business, product or service. All such amenities are defined as follows:

(a) **Freestanding Sign**. A *sign* that is attached to or part of a completely self-supporting *structure*. The supporting *structure* shall be placed in or below the ground surface and not attached to any *building* or any other *structure* whether portable or stationary.

(b) **Projecting Sign**. A *sign* other than a *wall sign*, which is perpendicularly attached to, and projects from a *structure* or *building wall* not specifically designed to support the *sign*.

(c) **Portable Sign**. A single or double surface painted or poster panel-type *sign* or some variation thereof, which is easily movable and not permanently attached to the ground or a *building*.

(d) **Real Estate Sign**. A portable temporary non-illuminated *sign* placed upon property for the purpose of advertising to the public the sale or lease of said property or rental of the unit within.

(e) **Roof Sign**. Any *sign* wholly erected to, constructed or maintained on the roof *structure* of any *building*.

(f) **Suspended Sign**. A *sign* that is suspended or hung from the underside of an eave, porch roof or awning.

(g) **Promotional Banner**. A *sign* made of fabric, cloth, paper or other non-rigid material that is typically not enclosed in a frame and advertises a product or service offered on the premises.

(h) **Wall Sign**. Any *sign* that shall be affixed parallel to the *wall* or printed or painted on the *wall* of any *building*. However, said *wall sign* shall not project above the top of the *wall* or beyond the end of the *building*. For the purpose of this Ordinance, any *sign* display surface that is affixed flat against the sloping surface of a mansard roof shall be considered a *wall sign*.

(i) **Canopy Sign**. A *sign* displayed and affixed flat on the surface of a canopy and does not extend vertically or horizontally beyond the limits of the canopy.

(j) **Window Sign**. A *sign* installed inside a window and intended to be viewed from the outside.

(k) **Business Center Sign**. A freestanding or *wall sign* that identifies and/or advertises a *business center*. A *business center* shall be considered a group of two (2) or more stores, offices, research facilities or manufacturing facilities which collectively have a name different than any individual establishment and which have common parking and entrance facilities. A *business center* may also be considered a nonresidential platted subdivision or *site condominium* development, such as an industrial or office park.

(l) **Sign Surface**. That part of the *sign* upon, against, or through which the message is displayed or illustrated.

(m) **Total Surface Area of the Sign**. The sum total of all exterior surfaces of the *sign*, computed in square feet. In the case of a broken *sign* (a *sign* with open spaces between the letters, figures, numbers or symbols) the *total surface area* shall be measured by multiplying the *height* of the individual letters or combination of letters by the distance between the outer

edges of the two (2) outermost letters, figures, numbers or symbols.

(n) **Banners and Flags.** Considered part of a sites signage and shall include all removable fabric, cloth, paper or other non-rigid material suspended or hung from light poles, *buildings* or other site amenities. These *signs* may or may not include a business logo or symbol.

(o) **Menuboard.** A sign that displays menu items and may contain a communication system for placing food orders or other items at an approved drive-through facility.

(p) **Digital/Electronic Sign.** Any *signs* that use changing lights or other electronic media to form a *sign* message wherein the sequence of messages and the rate of change is electronically programmed and can be modified by an electronic process. Video display *signs* shall be considered synonymous with *digital/electronic signs*.

(q) **Sign Message Area.** A *sign* message is the same as the total surface area of the *sign* but relates exclusively to *digital/electronic signs* and may include graphics as well as text.

(r) **Abandoned Sign.** A sign which, for 30 days or more, fails to direct a person to or advertises a bona fide business, tenant, owner, product or activity conducted, or product available on the premises where such sign is displayed and shall be deemed a nuisance per se.

**Site Plan** – A scaled drawing showing the relationship between the *lotlines* and their *uses, buildings* or *structures*, existing or proposed on a *lot*, including such details as parking areas, access points, landscaped areas, *building* areas, *setbacks* from *lotlines, building heights, floor areas*, densities, utility lines, of a special or particular *use*.

**Small Distiller** – A facility that manufactures up to 60,000 gallons of spirits per year.

**Small Wine Producer** – A facility that manufactures up to 50,000 gallons of wine per year.

**Special Accommodation Use** – A use that provides equal housing opportunities particularly suited to the needs of persons entitled to a reasonable accommodation under state or federal law, such as but not limited to, the Federal Fair Housing Act, as amended, 42 USC § 3604(f)(1) *et seq.*, the Americans with Disabilities Act, as amended, 42 USC § 12131 *et seq.*, and the Rehabilitation Act, as amended, 29 USC § 794(a). The definition of special accommodation use shall be applicable to various types of transitional and permanent homes or living arrangements which occupy dwellings or other structures and may include, but not be limited to, adult foster care large group homes and congregate facilities, and sober living homes.

**Spouse Abuse/Domestic Violence Shelter** – A *structure* owned or leased by a nonprofit entity for the purpose of providing short-term shelter care for abused individuals and their children, which *structure* may also contain an office for the administrative staff of such nonprofit entity.

**Story** – That part of a *building*, except a *mezzanine*, included between the upper surface of a floor and the upper surface of the floor or roof next above. A *story* thus defined shall not be counted as a *story* when more than fifty (50) percent of its area, by cubic content, is below the *height* level of the adjoining ground. See Figure 14 in the Appendix.

**Story, Half** – An uppermost *story* lying under a sloping roof, the *usable floor area* of which, at a *height* of four (4) feet above the floor, does not exceed two-thirds (2/3) of the *floor area* in the *story* directly below, and the *height* of which above at least two hundred (200) square feet of floor space is seven (7) feet and six (6) inches tall.

**Street** – A public thoroughfare (such as a *street*, avenue or boulevard) that 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, but not including pavements, curbs, walks or open air surfaced areas or moving vehicles.

#### **Structure, Historic.**

(a) **Significant Historic Structures.** Those *structures* which are identified by any study conducted by the City to determine the historic value of those *buildings* that contribute significantly to the character of the City. All such *structures* retain a basic integrity of architectural design, setting, materials and workmanship. Such *structures* are identified with important persons, events or types of service, or embody the distinguishing characteristics of an architectural specimen, inherently valuable as a representation of a period, style or method of *construction*.

(b) **Contributing Historic Structures.** Those *structures* which, while not possessing the importance of *significant historic structures*, make a positive contribution to the purpose of this Zoning Ordinance due to age or physical integrity. With appropriate repairs and restoration, such *structures* may be designated significant at the request of the owners.

(c) **Historic Structures.** Those *structures* which were constructed fifty (50) years or greater from the current date which may or may not be considered significant or contributing.

(d) **Noncontributing Structures.** A *noncontributing structure* means all *structures* not identified as significant or contributing.

**Swimming Pool** – Any *structure* intended for swimming, recreational bathing or wading that contains water over twenty-four (24) inches deep. This includes in-ground, aboveground and on-ground pools; hot tubs; spas and fixed-in-place wading pools.

**Temporary Use or Building** – A *use* or *building* permitted under Section 3.08 to exist during periods of *construction* of the

*mainbuilding* or use, or for special events.

**Tenants** – Occupants, lessees, and/or persons residing in a *residential rental structure* or *residential rental unit*.

**Terrace** – An open, uncovered level space at ground level that is either natural or man-made, also known as a patio.

**Transitional Housing Facility** – For the purposes of this Ordinance, "Transitional Housing Facility" means the offering to others for purposes of occupancy through rental or lease agreements, or by other mutually acceptable agreements leading to occupancy, the occupancy of dwelling units in any form to two or more individuals who do not meet the qualifications of a "family" as defined in the City of Howell Code of Ordinances, Article Six, Chapter 1240, Zoning, Section 2.02.

"Transitional housing facility" does not include: (1) a "domestic unit" under Chapter 1240, Zoning, Section 2.02 and Section 5.14 of the City Code, whether licensed by the state, county or otherwise; (2) any facility owned and operated directly by the Federal Bureau of Prisons; (3) an adult foster care home of six (6) persons or less licensed under the Michigan Adult Foster Care Licensing Facilities Act, MCL 400.701 et seq. or (4) a use granted a Special Accommodation under Section 6.29 containing six (6) persons or less.

**Use** – The permitted or specially permitted purpose, as specified in the Zoning Ordinance, for which any land or *building* is occupied, arranged, designed or intended.

**Veterinary Clinic** – A place where animals are given medical or surgical treatment, with *use* as a  *kennel* limited to short-term boarding that is incidental to the medical *use*, all within an enclosed *building*.

**Visibility at Intersections** – The portion of a *corner lot* that shall be maintained free of any *structures* or plantings to ensure sufficient visibility for motor vehicles. See Figure 15 in the Appendix.

**Wall** – An artificially constructed barrier made of impenetrable materials or combination of materials *erected* to enclose or screen areas of land.

**Wireless Communication Facilities** – Means and include all *structures* and accessory facilities relating to the *use* of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to: radio towers; television towers; telephone devices and exchanges; microwave relay towers; telephone transmission equipment *buildings* and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave facilities; ham, amateur radio facilities; satellite dishes; and governmental facilities which are subject to State or Federal law or regulations which preempt municipal regulatory authority. For purposes of this Ordinance, the following additional terms are defined:

(a) Attached Wireless Communications Facilities. Facilities that are affixed to existing *structures*, such as existing *buildings*, towers, water tanks, utility poles and the like. A wireless communication support *structure* proposed to be newly established shall not be included within this definition.

(b) Wireless Communication Support Structures. *Structures* *erected* or modified to support wireless communication antennas. Support *structures* within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other *structures* which appear to be something other than a mere support *structure*.

(c) Collocation. The location by two (2) or more wireless communication providers of *wireless communication facilities* on a common *structure*, tower or *building*, with the view toward reducing the overall number of *structures* required to support wireless communication antennas with the City.

**Yards** – The open spaces on the same *lot* with a *mainbuilding*, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Zoning Ordinance, defined as follows:

(a) Front Yard. A space extending the full width of the *lot*, the depth of which is the horizontal distance between the *front lotline* and the nearest line of the *mainbuilding*. In the case of a *corner lot* or a *through lot*, the *front yard* is that line separating the *lot* from that *street* which is designated as the *front street* in the plat and in the application for a *building* permit. This *yard* shall also be referred to the addressed side of the *lot*.

(b) Rear Yard. A space extending the full width of the *lot*, the depth of which is the horizontal distance between the *rear lotline* and the nearest line of the *mainbuilding*, and opposite the *front lotline* that is the addressed side of the *lot*.

(c) Side Yard. A space between the *mainbuilding* and the *side lotline*, extending from the *front yard* to the *rear yard*, the width of which is the horizontal distance from the nearest point of the *side lotline* to the nearest point of the *mainbuilding*.

**Zoning Administrator** – The administrative official designated by the City Council to enforce the Zoning Ordinance, or a duly authorized representative.

## ARTICLE 3

### ADMINISTRATION AND ENFORCEMENT

#### • Section 3.01 Zoning Administration.

This Zoning Ordinance shall be administered and enforced by the *Zoning Administrator* or by such deputies as the Administrator may delegate to enforce this Zoning Ordinance.

#### • Section 3.02 Duties.

The *Zoning Administrator* shall:

- (a) Receive and review for completeness all applications for *site plan* review and special land uses which the Planning Commission is required to decide under this Ordinance and refer such applications to the Planning Commission for determination.
- (b) Receive and review for completeness all applications for appeals, variances, or other matters which the Zoning Board of Appeals is required to decide under this Ordinance and refer such applications to the Zoning Board of Appeals for determination.
- (c) Receive and review for completeness all applications for amendments to this Ordinance and refer such applications to the Planning Commission and City Council for determination.
- (d) Make periodic site inspections to determine Ordinance compliance, and answer complaints on Zoning Ordinance violations.
- (e) Implement the decisions of the Planning Commission and City Council.
- (f) The *building* numbers, also known as the address, shall be set by the *Zoning Administrator*, following coordination with the *Building Official*, and upon submittal of a *building* permit application.

• **Section 3.03 Special Land Uses.**

- (a) When the *Zoning Administrator* receives an application for a special land use, the procedure for public hearing notification shall follow the procedures set forth in Section 3.13 of this ordinance.
- (b) When the *Zoning Administrator* receives an application for a special land use, the following procedure shall be followed:
  - (1) One (1) notice indicating that a request for a special land use has been received shall be published in a newspaper of general circulation within the City no less than fifteen (15) days before the Planning Commission meeting.
  - (2) Notices indicating that such a request has been received will also be sent by mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property for which a special land use has been requested. Notices will also be sent by mail or personal delivery to the occupants of *structures* located within three hundred (300) feet of the property in question. If the name of an occupant is not known, the term "Occupant" may be used in making notification. Notices to property owners and occupants shall not be given less than fifteen (15) days before the special land use application is considered by the Planning Commission.
  - (3) Notification referred to in paragraph (b)(2) hereof need not be given to more than one (1) occupant of a *structure*. However, if a *structure* contains more than one (1) *dwelling unit* or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single *structure* containing more than four (4) *dwelling units* or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the *structure* who then shall be requested to post the notice at the primary entrance to the *structure*. The notice shall:
    - A. Describe the nature of the special land use request;
    - B. Indicate the property that is the subject of the special land use request;
    - C. State when and where the special land use public hearing will be held; and
    - D. Indicate when and where written comments will be received concerning the request.
  - (c) A public hearing shall be held by the Planning Commission for all special land use requests. Notification as required in subsection (b) hereof, shall be provided before a decision is made on the special land use request.
  - (d) The Planning Commission may deny, approve, or approve with conditions, requests for special land use. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The statement shall specify the findings and conclusions for the basis for the decision and any conditions imposed.
  - (e) The Planning Commission shall review the proposed special land use in terms of the standards stated within this subsection and shall establish that such use and the proposed location comply with the following criteria:
    - (1) Will be harmonious and in accordance with the general objectives or any specific objectives of the *Master Plan*;
    - (2) Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area;
    - (3) Will not be hazardous or disturbing to existing or future nearby uses;
    - (4) Will be an improvement in relation to property in the immediate vicinity and to the community as a whole;
    - (5) Will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility;

(6) Will not create excessive additional public costs and will not be detrimental to the economic welfare of the community; and

(7) Will be consistent with the intent and purposes of this Zoning Ordinance.

(f) The Planning Commission may impose additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights and for ensuring that the purposes of this Zoning Ordinance and the general spirit and purpose of the *district* in which the special land use is proposed will be observed.

(g) Any special land use approval given by the Commission, shall become null and void unless construction and/or use is commenced within one (1) year. Any special land use that has been commenced but abandoned for a period of one (1) year, shall lapse and cease to be in effect.

(h) The Planning Commission may authorize a 12-month extension of the time limit to begin construction or commence the use of any special land use if in the Commission's view the conditions supporting the special land use are still applicable. The applicant must submit a request to the Planning Commission in writing a least one month prior to the expiration of the Site Plan under subsection (g) above.

• **Section 3.04 Site Plan Review.**

*Siteplan* review and approval of all development proposals within specific zoning *districts* shall be required as provided in this section. The intent of this section is to provide for consultation and cooperation between the developer and the Planning Commission so that both parties might realize maximum utilization of land and minimum adverse effect upon the surrounding land uses. Through the application of the following provisions, the attainment of the *MasterPlan* will be assured and the City will develop in an orderly fashion.

(a) SitePlan Review Required. A *siteplan* shall be submitted to the Commission for review and approval for the following:

(1) Any permitted use or special land use within the City, except *one-family detached* and *two-family dwellings* and their *accessory buildings* and uses;

(2) Any use or development for which the submission of a *siteplan* is required by any provision of the City's Ordinances;

(3) Any change and/or conversion of use as permitted and regulated by this Ordinance that may result in a modification to *off-street parking*, traffic circulation, services, facilities or other physical conditions on the site;

(4) Any use or development subject to the Michigan *Condominium Act*, Act 59 of the Public Acts of 1978, as amended; and

(5) Any addition to an existing principal or *accessory building* within the City, except *one-family detached dwellings* and their *accessory buildings* and uses.

(b) SitePlan Review Standards. The *siteplan* shall be reviewed in accordance with the following standards:

(1) The proposed design will not be injurious to the surrounding neighborhood or impede the normal and orderly development of surrounding property for uses permitted by the City's Ordinances.

(2) The location, design and construction materials of all *buildings* and *structures* will be compatible with the topography, size and configuration of the site, and the character of the surrounding areas.

(3) There will be a proper relationship between streets, sidewalks, service drives, driveways and parking areas protecting the safety of pedestrians and motorists.

(4) The location of *buildings*, outside storage receptacles, parking areas, *screenwalls* and utility areas is such that the adverse effects of such uses will be minimized for the occupants of that use and the occupants of surrounding areas.

(5) City requirements and standards for streets, lighting, driveway approaches, grading, surface drainage, storm sewers, storm water retention facilities, water mains, sanitary sewers and necessary easements will be met.

(6) All *buildings* or groups of *buildings* will be so arranged as to permit emergency vehicle access by some practical means to all sides.

(7) Appropriate site design measures have been taken which will preserve and protect the landscape, existing topography, natural resources and natural features such as lakes, ponds, streams, wetlands, steep slopes, groundwater recharge areas and woodlands.

(8) Sites which include storage of hazardous materials or waste, fuels, salt or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, ground water or nearby water bodies.

(9) *Landscaping*, including *greenbelts*, trees, shrubs and other vegetative materials, is provided to maintain and improve the aesthetic quality of the site and the area.

(10) The proposed use is in compliance with the City's Ordinances and any other applicable standards and laws.

(c) Information Required on SitePlan. A *siteplan* submitted for review shall contain all of the following data prior to its

submission to the Commission for review and approval:

(1) General Information.

- A. Plans drawn to a scale of not less than one (1) inch equals fifty (50) feet for property less than three (3) acres or not less than one (1) inch equals one hundred (100) feet for property three (3) acres or more;
  - B. The proprietors', applicants' and owners' names, addresses and telephone numbers;
  - C. The date (month, day, year), title *block*, scale and north arrow;
  - D. The signed professional seal, name and address of the architect, engineer, surveyor, landscape architect or planner responsible for the preparation of the plan;
  - E. The zoning *district* classification of the petitioner's parcel and all abutting parcels;
  - F. Pertinent area, *height*, *lotcoverage* and *setback* requirements of the zoning *district* in which the parcel is located;
- and
- G. A legal description, including a gross acreage figure;

(2) Physical Features.

- A. Existing and proposed *lotlines*, *buildinglines*, *structures* and parking areas on the parcel and within one hundred (100) feet of the site;
- B. The location of existing and proposed traffic and pedestrian circulation facilities, including:
  - i. Centerline and existing and proposed right-of-way lines of abutting streets;
  - ii. Access drives;
  - iii. Service drives;
  - iv. Fire lanes;
  - v. *Street* intersections;
  - vi. Acceleration, deceleration and passing lanes and approaches;
  - vii. Sidewalks and pedestrian paths; and
  - viii. Curbing.
- C. The location of existing and proposed service facilities above and below ground, including:
  - i. Chemical and fuel storage tanks and containers;
  - ii. Storage, loading and disposal areas of chemicals, hazardous substances, salt and fuels;
  - iii. Water mains, hydrants, pump houses, standpipes and *building* services and sizes;
  - iv. Sanitary sewers and pumping stations;
  - v. Stormwater control facilities and *structures*, including storm sewers, swales, retention/detention basins, drainage ways and other facilities, including calculations for sizes;
  - vi. Existing and proposed easements; and
  - vii. *Publicutility* distribution systems.
- D. Dimensioned floor plans, finished floor elevations, typical elevation views and specifications of *building* materials of all *buildings*;
- E. Dimensioned parking spaces and calculations, drives and type of surfacing;
- F. Exterior lighting locations, type of light and illumination patterns;
- G. The location and description of all existing and proposed *landscaping*, *berms*, fencing and *walls*;
- H. The trash receptacle pad location and the method of screening;
- I. The transformer pad location and the method of screening;
- J. *Sign* locations, *height* and size; and
- K. Any other pertinent physical features.

(3) Natural Features.

- A. For parcels of more than one (1) acre, existing and proposed topography with a maximum contour interval of two (2) feet on the site and beyond the site for a distance of one hundred (100) feet in all directions;



- B. The location of existing drainage courses and associated bodies of water, on and off site, and their elevations; and
- C. The location of natural resource features, including wetlands and woodlands.

(4) Additional Requirements for R-M Districts.

- A. Density calculations by type of unit;
- B. Designation of units by type and number of units in each *building*;
- C. Carport locations and details where proposed; and
- D. Details of community *building* and recreational facilities.
- E. Where deemed necessary the Planning Commission may require an applicant to provide a traffic study, economic feasibility study and/or other analyses to help determine the viability of the proposed project.

(5) Additional Requirements for O-1, CBD, B-1, B-2, I-1 and I-2 Districts.

- A. Loading/unloading areas;
- B. Total and *usable floor area*; and
- C. Number of employees, customers, clients or patients in peak usage.
- D. Where deemed necessary the Planning Commission may require an applicant to provide a traffic study, economic feasibility study and/or other analyses to help determine the viability of the proposed project.

(d) Application Procedure. An application for *siteplan* review shall be processed in the following manner:

(1) All *siteplans* shall be submitted to the *Zoning Administrator* by the third Wednesday of each month in order to be considered for the following month's Planning Commission agenda and must contain the following to be accepted:

A. A completed application signed by the owner. If the owner is not the applicant, the signature of the owner required on the application shall constitute authorization for representation by the applicant. If the owner is a corporation, the application must be signed by a corporate officer. If the owner is a partnership, the application must be signed by a general partner. If the owner is an individual, each individual owner must *sign* the application.

B. Sufficient copies of the *siteplan* as determined by the *Zoning Administrator*, as well as all of the required fees.

C. All items required by subsection (c) hereof.

(2) Upon receipt of the *siteplan*, the following shall apply:

A. The *Zoning Administrator*, upon determining that the application is informationally complete, shall forward a copy of the *siteplan* and application to the appropriate City departments, the City Planning and Engineer for their concept plan review;

B. Prior to submission to the Commission, the *Zoning Administrator* shall schedule a meeting with the Development Team (applicable staff and consultants) and then schedule a meeting with the applicant and representatives from the Development Team; and

C. The applicant shall then submit revised plans to the *Zoning Administrator* prior to review of the *site plan* at a subsequent Commission meeting.

(e) Planning Commission Review. The Commission shall consider the application for approval, conditional approval or denial at the scheduled meeting.

(1) Upon a determination by the Commission that a *siteplan* is in compliance with the City's Ordinances, Planning Commission shall grant approval. In this case, the basis for the decision shall be indicated in the official minutes from the proceedings.

(2) Upon a determination by the Commission that a *siteplan* is in compliance, except with minor revisions, the Commission may grant conditional approval. In this case, the basis for the decision shall be indicated in the official minutes from the proceedings.

(3) If the *siteplan* does not comply with the provisions of the City's Ordinances, it shall be denied. In this case, the basis for the action shall be indicated in the official minutes from the proceedings.

(4) The Commission may further require *landscaping, fences, walls* or other improvements pursuant to the standards set forth in subsection (b) hereof and the same shall be provided and maintained as a condition of the establishment and the continued maintenance of any *use* to which they are appurtenant.

(f) Effect of Approval. When an applicant receives final *siteplan* approval, he or she must develop the site in complete conformity with the approved *siteplan*. If the applicant has not obtained a *building* permit and commenced *construction* within one (1) year of *siteplan* approval, the *siteplan* approval becomes null and void and the developer shall make a new application for approval.

(g) Amendment of a SitePlan. If an applicant seeks an amendment to an approved *siteplan* it shall be granted only upon

the mutual agreement of the Commission and the applicant.

(h) Administrative Review. In the following cases, the Zoning Administrator shall have the authority to approve a site plan without submission to the Planning Commission, but subject to all the criteria set forth in subsections (a) to (c) hereof.

(1) Where Applicable.

A. *Accessory uses* incidental to a conforming existing *use* where said *use* does not require any variance or further site modifications;

B. The conversion of an existing *building* from one permitted *use* to another permitted *use* within the same *district*, provided there is no substantial modification necessary to the *building* or the site;

C. Expansion and/or addition of five hundred (500) square feet or less to an existing conforming *structure* or *use*; and

D. Provision for additional loading/unloading spaces and landscape improvements as required by this section.

E. Modifications to an existing parking lot that will meet all applicable ordinance standards.

(2) Information Required. The *Zoning Administrator* shall require all applicable criteria set forth in subsections (a) to (c) hereof to be met and shall have the authority to waive information required in subsection (c) hereof which is not necessary to determine whether *site plan* review requirements have been met. The *Zoning Administrator* shall also have the authority to refer any *site plan* eligible for administrative review under subsection (h)(1) hereof to the Planning Commission and/or any consultants employed by the City for the purposes of *site plan* review.

(i) Site Plan Extension. The Planning Commission may authorize a 12-month extension of the time limit to begin construction on any site plan. The applicant must submit a request to the Planning Commission in writing at least one month prior to the expiration of the Site Plan under subsection (f) above. Once work on the proposed site plan has begun, it shall be completed in accordance with the provisions and limits or extended limits of this chapter.

• Section 3.05 Site Condominium and Condominium Project Regulations.

(a) Intent. Pursuant to the authority conferred by the Condominium Act, *site condominiums* and *condominium* projects shall be regulated by the provisions of this Ordinance and approved by the Planning Commission.

(b) General Requirements.

(1) Each *condominium lot* shall be located within a zoning *district* that permits the proposed *use*.

(2) Each *condominium lot* shall *front* on and have direct access to a public *street* or a private *street* approved by City Council. Approval for a private *street* may be conferred by City Council prior to *site plan* approval by the Planning Commission. An approved private *street* shall comply with the same standards for public subdivision streets as set forth in Chapter 1226 of the General Ordinances.

(3) For the purposes of this section, each *condominium lot* shall be considered equivalent to a single *lot* and shall comply with all regulations of the zoning *district* in which it is located.

(c) Site Plan Approval Required. Approval of the *site plan* by the Planning Commission shall be required to construct, expand or convert a *condominium* project.

(1) Site Plan Approval.

A. A *site plan* pursuant to the standards and procedures set forth in Section 3.04 shall be submitted to the Planning Commission for review.

B. In the interest of insuring compliance with this Ordinance and protecting the health, safety and welfare of the residents of the City, the Planning Commission, as a condition of approval of the *site plan*, shall require the applicant to deposit a performance guarantee as set forth in Section 3.09 for the completion of improvements associated with the proposed *use*.

(2) Condominium Document/Engineering Plan Approval.

A. Following *site plan* approval, the applicant shall submit the *condominium documents* to the City Attorney and other appropriate staff and consultants for review. The *condominium documents* shall be reviewed with respect to all matters subject to regulation by the City, including, without limitation: ongoing preservation and maintenance of drainage, retention, wetland and other natural and/or common areas; maintenance of private roads if any; and maintenance of stormwater, sanitary and water facilities and utilities. All review comments shall be submitted to the City Attorney, who shall compile the findings.

B. Following receipt of *site plan* approval, the applicant shall also submit to the *Zoning Administrator* engineering plans in sufficient detail for the City, along with appropriate consultants, to determine compliance with applicable laws, ordinances and standards for *construction* of the project. All review comments shall be submitted to the *Zoning Administrator*, who shall compile the findings.

C. *Condominium documents* and/or engineering plans shall conform to the *site plan* approval by the Planning Commission. No permit shall be issued until the *Condominium documents* and Engineering Plans have been approved by

the City.

(d) Information Required Prior to Occupancy. Prior to the issuance of occupancy permits for any *condominium units*, the applicant shall submit the following to the City:

- (1) A copy of the recorded *condominium documents* (including any exhibits);
- (2) A copy of any recorded restrictive covenants;
- (3) A copy of the *site plan* on a mylar sheet; and
- (4) Evidence of the completion of improvements associated with the proposed use, including two (2) copies of an "as-built survey."

(e) Revision of the Site Condominium or Condominium Plan. If the *site condominium* or *condominium* subdivision plan is revised, the *site plan* shall be revised accordingly and submitted for review and approval or denial by the Planning Commission before any *building* permit may be issued, where such permit is required.

(f) Amendment of Condominium Documents. Any amendment to a *master deed* or bylaws that affects the approved *site plan*, or any conditions of approval of a *site plan*, shall be reviewed and approved by the City Attorney and Planning Commission before any *building* permit may be issued, where such permit is required. The Planning Commission may require its review of an amended *site plan* if, in its opinion, such changes in the *master deed* or bylaws require corresponding changes in the original *site plan*.

• **Section 3.06 Use of Consultants.**

From time to time, at the cost of the applicant, the City may employ planning, engineering, legal, traffic or other special consultants to assist in the review of special *use* permits, *site plans*, rezonings or other matters related to the planning and development of the City.

• **Section 3.07 Certificate of Zoning Compliance.**

The *Zoning Administrator* shall have the authority to grant a certificate of zoning compliance and to make inspections of *buildings*, *structures* or *lots*, prior to the issuance of a *building* permit and/or certificate of occupancy.

(a) Applications. An application for a certificate of zoning compliance shall be made to the *Zoning Administrator*. Each application shall include a *site plan* as required in Section 3.4 and all information necessary to determine zoning compliance.

(b) Building Permits. All plans to be submitted to the *Building Official* for a *building* permit shall first be submitted for review and approval by the *Zoning Administrator* with respect to the requirements of the Zoning Ordinance. No *building* permit shall be issued unless a certificate of zoning compliance has been issued by the *Zoning Administrator* for the same.

(c) Certificate of Occupancy. In all cases in which a certificate of occupancy is required, but a *building* permit is not required, a certificate of occupancy shall not be issued unless a certificate of zoning compliance has been issued by the *Zoning Administrator* and is in effect.

(d) Non-Conforming Uses, Structures or Lots. A certificate of zoning compliance shall not be issued for any *use*, *building*, *structure* or *lot*, unless said *use*, *building*, *structure* or the *lot* upon which it is situated meets all the requirements of this Ordinance. A certificate of zoning compliance may be issued for an existing legal *non-conforming use*, *building*, *structure* or *lot*; however, in such cases, the certificate of zoning compliance shall clearly list all such *non-conformities*. A certificate of zoning compliance shall not be issued for any *use*, *building*, *structure* or *lot* if any illegal *non-conformity* exists thereon.

(e) Issuance of Certificate. The *Zoning Administrator* shall examine or cause to be examined all applications for a certificate of zoning compliance and amendments thereto within a reasonable time after filing. If the application or the plans do not conform to all requirements of this Ordinance, the *Zoning Administrator* shall reject such application in writing, stating the reasons therefore. If the application or plans do so conform, the *Zoning Administrator* shall issue a certificate of zoning compliance as soon as practical. The *Zoning Administrator* shall also stamp or endorse all sets of corrected and approved plans submitted with such application as "Approved."

(f) Duration. An application for a certificate of zoning compliance shall be deemed to have been abandoned six (6) months after the date of filing unless such application has been diligently pursued, a *building* permit has been issued, or a certificate of occupancy has been issued for a use not requiring a *building* permit. The *Zoning Administrator* may, for reasonable cause grant not more than two (2) extensions of time, for periods not exceeding ninety (90) days each. Any permit issued shall become invalid if the authorized work is suspended or abandoned for a period of six (6) months after time of commencing the work.

(g) Conditions of Certification. Issuance of a certificate of zoning compliance shall be subject to the following conditions:

- (1) No permit shall be issued until the required fees have been paid.
- (2) All work or use shall conform to the approved application and plans for which the permit has been issued and any approved amendments thereof.
- (3) All work or use shall conform to the approved final site plan, if required.

(h) Inspection. Prior to the issuance of a certificate, an inspection shall be completed by the *Zoning Administrator* if

deemed necessary to examine or cause to be examined all *buildings, structures* and *lots* for which the certificate of zoning compliance is to be granted.

• **Section 3.08 Temporary Buildings and/or Use Permits.**

(a) Application. Prior to locating a temporary *building* or *use* within the City of Howell, an applicant shall submit an application for a temporary *building* and/or *use* permit from the *Zoning Administrator*. The application shall be reviewed in accordance with the administrative *site plan* provisions of Section 3.04(h) and shall at a minimum include the following:

(1) Description of the proposed *use* and a description of the on-site operations.

(2) Duration of the proposed *use*.

(3) Necessary information to demonstrate compliance with the setback, lot coverage, off-street parking, loading, access/circulation, lighting, and signage requirements of the applicable zoning district.

(4) Demonstrated compliance with Section 5.07, *Temporary Buildings and/or Uses*.

(b) Permit. Upon demonstrating compliance with the above provisions, the *Zoning Administrator* may grant the permit, stipulating all conditions as to time, the nature of the development permitted and arrangements for removal upon termination of the temporary permit.

(c) Extension. With the exception of Sidewalk Café Service (see Section 6.20) only one (1) extension may be granted by the *Zoning Administrator*. Should a subsequent extension be required it will require site plan approval by the Planning Commission.

(d) In the administration of these provisions, the *Zoning Administrator* shall be permitted to refer a request to the Planning Commission for review and approval where site conditions may create difficulty in adherence to the standards contained herein. Planning Commission review shall include, but is not limited to, the following situations:

(1) The temporary building or use is a significant departure from the permitted uses in the zoning district where it is proposed.

(2) The location of the temporary building or use may have significant impacts to parking, vehicular circulation, pedestrian circulation, or non-motorized access.

(3) There is a question about the relationship between the proposed structure/use and the principal use on the property.

(4) The proposed duration of the use presents potentially significant impacts to the surrounding area.

• **Section 3.09 Performance Guarantee.**

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety, and welfare of the residents of the City and future users or inhabitants of an area for which a *site plan* for a proposed *use* has been submitted, the Planning Commission shall require the applicant to deposit a performance guarantee for all projects with greater than \$50,000 in site improvements. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed *use* as required by this Ordinance, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, *fences, walls, screens, and landscaping*.

(a) "Performance guarantee" as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit or corporate surety bond in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the City. The City shall be authorized to employ the City Engineering Department and/or City consultants to review cost estimates and conduct periodic inspection of the progress of improvements.

(b) Where the Planning Commission requires a performance guarantee, said performance guarantee shall be deposited with the City prior to the issuance of a *building* permit for the development and *use* of the land. Upon the deposit of the performance guarantee the City shall issue the appropriate *building* permit, and the City shall thereafter deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest bearing account to the applicant.

(c) The approval shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the *building* permit.

(d) In the event the performance guarantee deposited is a cash deposit or a certified check, the City shall rebate to the applicant fifty (50) percent of the deposited funds when seventy-five (75) percent of the required improvements are completed as confirmed by the City, and the remaining fifty (50) percent of the deposited funds when one hundred (100) percent of the required improvements are completed as confirmed by the City. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee herein required may be applied by said applicant to assure compliance with Zoning Ordinance standards and the specifications of the approved *site plan*.

(e) Upon the satisfactory completion, as determined by the City, of the improvement for which the performance guarantee was required, the City shall return to the applicant the performance guarantee deposited and any interest earned thereon. However, the City is not required to deposit the performance guarantee in an interest-bearing account.

(f) In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the City, the City shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically, the right to enter upon the subject property to make the improvements.

If the performance guarantee is not sufficient to allow the City to complete the improvements for which such guarantee was posted, the applicant shall be required to pay the City the amount by which the cost of completing the improvements exceeds the amount of the performance guarantee deposit. Should the City use the performance guarantee, or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the City's administrative costs including, without limitation, attorney fees, planning consultant fees, and engineering consultant fees in completing the improvement with any balance remaining being refunded to the applicant.

If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the City to insure completion of an improvement associated with the site, the applicant shall not be required to deposit with the City a performance guarantee for that same improvement. At the time the performance guarantee is deposited with the City and prior to the issuance of a *building* permit, the applicant shall enter an agreement incorporating the provisions hereof with the City regarding the performance guarantee.

#### • **Section 3.10 Fees.**

The City Council shall establish a schedule of fees, charges, and expenses, and a collection procedure, for all zoning and *building* permits, certificates of occupancy, appeals, and other matters pertaining to the Zoning Ordinance. The City shall have the authority to include fees for the use of engineering, planning, legal or other special consultants. The schedule of fees shall be posted in the City Offices, and may be altered or amended only by the City Council. No permit, certificate, special use approval, or variance shall be issued unless or until such costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals, unless or until preliminary charges and fees have been paid in full.

#### • **Section 3.11 Violations and Penalties.**

Unless otherwise expressly provided, whoever violates any of the provisions of this Zoning Ordinance is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in the General Ordinances of Howell, Part Two - Administrative Code, Title Two - General Provisions, Chapter 208 - Municipal Civil Infractions.

#### • **Section 3.13 Public Notice.**

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended and the other provisions of this Section with regard to public notification.

(a) Responsibility: When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having published in a newspaper of general circulation in the City of Howell and mailed or delivered as provided in this Section.

(b) Content: All mail, personal and newspaper notices for public hearings shall:

(1) Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation, or other purpose.

(2) Indicate the property that is in the subject request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses may be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving specific property.

(3) Indicate the date, time and place of the public hearing(s).

(4) Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.

(c) Personal and Mailed Notice

(1) General: When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:

A. The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.

B. Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located with the boundaries of the City of Howell. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or

organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

C. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to Section 3.14, Registration to Receive Notice by Mail.

D. Other governmental units or infrastructure agencies (i.e. utilities, CSX, State of Michigan, Comcast, etc.) within one mile of the property involved in the application.

(2) Notice by mail/affidavit: Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

(d) Timing of Notice: Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:

(1) For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation: not less than fifteen (15) days before the date the application will be considered for approval.

#### • Section 3.14 Registration to Receive Notice by Mail.

(a) General: Any neighborhood organization, public utility company, railroad or any other person may register with the Zoning Administrator to receive written notice of all applications for development approval pursuant to Section 3.13(c)(1)(C), Personal and Mailed Notice, or written notice of all applications for development approval within the zoning district in which they are located. The Zoning Administrator shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the legislative body.

(b) Requirements: The requesting party must provide the Zoning Administrator information on an official form to ensure notification can be made. All registered persons must re-register biannually to continue to receive notification pursuant to this Section.

## ARTICLE 4

### ZONING DISTRICT REGULATIONS

#### • Section 4.01 District Designations.

For the purposes of this Zoning Ordinance, the City is hereby divided into the following *districts*:

- (a) R-1 *One-Family Residential*;
- (b) R-2 *One-Family Residential*;
- (c) R-T *Two-Family Residential*;
- (d) R-M *Multiple Family Residential*;
- (e) MHP *Mobile Home Park*;
- (f) O-1 *Office*;
- (g) CBD *Central Business*;
- (h) B-1 *Local Business*;
- (i) B-2 *General Business*;
- (j) MXD *Mixed Use*.
- (k) I-1 *Light Industrial*;
- (l) I-2 *General Industrial*;
- (m) P-1 *Vehicular Parking*;
- (n) HL-1 *Historic Limited*;
- (o) HL-2 *Historic Limited Residential*; and
- (p) South Michigan Avenue District.

#### • Section 4.02 Zoning District Map.

The boundaries of the *districts* enumerated in Section 4.01 are hereby established as shown on the Zoning Map which accompanies this Zoning Ordinance and which, with all notations, references and other information shown thereon, shall be

as much a part of this Zoning Ordinance as if fully described herein. Unless shown otherwise, the boundaries of the *districts* are *lotlines*; the centerlines of streets, *alleys*, roads or such lines extended; and the corporate limits of the City.

Where unzoned property exists, or where, due to the scale, lack of detail or illegibility of the Zoning Map, there is any uncertainty, contradiction or conflict as to the intended location of any *district* boundary line shown thereon, the exact location of a *district* boundary line shall be determined, upon written application, or upon its own motion, by the Board of Zoning Appeals.

• **Section 4.03 Zoning Vacated and Annexed Areas.**

(a) Zoning Vacated Areas. Whenever any *street*, *alley* or other public way or portion thereof, within the City is vacated, such *street*, *alley* or other public way, or portion thereof, shall automatically be classified in the same zoning *district* as the property to which it attaches.

(b) Zoning Annexed Areas. Territory annexed to the City shall continue under the zoning of the detaching governmental body for a period of one (1) year from the date of annexation to the City, unless such property is rezoned by Council. After one (1) year has elapsed, such annexed property shall be automatically zoned to the most restrictive *use* if Council has not acted.

• **Section 4.04 Application of District Regulations.**

(a) All *buildings* and *uses* in any *district* shall be subject to the general provisions and exceptions set forth in this Zoning Ordinance.

(b) No portion of a *lot* or parcel once used in compliance with this Zoning Ordinance, with respect to *yards*, *lot area* per *family*, density as for a development in a *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.

(c) Consistent with Section 125.3207 of the Michigan Zoning Enabling Act, as amended, uses for enterprises o

• **Section 4.05 District Regulation Exceptions.**

The following exceptions shall apply:

(a) Height of Buildings and Structures. The *height* limitations of this Zoning Ordinance do not apply to *farm buildings*, chimneys, *church* spires, flagpoles, public monuments, or water towers.

(b) Area of Lots Adjoining Alleys. In calculating the area of a *lot* that adjoins an *alley* or lane, for the purpose of applying the *lot area* requirements of this Zoning Ordinance, one-half (½) the width of such *alley* abutting the *lot* shall be considered part of the *lot*.

(c) Yard Regulations. When *yard* regulations cannot reasonably be complied with, as in the case of a planned unit development in a *multiple family district*, or where their application cannot be determined because of *lots* of peculiar shape or topography or because of architectural or site arrangement, such regulations may be modified or determined by the Board of Zoning Appeals.

(d) Porches and Porticos. An unenclosed *porch* or *portico* may project into a *front yard* for a distance not exceeding ten (10) feet. However, when attached to a residential structure that is older than fifty (50) years (historic), the Planning Commission may consider an increased *front yard* encroachment as a special land *use*. In review of the special land *use*, the Commission shall consider the standards set forth in Section 3.03 and the following:

- (1) Verification that the *unenclosed porch* or *portico* is not located above the elevation of the first floor of the residence.
- (2) The age and style of the house.
- (3) The compatibility of the *unenclosed porch* or *portico* with the subject house and the adjacent homes.
- (4) The *front yard setback* of the adjacent houses.
- (5) The potential impacts on vehicular and pedestrian visibility and access.
- (6) The Secretary of Interior's Standards for Historic Preservation.

(e) Projection into Yards. An architectural feature, such as a chimney, bow window not including a vertical projection, or a window well accessing a basement, may extend or project into a required *side or rear yard* not more than two (2) feet.

(f) Common Property Lines. When two or more adjacent parcels are developed through an integrated site plan, setbacks along the common property lines shall not apply. The Planning Commission may require easements to assure shared parking and traffic flow between the adjacent parcels.

• **Section 4.06 Purposes and Uses within Zoning Districts.**

(a) R-1, One-Family Residential District.

- (1) Purpose. R-1, *One-Family Residential Districts* are designed to provide for *one-family dwelling* sites and

residentially related *uses* in keeping with the density character of the City. The preservation of the natural terrain and the standards under which the community has had its development take place are reflected in the controls set forth in this Article.

(2) Permitted Uses.

- A. *One-family detached dwellings*;
- B. Publicly owned and operated libraries, parks, parkways and recreational facilities;
- C. *Home occupations* subject to requirements set forth in Section 5.09; and
- D. *Accessory buildings* and *uses* customarily incidental to any of the *uses* permitted in this subsection, and subject to the applicable requirements of Section 5.02.

(3) Special Land Uses.

- A. Public, parochial and private elementary, intermediate and/or high schools subject to the requirements of Section 6.07;
- B. Municipal office *buildings*, subject to the requirements of Section 6.08;
- C. *Churches* and other facilities normally incidental thereto, subject to the requirements of Section 6.09;
- D. Utilities and public service *buildings* and *uses* (without storage *yards*), subject to the requirements of Section 6.10;
- E. Golf courses, country *Clubs*, recreational centers, and swim *Clubs*, subject to the requirements of Section 6.11;
- F. Cemeteries, subject to the requirements of Section 6.13;
- G. *Spouse abuse/domestic violence shelters*;
- H. *Bed and breakfast* accommodations, subject to the requirements of Section 6.14;
- I. *Child day-care facilities*, when located within a *church* or school, subject to the requirements of Section 6.02; and
- J. *Domestic units* with 3 or more residents in accordance with Section 5.14.
- K. Special accommodation uses in accordance with Section 6.29.

(b) R-2, One-Family Residential District.

(1) Purpose. R-2, *One-Family Residential Districts* are designed to provide for *one-family dwelling* sites and residentially related *uses* at a lower density than the R-1 *District*. The preservation of the natural terrain and the standards under which the community has had its development take place are reflected in the controls set forth in this Article.

(2) Permitted Uses.

- A. *One-family detached dwellings*;
- B. Publicly owned and operated libraries, parks, parkways and recreational facilities;
- C. *Home occupations*, subject to the requirements of Section 5.09; and
- D. *Accessory buildings* and *uses* customarily incidental to any of the *uses* permitted in this subsection, and subject to the applicable requirements of Section 5.02.

(3) Special Land Uses.

- A. Public, parochial and private elementary, intermediate and high schools, subject to the requirements of Section 6.07;
- B. Municipal office *buildings*, subject to the requirements of Section 6.08;
- C. *Churches* and other facilities normally incidental thereto, subject to the requirements of Section 6.09;
- D. Utilities and public service *buildings* and *uses* (without storage *yards*), subject to the requirements of Section 6.10;
- E. Golf courses, country *clubs*, private recreational centers and swim *clubs*, subject to the requirements of Section 6.11;
- F. Cemeteries, subject to the requirements of Section 6.13;
- G. *Spouse abuse/domestic violence shelters*;
- H. *Bed and breakfast* accommodations, subject to the requirements of Section 6.14; and
- I. *Child day-care facilities*, when located within a *church* or school, subject to the requirements of Section 6.02.
- J. Special accommodation uses in accordance with Section 6.29.

(c) R-T, Two-Family Residential District.



(1) Purpose. R-T, Two-Family Residential *Districts* are designed to provide sites for two-family structures. Such sites may be provided where streets and facilities are able to support the increased density and as zones of transition between nonresidential *districts* and one-family residential *districts*.

(2) Permitted Uses.

A. All uses permitted and as regulated in R-1 One-Family Residential *Districts*. Standards in Section 4.06(a) applicable to the R-1 District shall apply as minimum standards when one-family detached dwellings are erected;

B. Two-family dwellings; and

C. Accessory buildings and uses customarily incidental to any of the uses permitted in this subsection, and subject to the applicable requirements of Section 5.02.

(3) Special Land Uses.

A. Bed and breakfast accommodations, subject to the requirements of Section 6.14;

B. Child day-care facilities, when located within a church or school, subject to the requirements of Section 6.02; and

C. Foster family group homes and adult foster care facilities subject to the requirements of Section 6.04.

D. Transitional housing facility in accordance with Section 6.27.

E. Special accommodation uses in accordance with Section 6.29.

(d) R-M, Multiple Family Residential District.

(1) Purpose. R-M, Multiple Family Residential *Districts* are designed to provide sites for multiple family dwelling structures which will generally serve as zones of transition between nonresidential *districts* and lower density One-Family *Districts*. The multiple family dwelling is further provided to serve the limited need for an apartment-type unit in an otherwise one-family residential community.

(2) Permitted Uses.

A. All uses permitted and as regulated in an R-T, Two-Family Residential *District*;

B. Multiple family dwellings;

C. Spouse abuse/domestic violence shelters; and

D. Accessory buildings and uses customarily incidental to any of the uses permitted in this subsection, and subject to the applicable requirements of Section 5.02.

(3) Special Land Uses.

A. Child and adult day-care facilities, subject to the requirements of Section 6.02;

B. Housing for the elderly, Nursing homes, and convalescent centers, subject to the requirements of 6.03;

C. Funeral homes or mortuaries, provided that such use have direct access to an existing or proposed major thoroughfare or collector street;

D. Bed and breakfast accommodations, subject to the requirements of Section 6.14;

E. Foster family group homes and adult foster care facilities subject to the requirements of Section 6.04;

F. Domestic units with 3 or more residents in accordance with Section 5.14;

G. Transitional housing facility, subject to the requirements of Section 6.27; and

H. Special accommodation uses in accordance with Section 6.29.

(e) MHP, Mobile Home Park.

(1) Purpose. This intent of this *district* is to provide for mobile home residential development in areas where the natural conditions and features, public services, and infrastructure are capable of supporting such development areas zoned MHP shall be located in areas that are compatible with the character and density of adjacent uses.

(2) Permitted Uses.

A. Mobile home parks, subject to the requirements of Section 6.24;

B. Parks and playgrounds; and

C. Accessory buildings and uses customarily incidental to any of the uses permitted in this subsection, and subject to the applicable requirements of Sections 5.02.

(f) O-1, Office District.

(1) Purpose. O-1, Office *Districts* are designed to accommodate uses, such as offices, banks and funeral homes, which

can serve as transitional areas between commercial and residential districts and provide transitions between major thoroughfares and residential *districts*. O-1 *Districts* will provide greater protection to existing *one-family* homes located in areas that are becoming less desirable for *one-family* residential use.

(2) Permitted Uses.

- A. Offices for any of the following kinds of occupations: executive, administrative and professional, including legal, real estate and insurance;
- B. Professional offices of doctors, dentists, chiropractors, osteopaths and similar or allied professionals;
- C. Banks, including *drive-in* facilities;
- D. Libraries, post offices, governmental office *buildings* and *public utility* offices, not including storage *yards*, transformer stations, exchanges or substations;
- E. Funeral homes or mortuaries provided such use has direct access to an existing or proposed thoroughfare or *collector street*;
- F. *Churches* and other incidental facilities, subject to the requirements of Section 6.09;
- G. *Clinics*;
- H. *Off-street parking lots*;
- I. *Spouse abuse/domestic violence shelters*;
- J. Publicly owned and operated parks and recreational facilities;
- K. Other *uses* similar to the *uses* permitted in this section; and
- L. *Accessory buildings* and *uses* customarily incidental to any of the *uses* permitted in this subsection, and subject to the applicable requirements of Section 5.02.

(3) Special Land Uses.

- A. Professional pharmacies, located within an *office building*;
- B. *One-family attached dwellings*, located within a *building* containing another permitted *use* or as a stand alone *use*, and subject to the requirements of Section 5.16;
- C. *Child and adult day-care facilities*, subject to the requirements of Section 6.02;
- D. *General hospitals*, subject to the requirements of Section 6.15;
- E. Public and private colleges, universities and other such institutions of higher learning, subject to the requirements of Section 6.12; and
- F. Private *clubs*, lodges and reception halls, subject to the requirements of Section 6.26 .

(4) Conditions of Use.

- A. No interior displays shall be visible from the exterior of the *building*;
- B. The outdoor storage of goods or materials in such a *district* is prohibited, irrespective of whether or not such goods or materials are for sale; and
- C. Warehousing or indoor storage of goods or materials, beyond that normally incidental to the *uses* permitted in this subsection, is prohibited in such a *district*.

(g) CBD, Central Business District.

(1) Purpose. CBD, Central Business *Districts* are designed to provide for *office buildings* and the great variety of large retail stores and related activities which occupy the prime retail *frontage*, by serving the comparison, convenience and service needs of the entire Municipal area as well as a substantial area of the adjacent and surrounding residential developments beyond the limits of the City. The regulations of such *Districts* are designed to promote convenient pedestrian shopping and the stability of retail development by encouraging a continuous retail *frontage* and by prohibiting automotive-related services and non-retail *uses* which tend to break up such continuity.

(2) Permitted Uses.

- A. All permitted *uses* in the O-1, Office *District*;
- B. Generally recognized retail businesses which supply commodities on the premises within completely enclosed *buildings*, such commodities including, but not limited to, foods, drugs, liquor, furniture, clothing, dry goods, notions or hardware;
- C. Personal service establishments which perform services on the premises within completely enclosed *buildings*, such establishments include, but are not limited to, repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty

parlors, barber shops, interior decorators, photographers and drycleaners;

D. *Restaurants and taverns* where the patrons are served while seated within the *building* occupied by such establishment, such establishment not to extend as an integral part of, or accessory thereto, any service of a *drive-in* or *drive-through* facility;

E. Theaters, when completely enclosed;

F. Offices and showrooms of plumbers, electricians, decorators or similar tradesmen, in connection with whom not more than twenty-five (25) percent of the *floorarea* of the *building* or part of the *building* occupied by such establishment is used for making, assembling, remodeling, repairing, altering, finishing or refinishing the products or merchandise of the tradesman, provided that the ground floor premises facing upon, and visible from, an abutting *street* shall be used only for entrances, offices or display. All storage of materials of any kind shall be within the confines of the *building* or part thereof occupied by such establishment;

G. Newspaper offices and printing plants;

H. *One-family dwellings* located above the first floor within a *building* containing a permitted *use*, and subject to the requirements of Section 5.08;

I. *Sidewalk café* service, operated by a *restaurant* or other food establishment which sells food for immediate consumption, subject to the requirements of Section 6.20;

J. Private *clubs*, lodges and reception halls, subject to the requirements of Section 6.26;

K. Seasonal and transient display of products or materials intended for retail sale or rental, subject to the requirements of Section 6.19;

L. Outdoor display of products or materials intended for retail sale or rental, subject to the requirements of Section 6.18; and

M. Other *uses* similar to the uses permitted in this section;

N. *Accessory buildings* and *uses* customarily incidental to any of the *uses* permitted in this subsection, and subject to the applicable requirements of Section 5.02.

(3) Special Land Uses.

A. *Brewpubs*, *small distillers*, and *small wine producers* meeting all licensing requirements of the State of Michigan.

(4) Conditions of Use.

A. All business establishments in a CBD, Central Business *District* shall be retail or service oriented *uses* which deal directly with the customers;

B. When goods are produced on-site, the majority of sales shall be made on premises to retail customers; and

C. All business operations in such a *district*, except *off-street parking* and loading, shall be conducted in completely enclosed *buildings*.

(h) B-1, Local Business District.

(1) Purpose. B-1, Local Business *Districts* are designed solely for the convenience shopping of persons residing in adjacent residential areas and to permit only such *uses* as are necessary to satisfy those limited basic shopping and/or service needs which by their very nature are not related to the shopping pattern of CBD, Central Business *Districts*.

(2) Permitted Uses.

A. All *uses* permitted in the O-1, Office *District*;

B. Generally recognized retail businesses which supply commodities on the premises for persons residing in adjacent residential areas, such commodities include, but are not limited to, groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing, notions and hardware;

C. Personal service establishments which perform services on the premises for persons residing in adjacent residential areas, such establishments include, but are not limited to, repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors and barber shops;

D. *One-family detached dwellings*, subject to the requirements of Section 5.08;

E. Self-service laundry and/or dry cleaning establishments;

F. Seasonal and transient display of products or materials intended for retail sale or rental, subject to the requirements of Section 6.19;

G. Outdoor display of products or materials intended for retail sale or rental, subject to the requirements of Section 6.18;

H. Other *uses* similar to *uses* permitted in this section; and

I. *Accessory buildings and uses* customarily incidental to any of the *uses* permitted in this subsection, and subject to the applicable requirements of Section 5.02.

(3) Special Land Uses.

A. *Automobile filling stations* for the sale of gasoline, oil and minor accessories, subject to the requirements of Section 6.17;

B. Publicly owned *buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations and gas regulator stations with service yards, but without storage yards;*

C. *One-family attached, residential dwelling units* located within a *building* containing another permitted *use* or as a stand alone *use*, and subject to the requirements of Section 5.16;

D. *Child and adult day-care facilities*, subject to the requirements of Section 6.02; and

E. Private *clubs*, lodges and reception halls, subject to the requirements of Section 6.26.

F. *Brewpubs and small wine producers* meeting all licensing requirements of the State of Michigan.

(4) Conditions of Use.

A. All business establishments in a B-1, Local Business shall be retail or service oriented uses that deal directly with the customers.

B. All goods produced on-site shall be sold on the premises to retail customers only; and

C. All business operations in such a *district*, except *off-street parking* and loading, shall be conducted in completely enclosed *buildings*.

(i) B-2, General Business District.

(1) Purpose. B-2, General Business *Districts* are intended to provide for a variety of commercial and service *uses*, including more intensive commercial *uses* not permitted in the O-1, CBD and B-1 *Districts*. B-2 *Districts* are intended to permit commercial establishments that cater to the convenience and comparison shopping needs of City residents. Because of the variety of business types permitted in B-2 *Districts*, special attention must be focused on site layout, *building* design, vehicular circulation and coordination of site features between adjoining sites.

(2) Permitted Uses.

A. All permitted *uses* in O-1, Office *District* and B-1, Local Business *Districts* as set forth in Sections 4.06(f) and 4.06(h), with the exception of one-family dwellings;

B. Generally recognized retail businesses which supply commodities such as groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing, notions, hardware, office supplies, and other business to business sales intended to serve a broader market;

C. *Public utility* transformer stations and substations, telephone exchanges and *public utility* offices;

D. Photographic studios;

E. Establishments which perform services on the premises within completely enclosed *buildings*, which may include, but are not limited to, repair shops, tailors, beauty parlors, barber shops, interior decorators, photographers, printing and photocopying services, and dry cleaners;

F. Public and private colleges, universities and other such institutions of higher learning, subject to the requirements of Section 6.13;

G. Indoor commercial recreation and entertainment, such as bowling *alleys*, theaters, health and fitness *clubs*, skating rinks, billiard parlors and video game arcades;

H. *Restaurants*, including *carry-out, sit-down, drive-in and drive-through* facilities, and Taverns;

I. Outdoor display of products or materials intended for retail sale or rental, subject to the requirements of Section 6.18;

J. Seasonal and transient display of products or materials intended for retail sale or rental, subject to the requirements of Section 6.19;

K. Other *uses* similar to the *uses* permitted in this section;

L. *Accessory buildings and uses* customarily incidental to any of the *uses* permitted in this subsection, and subject to the applicable requirements of Section 5.02; and

M. Outdoor seating areas for restaurants. Decks shall be subject to the requirements of Section 5.02(c).

(3) Special Land Uses.

A. Establishments of plumbers, heating contractors, decorators, electricians or similar tradesman. Outdoor storage shall be limited to vehicles;

B. *Automobile filling stations, repair garages, service stations, washes, and dealerships*, subject to the requirements of Section 6.17;

C. Bus passenger stations;

D. *Motels and hotels*, subject to the requirements of Section 6.16;

E. Outdoor recreational space, such as amusement parks, carnivals or miniature golf courses;

F. *One-family attached, residential dwelling units* located within a *building* containing another permitted *use* or as a stand alone *use*, and subject to the requirements of Section 5.16;

G. *Child and adult day-care facilities*, subject to the requirements of Section 6.02;

H. Outdoor sales of *automobiles* and vehicles, subject to the requirements of Section 6.06;

I. Private *clubs*, lodges and reception halls, subject to the requirements of Section 6.26; and

J. *Self-storage facilities*, subject to the requirements of Section 6.05.

(4) Conditions of Use.

A. All business establishments in a B-2, General Business *District* shall be retail or service establishments dealing directly with consumers. When goods are produced on-site, the majority of sales shall be made on the premises to retail customers.

B. All operations in a B-2 *District* shall be conducted in a completely enclosed *building*, except where outdoor *use* and storage are specifically permitted by this Article.

C. Warehouses and storage facilities shall be permitted when incident to, and physically connected with, a principal permitted *use*, provided that such a warehouse or storage facility is within the confines of the *building* or part hereof occupied by such *use* and does not exceed 25% of the total floor area of the building.

(j) MXD, Mixed Use District.

(1) Purpose. The *Mixed Use District* is intended to implement the Goals and Policies of the *Master Plan* through the provision of a mixture of residential, office, and low intensity commercial *uses*. The specific goals which the MXD, *Mixed Use District* seeks to implement, include the following: 1) Provide for planned growth which maintains the core of the City while allowing for appropriate growth at and beyond its perimeters; 2) Maintain and encourage a diversity of housing; 3) Control strip commercial development and minimize negative impacts of existing strip development; and, 4) Creating new residential and commercial development opportunities at the City perimeters thereby preventing a "landlocked" City.

This designation is intended to encourage the development of traditional neighborhoods through a coordinated land *use* pattern of residential, office or local commercial *uses*. Upper floor residential above retail or office is also encouraged. It is further the intent of this *District* to promote excellence in the *use* of land and the design of *buildings* and sites; encourage cross boundary provisions for infrastructure; maintain the existing natural features; ensure compatible land *use*; and improve the visual image for safe vehicular and pedestrian movement. Additionally, the *District* is intended to conform with any conceptual and sub-area plans completed by the City.

(2) Permitted Uses.

A. *One-family and two-family detached/attached dwellings*;

B. Publicly owned and operated libraries, parks, parkways and recreational facilities;

C. Public, parochial and other private elementary schools, subject to the requirements of Section 6.07;

D. *Accessory buildings and uses* customarily incidental to any of the *uses* permitted in this subsection, and subject to the applicable requirements of Section 5.02; and

E. *Home occupations*, subject to the requirements of Section 5.09.

(3) Special Land Uses.

A. Multiple family dwellings or apartment buildings;

B. Public, parochial and private intermediate and/or secondary schools offering courses in general education, not operated for profit, subject to the requirements of Section 6.07;

C. Utilities and public service *buildings and uses* (without storage *yards*), subject to the requirements of Section 6.10;

D. Golf courses, country *clubs*, recreational centers and swim *clubs*, subject to the requirements of Section 6.11;

E. *Bed and breakfast* accommodations, subject to the requirements of Section 6.14;

F. Business, professional and medical offices;

G. Banks, credit unions and savings and loan associations;

H. *One-family dwellings* located within a *building* containing another permitted or specially permitted *use*, and subject to the requirements of Section 5.16;

I. Personal service establishments, such as, but not limited to, repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers and drycleaners;

J. Generally recognized retail businesses which supply commodities on the premises within completely enclosed *buildings*, such commodities include, but are not limited to, foods, personal *use* items (drugs, health care, notions, books, magazines, periodicals, stationary and office supplies), liquor, clothing, dry goods, florist's shops, hobby and craft stores, gifts, antiques, jewelry, hardware and household supplies, wearing apparel, and similar products.

K. *Restaurants* and *taverns* where the patrons are served while seated within the *building* occupied by such establishment, such establishment not to extend as an integral part of, or accessory thereto, any service of a *drive-in* or an *open-front* store.

L. *Sidewalk café* service, operated by a *restaurant* or other food establishment which sells food for immediate consumption, and subject to the requirements of Section 6.20;

M. *Child* and *adult day-care facilities*, subject to the requirements of Section 6.02;

N. *Housing for the elderly*, Nursing homes and convalescent centers, subject to the requirements of Section 6.03;

O. Funeral homes and mortuaries; and

P. *Automobile fueling stations* that are incidental to a principal retail use in a shopping center, subject to all of the following:

i. The portion of the site occupied by the *fueling station* shall not exceed five percent or one acre, whichever is less, of the shopping center site.

ii. The *fueling station* shall be located no further than 500 feet from the primary entrance of the principal retail use it is incidental to.

iii. A single *building* servicing the fuel islands that does not exceed 1,000 square feet shall be permitted.

iv. Access to the *fueling station* shall be provided solely from drives which are internal to the shopping center. Separate access from the *fueling station* to a public road shall be prohibited.

v. The *fueling station* shall meet all of the applicable standards in Section 6.22 Mixed Use District Development Regulations.

vi. Vehicular access to and circulation within the *fueling station* site shall control the flow of traffic and be arranged in a manner that will not create a hazard to motorists and pedestrians.

vii. Canopy and *building* design and materials shall be compatible with and visually complement the design of the shopping center, per the requirements of Section 6.22(k).

viii. Exterior lighting shall comply with the standards of Section 6.22(i). Canopy lighting shall be recessed.

ix. In addition to meeting all applicable requirements of Section 5.10, the perimeter boundary of the *fueling station* site shall be defined with curbing and landscaping.

Q. Drive-thrus that are incidental to a permitted retail, *standard restaurant*, or service use in a shopping center, subject to all of the following in addition to the requirements of section 10.08:

i. Access to the drive-thru must be provided solely from drives which are internal to the shopping center.

ii. *Drive-thru restaurants*, as defined in this ordinance, are prohibited in the MXD District.

iii. No more than one drive-through servicing a cashier, payment and/or pickup window shall be permitted for each individual *building*, regardless of the number of uses. Dual ordering stations for drive-through food services shall not be permitted.

R. Accessory *building* and *uses* customarily incidental to any of the *uses* permitted in this subsection, and subject to the applicable requirements of Section 5.02.

#### (4) Conditions of Use.

In addition to all regulations applicable to those *uses* located within the *district*, the Mixed Use Development Regulations as outlined in Section 6.22, shall also apply.

#### (k) I-1, Light Industrial.

(1) Purpose. I-1, Light Industrial *Districts* are designed so as to primarily accommodate wholesale activities, warehouses and industrial operations whose external physical effects are restricted to the area of the *District* and in no manner affect in a detrimental way any of the surrounding *districts*. I-1 *District* is so structured as to permit, along with any specified *use*, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared material. It is further intended that the processing of raw material for shipment in

bulk form, to be used in an industrial operation at another location, not be permitted in the *district*.

(2) Permitted Uses.

- A. Research and development, technical training, and product design offices;
- B. Manufacturing, processing, packaging or assembling of merchandise from previously prepared raw materials.
  - i. Communication, transmission and reception equipment such as coils, tubes, semi- conductors, navigation control equipment and systems guidance equipment;
  - ii. Data processing equipment and systems;
  - iii. Metering instruments;
  - iv. Optical and photographic devices, equipment and systems;
  - v. Scientific and mechanical instruments such as calipers and transits;
  - vi. Testing equipment;
  - vii. Electrical machinery, equipment and supplies, electronic equipment, components and accessories;
  - viii. Office, computing and accounting machines; and
  - ix. Bottling plants.
- C. Warehouse, storage and transfer and electric and gas service *buildings* and *yards*; *public utility buildings*; telephone exchange *buildings*; electrical transformer stations and substations and gas regulator stations; water supply and sewage disposal plants; water and gas tank holders; railroad transfer and storage tracks; railroad rights of way; and freight terminals in accordance with the requirements of Section 5.13;
- D. Municipal *uses* such as water treatment plants, reservoirs, water supply and sewage treatment plants, and all other Municipal *buildings* and *uses*, including outdoor storage;
- E. *Self-storage facilities*, subject to the requirements of Section 6.05;
- F. *Accessory buildings* and *uses* customarily incidental to any of the *uses* permitted in this subsection, and subject to the applicable requirements of Section 5.02;
- G. Publicly owned and operated parks and recreational facilities;
- H. Data processing and computer centers including the servicing and maintenance of electronic data processing equipment; and
- I. Printing, publishing and related activities;
- J. Laboratories for medical, research, or other experimental testing;
- K. Tool, die, gauge, and machine shops; and
- L. Office space and/or buildings for administrative functions associated with another permitted use.

(3) Special Land Uses.

- A. *Automobile repair garages*, and *collision services* when completely enclosed, and subject to the requirements of Section 6.17;
- B. Lumber and planing mills when completely enclosed;
- C. Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances;
- D. Storage facilities for *building* materials, sand, gravel, stone, lumber and contractors' equipment and supplies, provided that such storage is enclosed in a *building* or within an obscuring *wall* or *fence* as per the conditions of use in Section 4.06(4) and Section 5.13 of the Zoning Code;
- E. Auto washes intended for industrial *use* only;
- F. Other uses similar to the *uses* permitted in this sub-section;
- G. *Microwbreweries*, meeting all licensing requirements of the State of Michigan; and
- H. Kennels, subject to the requirements of Section 6.28.

(4) Condition of Use.

All *uses* conducted outside of a fully enclosed *building* shall be located in a designated area and enclosed and screened in accordance with the requirements of Section 5.13 of the Zoning Code.

(I) 1-2. General Industrial District.

(1) Purpose. I-2, General Industrial *Districts* are designed primarily for manufacturing, assembling and fabrication activities, including large scale or specialized industrial operations, whose external physical effects will be felt to some degree by surrounding *districts*. I-2 *District* is so structured as to permit the manufacturing, processing and compounding of semi-finished or finished products from raw materials.

(2) Permitted Uses.

A. *Principal uses* permitted in an I-1 Light Industrial *District*;

B. Contractor's establishments provided all products, material, and equipment is stored within an enclosed *building*;

C. Any production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products which conforms with the performance standards set forth in Article 8, except such uses as are specifically excluded from the City by ordinance;

D. Trucking and cartage facilities, truck and industrial equipment storage *yards*, repairing and washing equipment and *yards* subject to the requirements of Section 5.13;

E. The following production, processing, packaging, assembling or manufacturing *uses* (not including the storage of finished products) provided that they are located not less than eight hundred (800) feet from a Residential *District* and not less than three hundred (300) feet from any other *district*:

i. Blast furnaces, steel furnaces and blooming or rolling mills;

ii. The manufacture of corrosive acid or alkali, cement, lime, gypsum or plaster of Paris;

iii. The production, refining or storage of petroleum or other inflammable liquids;

iv. The smelting of copper, iron or zinc ore;

v. Pharmaceutical preparations, cosmetics and toiletries;

vi. Plastic products such as laminate, pipe, plumbing products, and miscellaneous molded or extruded products;

vii. Stone, clay, glass and leather products;

viii. Food products, bakery goods, candy and beverages;

ix. Prefabricated *buildings* and structured members; and

x. Appliances.

F. *Accessory buildings* and *uses* customarily incidental to any of the *uses* permitted in this subsection, and subject to the applicable requirements of Section 5.02;

G. Metal fabrication and tool and die shops;

H. Fabrication of paper and wood products such as office supplies, bags, books, cabinets, furniture and toys;

I. Packaging operations, but not including baling of discarded or junk materials, such as, but not limited to: paper, cloth, rags, lumber, metal or glass;

J. Printing, publishing, or related activities;

K. Manufacture and repair of *signs*, and heating and ventilating equipment; and

L. Recycling operations.

(3) Special Land Use.

A. *Salvage yards*, provided that they are entirely enclosed in *buildings* or enclosed and screened in accordance with Section 5.13, and provided, further, that one (1) property line abuts a railroad right-of-way. There shall be no burning on the site, and all industrial processes involving the *use* of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed *building*;

B. Heating and electric power generating plants and all necessary *uses*; and

C. All *uses* conducted outside of a fully enclosed *building* shall be located in a designated area and enclosed and screened in accordance with Section 5.13.

(m) P-1, Vehicular Parking *District*.

(1) Purpose. P-1, Vehicular Parking *Districts* are designed to accommodate *off-street parking* for those nonresidential *uses* which are not able to provide adequate space within their own *district* boundaries or to provide a *buffer* area between residential and nonresidential *uses*.

(2) Permitted Uses.

A. Premises in a P-1 Vehicular Parking *District* shall be used only for an *off-street* vehicular parking area and shall be developed and maintained subject to this Article 10.



(3) Conditions of Use.

- A. A parking area in a P-1, Vehicular Parking *District* shall be accessory to, and for use in connection with, one (1) or more business or industrial establishments, or in connection with one (1) or more existing professional or institutional office *buildings* or institutions;
- B. Such parking area shall be used solely for the parking of private passenger vehicles for periods of less than one day;
- C. No *sign*, other than *signs* designating entrances, exits and conditions of use, shall be maintained on such parking areas;
- D. No *building* shall be erected on the premises, except for a *building* for the shelter of attendants, which shall not exceed fifteen (15) feet in *height*;
- E. Such parking area shall be contiguous to an R-MM *Multiple Family Residential*, O-1 Office, CBD Central Business, B-1 Local Business, B-2 General Business, I-1 Industrial 1 or I-2 Industrial 2 *District*. There may be a private driveway, public *street* or public *alley* between the P-1 *District* and such R-M, O-1, CBD, B-1, B-2, I-1 or I-2 *District*; and
- F. An application for P-1 *District* rezoning shall be made to the *Building* Department by submitting a layout of the area requested showing the intended parking plan.

(n) HL-1, Historic Limited Use District.

(1) Purpose. HL, Historic Limited Use *Districts* are designed to safeguard the unique historical heritage of the City by preserving historic *districts*, *structures*, objects and areas which reflect elements of the City's unique cultural, social, economic, political or architectural history; to stabilize and improve property values and the economy within historic *districts*; to foster civic beauty and pride; to promote the use of historic *districts* for the education, pleasure and welfare of the citizens of the City. The HL-1 district specifically intends to preserve the historic character of the properties within the district and to permit residential, office and private school uses. See Section 6.23 for the specific use provisions.

(2) Permitted Uses.

- A. *One-family detached dwellings*, including *manufactured homes* when located outside trailer courts, except that *manufactured homes* are subject to the requirements of Chapter 1286, provided, however, that a *dwelling* is exclusively owner-occupied for residential purposes only, and provided, further, that any revenue-generating enterprise carried on therein, whether an office, a professional practice or residential rental of all or any part of the premises, shall be a specially permitted use;
- B. Private pools, subject to the requirements of Section 6.17;
- C. *Home occupations* as provided in Section 5.09; and
- D. *Accessory buildings* and *uses* customarily incidental to any of the *uses* permitted in this subsection, and subject to the applicable requirements of Sections 5.02 and 6.17.

(3) Special Land Uses.

- A. Residential rental (whether or not owner-occupied in part) *country inns*;
- B. Professional offices of doctors, dentists, chiropractors, osteopaths and similar or allied professionals;
- C. Offices for executive, administrative or professional occupations;
- D. Bed and breakfasts accommodations, subject to the requirements of Section 6.14; and
- E. Parochial and private elementary, intermediate and/or high schools subject to the requirements of Section 6.07 and the Historic Overlay District Regulations of Section 6.23.

(4) Conditions of Use.

In addition to all regulations applicable to those uses located within the HL *District*, the Historic Overlay *District* Regulations as outlined in Section 6.23, shall also apply.

(o) HL-2, Historic Limited Residential Use District.

(1) Purpose. HL, Historic Limited Use *Districts* are designed to safeguard the unique historical heritage of the City by preserving historic *districts*, *structures*, objects and areas which reflect elements of the City's unique cultural, social, economic, political or architectural history; to stabilize and improve property values and the economy within historic *districts*; to foster civic beauty and pride; to promote the use of historic *districts* for the education, pleasure and welfare of the citizens of the City. The HL-2 *district* specifically intends to preserve the historic, residential character of the properties within the *district*. See Section 6.23 for the specific use provisions

(2) Permitted Uses.

- A. *One-family detached dwellings*, including *manufactured homes* when located outside trailer courts, except that *manufactured homes* are subject to the requirements of Chapter 1286, provided, however, that a *dwelling* is exclusively owner-occupied for residential purposes only, and provided, further, that any revenue-generating enterprise carried on

therein, whether an office, a professional practice or residential rental of all or any part of the premises, shall be a specially permitted use;

B. Private pools, subject to the requirements of Section 6.17;

C. *Home occupations* as provided in Section 5.09; and

D. *Accessory buildings and uses* customarily incidental to any of the *uses* permitted in this subsection, and subject to the applicable requirements of Sections 5.02 and 6.17.

(3) Special Land Uses.

A. Residential rental (whether or not owner-occupied in part); and

B. *Bed and breakfasts* accommodations, subject to the requirements of Section 6.14.

(4) Conditions of Use. In addition to all regulations applicable to those *uses* located within the HL-2 *District*, the Historic Overlay *District* Regulations as outlined in Section 6.23, shall also apply.

• [Section 4.07 Schedule of Area, Height, Width and Setback Regulations.](#)

Zoning District	Minimum Lot Size		Minimum Yard Setbacks			Maximum Building Height		Footnotes	
	Area (sq. ft.)	Lot Width (ft.)	Front (ft.)	Side (feet)		Rear (ft.)	Stories		Feet
				Least	Total				
Zoning District	Area (sq. ft.)	Lot Width (ft.)	Front (ft.)	Side (feet)		Rear (ft.)	Stories	Feet	Footnotes
				Least	Total				
R-1, <i>One-Family Residential</i>	8,400	70	25	8	20	35	2 ½	25	a, b, c, i, n, o, q
R-2, <i>One-Family Residential</i>	9,600	80	25	10	20	35	2 ½	25	a, b, c, i, n, o, q
R-T, <i>Two-Family Residential</i>	4,200 (per unit)	35 (per unit)	25	8	20	35	2 ½	25	a, c, i, n
R-M, <i>Multiple Family Residential</i>	—	—	30	30	60	30	3	35	a, d, e
MHP, <i>Mobile Home Park</i>	—	—	—	—	—	—	—	—	k
O-1, <i>Office</i>	8,400	70	(p)	8	20	20	3	35	a, f, p
CBD, <i>Central Business District</i>	—	—	—	—	—	—	3	35	f, g
B-1, <i>Local Business</i>	8,400	70	(p)	8	20	20	2 ½	25	a, f, p
B-2, <i>General Business</i>	8,400	70	(p)	8	20	20	3	35	a, f, p
MXD, <i>Mixed Use</i>	10 acres	—	—	—	—	—	—	—	l
I-1, <i>Light Industrial</i>	20,000	100	50	10	20	25	—	—	a, f, h, j
I-2, <i>General Industrial</i>	20,000	100	50	10	20	25	—	—	a, f, h, j
P-1, <i>Vehicular Parking</i>	—	—	25	—	—	—	—	—	m
HL-1, <i>Historic Limited Use</i>	8,400	70	25	8	20	35	2 ½	25	a, b, c, o

HL-2 Historic Limited Residential Use	8,400	70	25	8	20	35	2 ½	25	a, b, c, o
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Section 4.07 Footnotes:

(a) For all *dwelling units*, the minimum *yard setback* shall be twelve (12) feet between *main buildings* on adjoining *lots*, or the *setback* as described in subsection (a) hereof, whichever is greater. The *setback* shall be determined by measuring from the exterior *wall* of each *building* to the *side lot line* or to the next *main building* on any adjoining *lot*. If the *building roof overhang* is more than two (2) feet, then, in such an event, the *setback* shall be measured from the exterior edge of the overhang.

For all *principal uses* other than *dwelling units*, the minimum *yard setback* shall be determined by the applicable provisions of the *Building and Housing Code* or the *setback* as described in subsection (a) hereof, whichever is greater.

(b) For all *uses* permitted, other than one-*family residential*, the *setback* shall equal the greater of the *height* of the *main building* or the required *setback*.

(c) The *side yard setback* abutting a *street* shall not be less than ten (10) feet when there is a common *rear yard* relationship in the *block* and a common *side yard* relationship with the *block* directly across the common separating *street*. In the case of a *rear yard* abutting a *side yard* of an adjacent *lot*, the *side yard setback* abutting a *street* shall not be less than the required minimum *front yard* of the *district*.

(d) The maximum density shall be computed as follows:

(1) *Efficiency* or *one-bedroom units* shall not exceed ten (10) *dwelling units* per acre or 4,356 square feet of site area for each *dwelling unit*.

(2) *Two-bedroom units* shall not exceed eight (8) *dwelling units* per acre of 5,445 square feet of site area for each *dwelling unit*.

(3) *Three-bedroom units* shall not exceed six (6) *dwelling units* per acre or 7,260 square feet of site area for each *dwelling unit*.

The area used for computing density shall be the total site area, exclusive of any dedicated public right of way of either an interior or adjacent *street*.

(e) In an R-M, *Multiple Family Residential District*, the minimum distance between two (2) *buildings* shall be twenty-five (25) feet.

(f) Parking is permitted in the *front yard* with a minimum ten (10) foot *setback* from the *street* right of way provided. The parking plan layout, points of access and screening shall be approved by the Planning Commission. Screening shall be provided in accordance with Section 5.10(d)(3).

(g) The Planning Commission may approve a *building height* in excess of thirty-five (35) feet in accordance with the Section 3.03, *Special Land Use* provisions, and providing the following conditions have been met:

(1) All *structures*, or portions of *structures*, within one hundred (100) feet of a residentially zoned parcel shall be maintained at no greater than thirty-five (35) feet tall;

(2) All *structures*, or portions of *structures*, between one hundred (100) and one hundred and fifty (150) feet from a residentially zoned parcel shall be maintained at no greater than forty-five (45) feet tall;

(3) All *structures*, or portions of *structures*, beyond one hundred and fifty (150) feet from a residentially zoned parcel shall be maintained at no greater than fifty-five (55) feet tall;

(4) The *structure* has compatible architectural style and mass with the adjacent parcels; and

(5) One (1) or more of the following shall apply: *off-street parking* is provided on-site, the *building* is part of a mixed use development, or there is a demonstrated community benefit (i.e. parkland, public parking, community *buildings*, etc.).

(h) No *building* shall be closer than sixty (60) feet from the outer perimeter (property line) of the *district* when such property line abuts a residential *district*.

(i) For all *uses* permitted, other than one-*family dwellings*, the maximum *height* of a *structure* shall be three stories or thirty-five (35) feet.

(j) Parcels in an I-1, Light Industrial *District* with an acreage of less than forty (40) acres can have a maximum structural *height* of fifty (50) feet. I-1, Light Industrial *District* parcels greater than forty acres (40) can have a maximum structural *height* of seventy-five (75) feet.

(k) Refer to Article 6, Section 6.24.

(l) Refer to Article 6, Section 6.22.

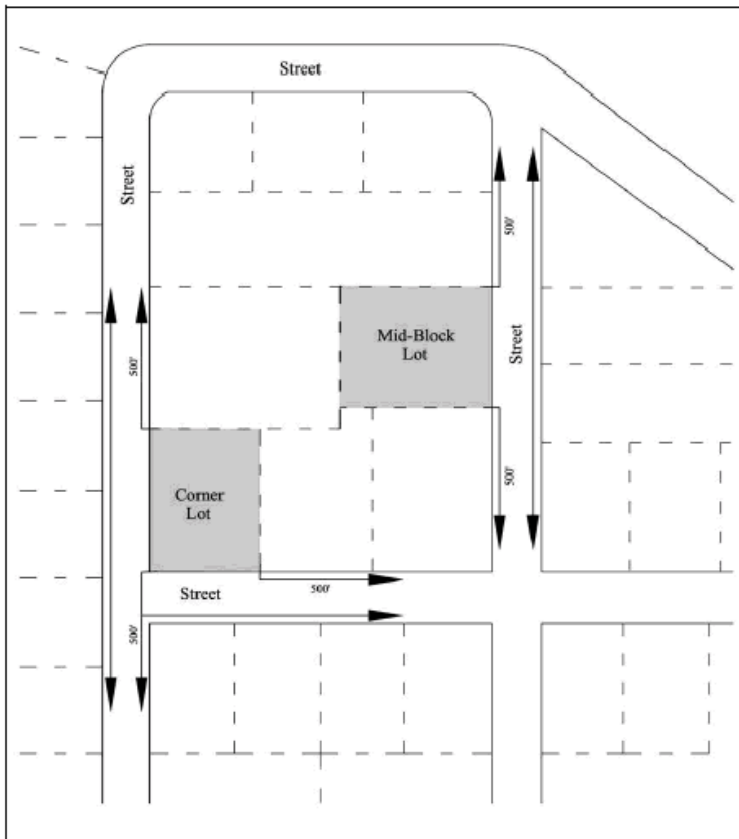
(m) Where a P-1, Vehicular Parking *District* is contiguous to a residential *district* which has a common *frontage* on the

same *block* with a residential *structure*, or wherein no residential *structures* have been yet *erected*, there shall be a *setback* equal to the required residential *setback* for such residential *district*, or a minimum of twenty-five (25) feet, whichever is greater, unless, under unusual circumstances, the Planning Commission finds that no good purpose would be served by compliance with such *setback* requirements. The required *wall* shall be located on a minimum *setback* line.

(n) For all *one-family* and *two-family* residential *dwelling*s the maximum *lot coverage* shall not exceed 30% for the *main building* including attached *accessory buildings*.

(o) *Front yard* encroachments for *porches* or *porticos* may be considered by the Planning Commission in accordance with Section 4.05(d).

(p) All *buildings* shall be located at the *build-to-line* located no more than the average distance from the road right-of-way to the existing *building setback* of all *buildings* within five hundred (500) feet of the property in question. The distance shall be measured along the abutting road frontage whether located mid- block or at the corner of two (2) intersection streets (see subsequent graphic attached to this footnote). When a parcel within the distance noted has an excessively large or small setback, or is used for non- commercial purposes, it may be excluded from the determination of the *build-to-line*. The *build-to-line* will be determined by the Planning Commission on a parcel by parcel basis.



(q) All principal residential *buildings* shall be set back at least twenty-five (25) feet from the road right-of-way, except in cases where the average setback is greater than 40 feet, then the average setback shall apply.

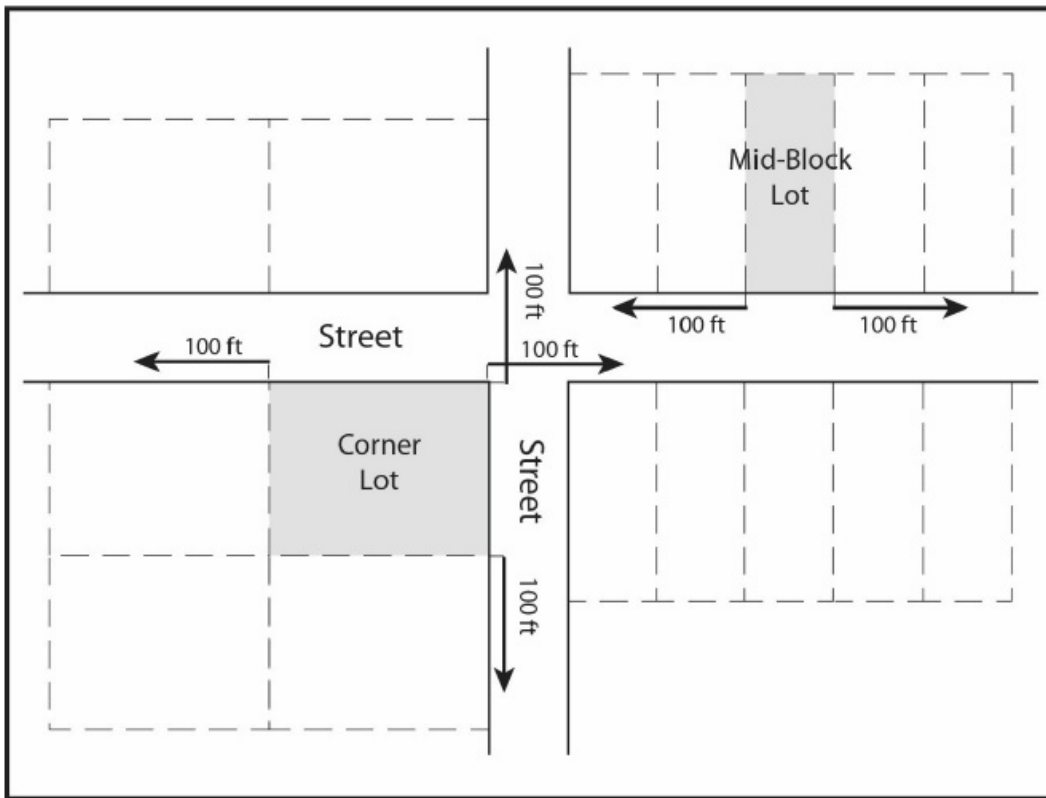
(1) The average setback shall be the average (arithmetic mean) distance from the road right-of-way to the existing building face of the enclosed structure for all residential *dwelling*s within one hundred (100) feet of the property in question, as determined by the Zoning Administrator.

(2) The distance shall be measured along the abutting road frontage whether located mid-block or at the corner of two (2) intersecting streets (see subsequent graphic attached to this footnote). The average calculation includes properties that are corner lots. The average ignores vacant properties.

(3) Residential front setback averaging shall apply to new construction as well as additions and renovations located in the front yard.

(4) Unenclosed porches and porticos on a residential structure are subject to the requirements of Section 4.05(d).

## Residential Front Setback Averaging



### ARTICLE 4A

#### FORM BASED DISTRICTS

##### • Section 4A.01 General Intent, Purpose, and Use.

(a) Intent. There are areas within the City where the intent is to place greater emphasis on regulating urban form and character of development as well as use and intensity of use. The City also intends to encourage development by allowing a flexible mix of uses, while requiring specific development standards that will provide a more compact, walkable environment. The Form-Based Districts are intended to implement the vision, goals, and objectives of the City of Howell Master Plan and any other applicable Plans. In addition to the general standards applicable to all Form-Based Districts, there are specific standards applicable to each District.

(b) Purpose. The general purpose of these regulations is as follows:

- (1) Promote new investment opportunities by allowing a wide range of potential uses and techniques to expand the employment and economic base.
- (2) Ensure that development is designed for people in cars as well as on foot or bike, creates attractive streetscapes and pedestrian spaces.
- (3) Promote mixed-use development in both a horizontal and vertical form.
- (4) Ensure reasonable transition between higher intensity development and adjacent neighborhoods.
- (5) Increase options for people driving, walking or biking to reach their destinations and reduce the need for on-site parking.
- (6) Provide a more predictable development approval process.

(c) Factors for Regulation. These regulations are based on two (2) significant factors: site context and building form.

(1) Site context is derived from existing and desired characteristics of an area, and recognizes the inherent conditions of the areas where these regulations are applied. Sites are categorized by shape, size, orientation and location. Sites are also characterized by the type of street upon which the property is located.

(2) Building form addresses the manner in which buildings and structures relate to their lots, surrounding buildings, and street frontage. The shape of the building, the land area to volume ratio, and the orientation of the building has a significant impact upon the character of an area. Building form standards control height, placement, building configuration, parking

location, and ground story activation applicable to the site context.

(3) Regulations are tailored to meet a more specific intent of each district. These districts and intents are set forth elsewhere in this Article.

• **Section 4A.02 Applicability and Organization.**

(a) Applicability.

(1) Any new use or expansion of existing use that requires site plan review shall comply with the requirements of this Article and other applicable requirements of this Ordinance.

(2) The requirements of this Article shall not apply to:

- A. Continuation of a permitted use within an existing structure.
- B. Changes of use within existing structures that do not require increased parking.
- C. Normal repair and maintenance of existing structures that do not increase its size or parking demand.
- D. Continuation of a legal non-conforming use, building, and/or structure, in accordance with Article 11.

(b) Regulating Plans. Each Form Based District shall be governed by a Regulating Plan that is specific to each area.

(1) The Regulating Plan based on the site type determines building form and allowable use for each property within a form-based district.

(2) Relationship to Master Plan. All development shall be compatible to the vision and in accordance with the goals and objectives set forth in the Howell Master Plan and any other applicable Plan.

(3) The Regulating Plan is based on three (3) factors: Site Type; Building Form; and Use Group.

A. Site Types, as described in Section 4A.03(b), are determined by lot size, location, and relationship to neighboring sites.

B. Building Form, as described in Section 4A.03(c), which are determined by Site Type.

C. Use Groups, as described in Section 4A.03(d), which are determined by Site Type and Building Form.

(c) Site Types. Site Types, as set forth in Section 4A.03(b), are determined by street orientation, lot size, lot configuration, location, and relationship to neighboring sites. Site type provides the basis for building forms and authorized use groups.

(d) Building Form Standards. Building form standards, set forth in Section 4A.03(c), establish the parameters for building form, height, and placement, and are specifically applied to each district based upon the regulating plan.

(e) Authorized Use Groups. Authorized land uses are organized by use groups. Authorized use groups, as set forth in Section 4A.03(d), are specifically applied to each District based upon the regulating plan.

(f) Design Standards. General design standards, set forth in Section 4A.03(e), are established for each district and are supplementary to other requirements of the Ordinance. Generally, the design standards regulate building placement, parking orientation, landscaping, and other site design requirements.

(g) Modification of District Boundaries. Any modification to the boundaries of any form-based district shall require rezoning, in accordance with the provisions of Article 14, Amendments.

(h) Modification of Regulating Plan. Specific building form, use group, and design standards applied within each Regulating Plan are based upon the designation of site type. Any modification of site type may be determined by the Planning Commission, notice and after conducting a public hearing in accordance with Section 3.13.

The Planning Commission shall consider the following in making a determination to modify a site type or street type designation:

(1) The applicant's property cannot be used for the purpose permitted in the form-based district.

(2) Area has been added to or deleted from the subject property in question, requiring the modification.

(3) The proposed modification and resulting development will not alter the essential character of the area.

(4) The proposed modification meets the intent of the district.

(5) Existing streets have been improved and/or new streets constructed that may result in the modification of a specific site type.

(6) Modification to the Regulating Plan is in conformance to the Master Plan.

• **Section 4A.03 Standards Applicable to All Form-Based Districts.**

(a) Form-Based Code Hierarchy.

- (1) Each parcel has a site type, building form, and is assigned a use group.
- (2) The steps to determine the regulations that apply to a specific property within a form-based district are as follows:
  - A. Find the site in question on the appropriate regulating plan map.
  - B. Identify the Site Type for the site in question. Sites are classified based on their size, shape and location.
  - C. Consult the Use Groups and for the District in which the site is located listed in Section 4A.03(d).
  - D. Follow the regulations for the chosen building form when designing the proposed development. Building form regulations are established in Section 4A.03(c).
  - E. Follow the design standards as listed in Section 4A.03(d).
  - F. Obtain site plan approval or special use approval for the chosen building form and use, as appropriate.

Locate the Site

Determine Site Type (4A.03(b)) for site in question

Review permissible Building Forms (4A.03(c)) and Use Groups (4A.03(d)) for Site Type

Apply Building Form standard (4A.03(c)) for applicable building form

Apply Design Standards (4A.03(e))

Submit site plan for approval

(b) Site Types.

(1) Site Type A (small residential or mixed use sites). Site Type A is composed of lots one-half (0.5) acre or smaller, and are reserved primarily for residential use and for smaller non-residential use which is compatible with a residential setting. Site Type A is generally located in areas which serve as a transition between the street and neighboring residential areas. The building form selected for these sites must consider both the front elevation that fronts on the street but also the rear/side elevation that is adjacent to residential in order to maintain compatibility with adjacent uses.

(2) Site Type B (small commercial/office or mixed use sites). Made up mostly of lots in the one-half (0.5) acre and smaller range, the Site Type B category is reserved for the smallest, single-use sites developed for free standing commercial and office or mixed use developments. Site Type B size and character may vary based on the unique characteristic of each parcel. Small retail and food-service uses would often be found in this category, as well as small multi-tenant office buildings or single-tenant office buildings.

Site Type B sites must be designed to better integrate with their surroundings to contribute to a more cohesive District, a more consistent building line, and more efficient access between sites. Access for pedestrians and cross access for vehicles will help sites in this Category reduce trips entering and existing from corridors and arterials. When located at corners, the buildings should frame and enhance street corners through the use of architecturally prominent features at the corners or prominent three dimensional site improvements (fountains, towers, sculpture, art, etc.). Groups of Site Type B properties may make excellent candidates for assembly to create more cohesive development projects.

(3) Site Type C (medium commercial/office and mixed use sites). The sites in Site Type C are mostly between one-half (0.5) and two (2) acres in area, and are located at the edges of larger Site Type D sites. Site Type C size and character may vary based on the unique characteristic of each parcel. This category can include free standing single-use developments situated nearby one another; however the Site Type C category should be designed to consider of integration of adjacent parcels. Integration will allow for better interaction between users, which could lead to a more readily shared customer and tenant base and could help reduce City traffic.

The setback and orientation of the buildings in Site Type C should be situated as to reinforce a consistent building line with minor variations. Primary building entries, public areas, administration areas, and windows should be visible, oriented, and accessible from the primary street and parking facilities. When located at corners, the buildings should frame and enhance street corners through the use of architecturally prominent features at the corners or prominent three dimensional

site improvements (fountains, towers, sculpture, art, etc.).

(4) Site Type D (large scale regional sites). Site Type D properties are greater than two (2) acres in area, but designed to function as one unit. Site Type D size and character may vary based on the unique characteristic of each parcel.

Walkability within and between sites and provision of supporting buildings and uses are important to the success of the very large, Site Type D developments. They should be designed with a mix of uses in mind to allow for users to obtain basic services on or immediately near the site. Especially within large office centers, where hundreds of workers may populate the site during the day, restaurants, postal facilities and other daily needs should be integrated within existing buildings or permitted to exist in smaller out-lot developments or nearby developments in Site Type A, or B, or C categories.

Site design should strongly focus on putting the densest components of the project within close range of the primary right-of-way to combat the vast open areas that frequently make such sites difficult or undesirable for pedestrians. The development of these sites is often phased. The phasing must include consistent building form treatment.

(c) Building Form Standards.

(1) The mixed-use districts permit a series of building forms, dependent on the site context. The building forms, set forth in Tables 4A.03(c), are established in this section as follows.

(2) Building forms are designated within each district location based on the regulating plan. Building forms are classified in the following manner:

A. Permitted Building Forms. These building forms are permitted as of right in the locations specified, and are depicted with the symbol P.

B. Prohibited Building Forms. Building forms that are not identified as permitted in the locations specified are prohibited.

C. Exceptions: For all building forms in all locations, awnings, signs, other projections (architectural projections, bay windows, etc.) may project into the right-of-way beyond the required building line by up to 5 feet. Projections will be reviewed by the City to ensure public safety.

(3) The regulating plan dictates the site type for each individual property in the district. Building forms are identified within each district as permitted or not permitted based upon the site type.

(4) Non-Residential Development Height, Setback, and Greenbelt Provisions when Adjacent to any Residentially Zoned or Used Property.

A. Setback and Greenbelt:

1. Site Type A and B. The following setback and greenbelt shall be provided for any parcel zoned Site Type A or B that is adjacent to a residentially zoned or used parcel.

a. When a parcel is abutting or adjacent to a residentially zoned or used parcel without an intervening alley or street, the building setback from the property line of the residentially zoned or used parcel shall be no less than the height of the building on the non-residential parcel.

b. When a parcel is abutting or adjacent to a residentially zoned or used parcel without an intervening alley or street, a minimum 20-foot landscaped greenbelt shall be maintained from the property line of the residentially zoned or used parcel. The greenbelt shall be landscaped and screened in accordance with Section 5.10.

c. The Planning Commission may deviate from these setback and greenbelt provisions in the course of its site plan review process; however, the Planning Commission shall not permit a setback or greenbelt that is less than required in the building form. In the review of the deviation, the Planning Commission shall consider the standards as set forth in Section 4A.03(c)(4)C.

2. Site Type C and D. The following setback and greenbelt shall be provided for any parcel zoned Site Type C or D that is adjacent to a residentially zoned or used parcel.

a. When a property is abutting or adjacent to a residentially zoned or used parcel without an intervening alley or street, the setback from the property line of the residentially zoned or used parcel shall be no less than twice the height of the building on the non-residential parcel.

b. When a property is abutting or adjacent to a residentially zoned or used parcel without an intervening alley or street, a minimum 40-foot landscaped greenbelt shall be maintained from the property line of the residentially zoned or used parcel. The greenbelt shall be landscaped, screened in accordance with Section 5.10 and include a minimum 6-foot high berm.

c. The Planning Commission may deviate from these setbacks and greenbelt provisions in the course of its site plan review process; however, the Planning Commission shall not permit a setback or greenbelt that is less than required in the building form. In the review of the deviation, the Planning Commission shall consider the following standards set forth in Section 4A.03(c)(4)C.

B. Deviation Standards:



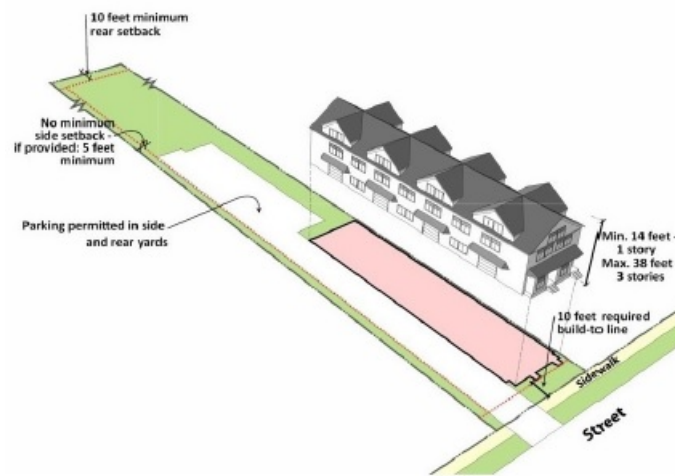
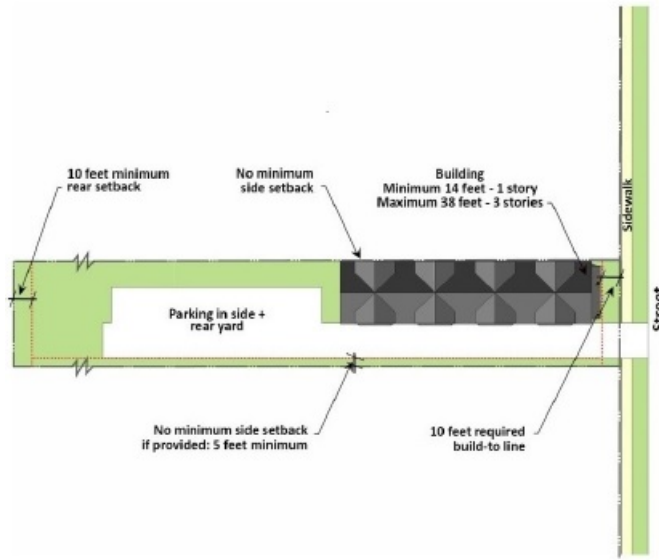
1. Height, setback, and greenbelt deviations may be granted by the Planning Commission if the following is found:
  - a. The deviation shall not adversely impact public health, safety, and welfare.
  - b. The deviation shall maintain compatibility with adjacent uses.
  - c. The deviation shall be compatible with the Master Plan and in accordance with the goals and objectives of the Master Plan and any associated subarea and corridor plans.
  - d. The deviation shall not adversely impact essential public facilities and services, such as: streets, pedestrian or bicycle facilities, police and fire protection, drainage systems, refuse disposal, water and sewage facilities, and schools.
  - e. The deviation shall be in compliance with all other zoning ordinance standards.
  - f. The deviation shall not adversely impact any on-site or off-site natural features.

<b>Table 4A-1</b>		
<b>Building Form A.1</b>		
<b><i>Building Form A.1: Small, generally single-purpose buildings for residential. Typically situated on a smaller lot, in more remote site location within the district, adjacent to single family residential.</i></b>		
<b>Table 4A-1</b>		
<b>Building Form A.1</b>		
<b><i>Building Form A.1: Small, generally single-purpose buildings for residential. Typically situated on a smaller lot, in more remote site location within the district, adjacent to single family residential.</i></b>		
Building Height	Minimum 1 story, 14-foot height Maximum 3 stories, 38-foot height	
Building Placement	Front Yard: 10-foot required build- to line <sup>1</sup> 75% of the building facade must meet the required build-to line, while up to 25% of the facade can be setback to allow for architectural consideration	
	Side Yard: No minimum side setback  If provided, minimum 5 feet	
	Rear Yard: Minimum 10-foot rear setback	
	Impervious Surface: Maximum 80%	

Lot

Access and circulation:  
Driveways may access the site from any side, pedestrian pathways must be provided from the right-of-way, and cross access shall be provided in instances where a development is within an out lot of a higher classified building form

Parking location:  
Parking shall be located in a side or rear yard; when located in a side yard and abutting the required build-to line adjacent to the right-of-way, parking shall be screened with a minimum 30-inch masonry wall on the required build-to line, or within 5 feet of the required build-to line, provided that a landscape treatment is added between the wall and the required build-to line



<sup>1</sup> The Planning Commission may adjust the required build-to line to a maximum of 30 feet beyond the property line for projects incorporating a permanent space for an outdoor café, public space, or a cross access drive with an adjacent parcel. Outdoor cafés or public spaces must be developed as part of the primary building and must incorporate a permanent wall or landscaping area along the required build-to line.

**Table 4A-2**

**Building Form A.2**

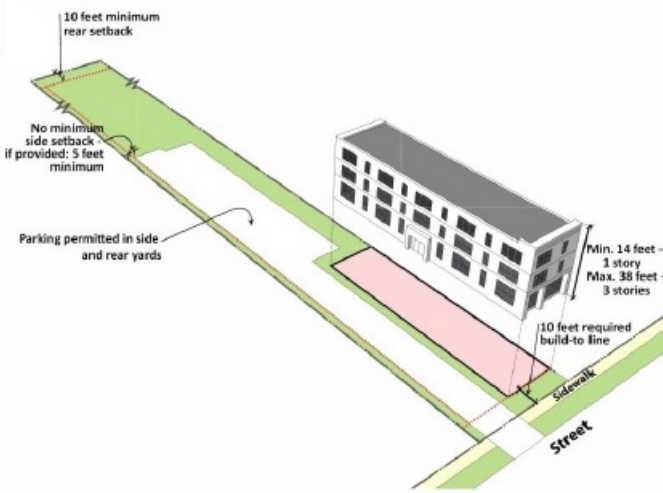
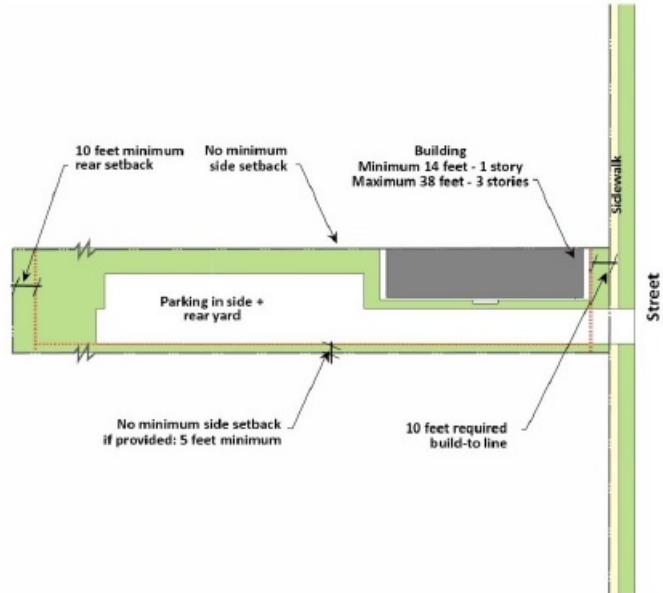
**Building Form A.2: Small, generally single-purpose buildings for retail, office, restaurant, or service uses. Typically situated on a smaller lot within the district. Adjacent to single-family residential.**

**Table 4A-2**

**Building Form A.2**

**Building Form A.2: Small, generally single-purpose buildings for retail, office, restaurant, or service uses. Typically situated on a smaller lot within the district. Adjacent to single-family residential.**

Building Height	Minimum 1 story, 14-foot height Maximum 3 stories, 38-foot height
Building Placement	Front Yard: 10-foot required build-to line <sup>1</sup> 75% of the building facade must meet the required build-to line, while up to 25% of the facade can be setback to allow for architectural consideration
	Side Yard: No minimum side setback  If provided, minimum 5 feet
	Rear Yard: Minimum 10-foot rear setback
Lot	Impervious Surface: Maximum 80%
	Access and circulation: Driveways may access the site from any side, pedestrian pathways must be provided from the right-of-way, and cross access shall be provided in instances where a development is within an out lot of a higher classified building form
	Parking location: Parking shall be located in a side or rear yard; when located in a side yard and abutting the required build-to line adjacent to the right-of-way, parking shall be screened with a minimum 30-inch masonry wall on the required build-to line, or within 5 feet of the required build-to line, provided that a landscape treatment is added between the wall and the required build-to line



<sup>1</sup> The Planning Commission may adjust the required build-to line to a maximum of 30 feet beyond the property line for projects incorporating a permanent space for an outdoor café, public space, or a cross access drive with an adjacent parcel. Outdoor cafés or public spaces must be developed as part of the primary building and must incorporate a permanent wall or landscaping area along the required build-to line.

**Table 4A-3**

**Building Form B**

**Building Form B: Small, generally single-purpose buildings for retail, office, restaurant, or service uses. Typically situated in an out lot of a larger classification building form, or on a smaller, more remote site location within the district.**

**Table 4A-3**

**Building Form B**

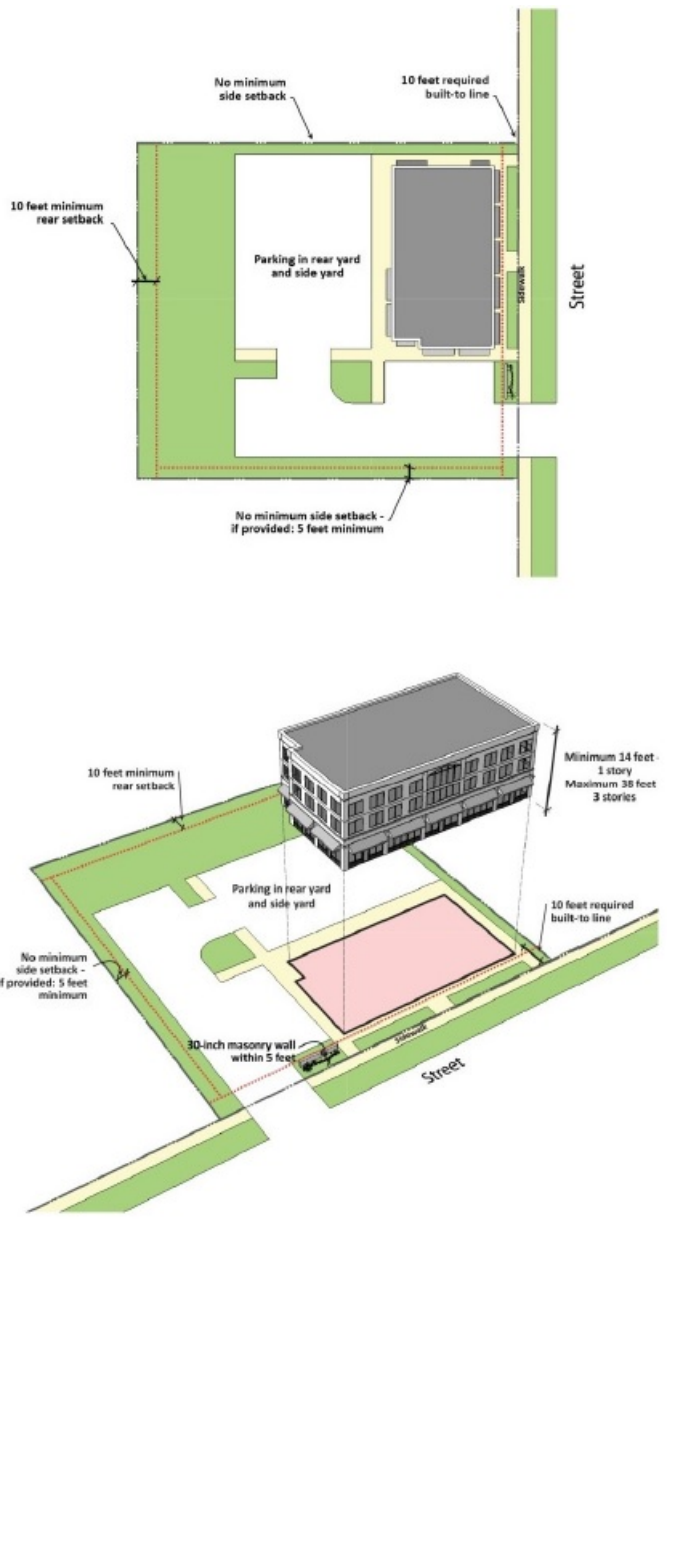
**Building Form B: Small, generally single-purpose buildings for retail, office, restaurant, or service uses. Typically situated in an out lot of a larger classification building form, or on a smaller, more remote site location within the district.**

Building Height	Minimum 1 story, 14-foot height Maximum 3 stories, 38-foot height	
Building Placement	Front Yard: 10-foot required build-to line <sup>1</sup> 75% of the building facade must meet the required build-to line, while up to 25% of the facade can be setback to allow for architectural consideration	
	Side Yard: No minimum side setback  If provided, minimum 5 feet	
	Rear Yard: Minimum 10-foot rear setback	
	Impervious Surface: Maximum 80%	

Access and circulation:  
 Driveways may access the site from any side, pedestrian pathways must be provided from the right-of-way, and cross access shall be provided in instances where a development is within an out lot of a higher classified building form

Parking location:  
 Parking shall be located in a side or rear yard; when located in a side yard and abutting the required build-to line adjacent to the right-of-way, parking shall be screened with a minimum 30-inch masonry wall on the required build-to line, or within 5 feet of the required build-to line, provided that a landscape treatment is added between the wall and the required build-to line

<sup>1</sup> The Planning Commission may adjust the required build-to line to a maximum of 30 feet beyond the property line for projects incorporating a permanent space for an outdoor café, public space, or a cross access drive with an adjacent parcel. Outdoor cafés or public spaces must be developed as part of the primary building and must incorporate a permanent wall or landscaping area along the required build-to line.

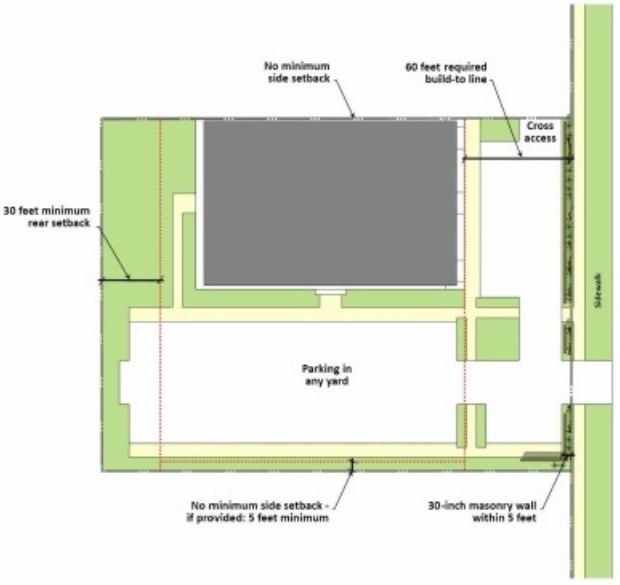


**Table 4A-4**  
**Building Form C**

**Building Form C: Single or multiple-tenant buildings for retail, restaurant, office, service, or residential uses. This category also includes multiple-tenant development, although it requires a second story to encourage a mix of use.**

**Table 4A-4**  
**Building Form C**

**Building Form C: Single or multiple-tenant buildings for retail, restaurant, office, service, or residential uses. This category also includes multiple-tenant development, although it requires a second story to encourage a mix of use.**

Building Height	Minimum 2 stories, 24-foot height Maximum 4 stories, 45-foot height Ground floor 14-foot minimum height	
Building Placement	<p>Front Yard: Maximum 60-foot required build-to line</p> <p>Side Yard: No minimum side setback If provided, minimum 5 feet</p> <p>Rear Yard: Minimum 30-foot rear setback</p>	
Lot	<p>Impervious Surface: Maximum 80%</p> <p>Access and circulation: Driveways may access the site from any side, pedestrian pathways must be provided from the right-of-way, and cross access shall be provided</p> <p>Parking location: Parking may be located in any yard; when located in a front or side yard adjacent to the primary building and abutting the right-of-way, parking shall be screened with a minimum 30-inch masonry wall on the required build-to line, or within 5 feet of the required build-to line, provided that a landscape treatment is added between the wall and the required build-to line; if parking is provided in the front yard only 1 row is permitted</p>	

**Table 4A-5**

**Building Form D**

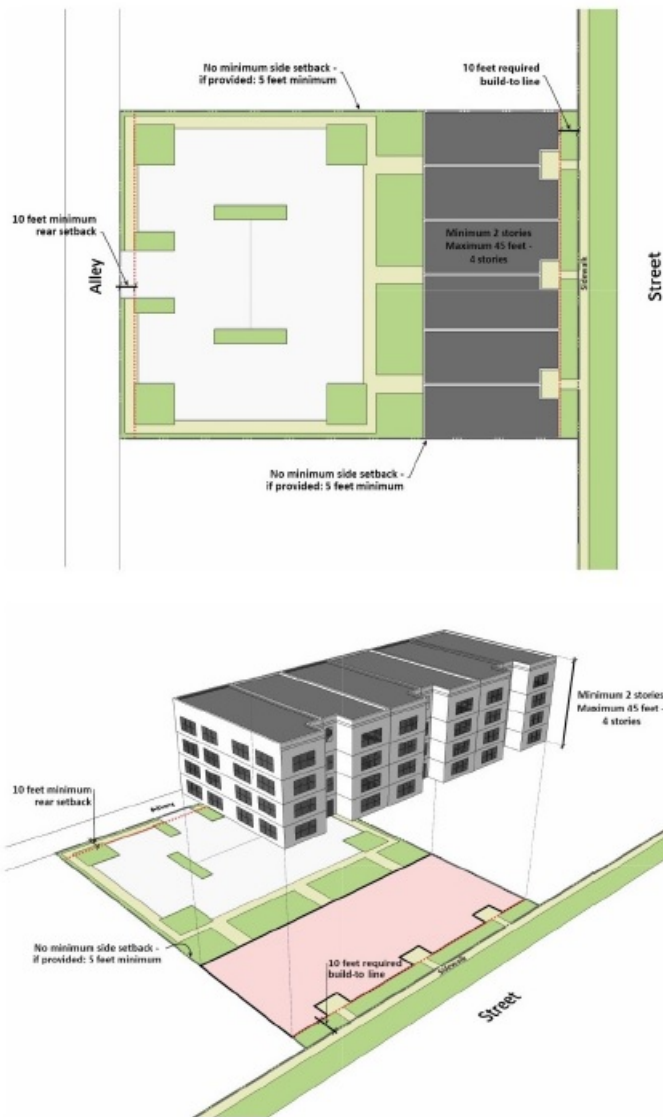
**Building Form D:** This category is primarily designed for attached residential, however, non-residential use may be included in the ground floor. Townhouses and urban-style residential developments that are compatible with the Master Plan identified higher-density and more urban character of this area.

**Table 4A-5**

**Building Form D**

**Building Form D: This category is primarily designed for attached residential, however, non-residential use may be included in the ground floor. Townhouses and urban-style residential developments that are compatible with the Master Plan identified higher-density and more urban character of this area.**

Building Height	Minimum 2 stories, no minimum height Maximum 4 stories, 45-foot height Ground floor: No minimum height
Building Placement	Front Yard: 10-foot required build-to line <sup>1</sup> 75% of the building facade must meet the required build-to line, while up to 25% of the facade can be setback to allow for architectural consideration
	Side Yard: No minimum side setback If provided, minimum 5 feet
	Rear Yard: Minimum 10-foot rear setback
Lot	Impervious Surface: Maximum 60%
	Access and circulation: Parking may be accessed from right-of-way (ROW) or alley; detached garages or multi-garage structures are permitted only in a rear yard, or behind primary buildings; pedestrian pathways shall be provided from the right-of way
	Parking location: Parking shall be located in a rear yard; parking may also be provided in integrated garages or detached garages; on-street parking within private roads in developments is highly encouraged



<sup>1</sup> The Planning Commission may adjust the required build-to line to a maximum of 30 feet beyond the property line for projects incorporating a permanent front yard, enclosed space that shall incorporate a permanent wall or landscaping area along the required build-to line.

**Table 4A-6**

**Building Form E**

**Building Form E:** This category provides an opportunity for large-format retail or entertainment uses within the district. They directly abut the right-of-way, provide parking in the rear or side yards, and contribute to the street atmosphere by providing a consistent street front with other, more pedestrian-oriented projects. They may be set back from the right-of-way, but only when they provide out-lots within the same project for category B, C, or D building forms on the same or on separate lots.

**Table 4A-6**

**Building Form E**

**Building Form E:** This category provides an opportunity for large-format retail or entertainment uses within the district. They directly abut the right-of-way, provide parking in the rear or side yards, and contribute to the street atmosphere by providing a consistent street front with other, more pedestrian-oriented projects. They may be set back from the right-of-way, but only when they provide out-lots within the same project for category B, C, or D building forms on the same or on separate lots.

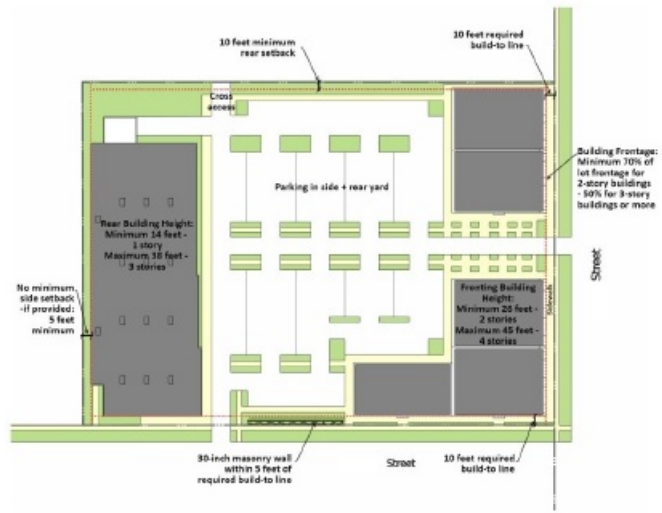
Building Height	Rear building: Minimum 14 feet, 1 story; Maximum 38 feet, 3 stories Front buildings: Minimum 26 feet, 2 stories (14 feet minimum ground floor); Maximum 45 feet, 4 stories	
Building Placement	Front Yard: 10-foot required build-to line <sup>1</sup>	
	Side Yard: No minimum side setback; if provided, minimum 5 feet	
	Rear Yard: Minimum 10-foot rear setback	
	Building Frontage: Minimum 70% of lot frontage for 2-story buildings and 50% for 3-story buildings or more	
	Impervious Surface: Maximum 90%	



Lot

Access and circulation:  
Driveways may access the site from any side, pedestrian pathways must be provided from the right-of-way, and cross access shall be provided in instances where a development is within an out lot of a higher classified building form

Parking location:  
Parking shall be located in a side or rear yard; when located in a side yard and abutting the required build-to line adjacent the primary building, parking shall be screened with a minimum 30-inch masonry wall on the required build-to line, or within 5 feet of the required build-to line, provided that a landscape treatment is added between the wall and the required build-to line



1 The Planning Commission may eliminate the required build-to line for projects incorporating a permanent series of additional lots or smaller buildings in the A, B, C, or D building form categories, provided that those additional lots and/or buildings make up the entire frontage of the overall development along the required build-to line, with the exception of access drives. The required build-to line frontage minimum for the additional lots and/or other buildings forms along the required build-to line shall apply for each individual additional lot and/or building.

(d) Authorized Use Groups

(1) Authorized uses are categorized by use groups as set forth in Table 4A-7. Use groups generally contain similar types of uses in terms of function, character, and intensity.

(2) Use groups are designated in locations within each district based on the regulating plan. Use groups are classified in the following manner:

- A. Permitted Use Groups. These use groups are permitted as of right in the locations specified.
- B. Special Use Groups. These use groups are permitted after review and approval by the Planning Commission, in accordance with the procedures set forth in Section 3.03 and the standards in this Ordinance.

C. Prohibited Use Groups. These use groups not indicated as permitted are prohibited in the locations specified.

D. Uses permitted in all locations within the District. Public parks and essential public services are permitted by right in all locations.

E. Similar Uses. If a use is not listed but is similar to other uses within a use group, the Zoning Administrator may make the interpretation that the use is similar to other uses within a use group.

The Zoning Administrator may also make the determination whether the use is permitted as of right, permitted in upper stories only, or permitted as a special use. The Zoning Administrator may obtain a recommendation from the Planning Commission as to whether or not the proposed use is similar to a use permitted as of right, permitted in upper stories only, or permitted as a special use.

<b>Table 4A-7</b>
<b>Use Groups by Category</b>
<b>Table 4A-7</b>
<b>Use Groups by Category</b>
<b>PRINCIPAL USE</b>
<b>Use Group 1</b>
<b>Residential Uses:</b>
One-Family detached and attached dwellings
Two-Family dwellings
<b>Use Group 2</b>
<b>Misc. Residential / Related Uses:</b>
Places of Worship
Multiple-Family dwellings
Live/Work units, Home Occupations
Senior assisted/independent living
Group day care homes
Child care centers
Bed and Breakfast
<b>Use Group 3</b>
<b>Office / Institutional:</b>
Civic Buildings
General office
Professional and medical office
Hospitals
Medical office
Primary/secondary schools (private)
Post-secondary schools
Data centers
Technology centers/office research
Publicly owned/operated office and service facilities
Funeral homes
Veterinary clinics or hospitals
<b>Use Group 4</b>
<b>Automobile / Transportation Uses:</b>
Vehicle sales
Vehicle service station
Vehicle repair station
Vehicle body repair
Vehicle wash
Drive-Thru Uses
<b>Use Group 5</b>
<b>Retail, Entertainment, and Services Uses:</b>
Financial institutions

General retail
Restaurant
Personal services
Business services
<b>Use Group 6</b>
<b>Misc. Commercial Uses:</b>
Building and lumber supply
Garden centers, nurseries
Outdoor commercial recreation
Commercial kennels / pet day care
Lodging
Retail, large format
Shopping centers
Fitness, gymnastics, and exercise centers
Theatres and places of assembly
Indoor commercial recreation establishments
<b>Use Group 7</b>
<b>Industrial Uses:</b>
Contractor's Equipment Storage
Food Products
Commercial outdoor storage
Manufacturing, Processing, etc.
Metal Plating
Plastics
Printing
Tool and Die, Gauge and Machine Shops
Truck / Trailer Rental
Warehousing / Wholesale
Experimental Research and Testing Labs

(e) Design Standards. In addition to standards set forth in this Ordinance, all proposed development shall comply with the standards set forth herein.

(1) Pedestrian/Non-Motorized Access.

A. Intent. To ensure that site layout and building design provides safe and convenient pedestrian and bicycle access both to and within a site and between adjacent sites.

B. Standards.

1. A pedestrian connection shall provide a clear connection between the primary street upon which the building fronts and the building. Connection may include pavement striping.
2. Pedestrian access shall be clearly identified from parking areas and all entrances to a building.
3. Where appropriate, sidewalks fronting the public right-of-way should be designed to accommodate space for activities such as outdoor dining.

(2) Building Placement and Orientation.

A. Intent. To require building placement that provides a strong visual and functional relationship with its site, adjacent sites, and the primary street upon which the site is located. Ensure consistency within sites and to adjacent sites to provide distinct building groups which exhibit similar orientation, scale, and proportion.

B. Standards.

1. Setbacks and building orientation shall reinforce a consistent pattern of siting.
2. Primary building entrances shall front on the public street and have a direct pedestrian access from the parking area. All Building entries shall be located so that they are easily identifiable with convenient public access.
3. Buildings should enhance street corners through the use of prominent architectural or site features.

(3) Parking Placement, Orientation, and Screening.

A. Intent. To provide a circulation system that efficiently moves vehicles in a well-defined manner, while reducing the visual impact of parking areas and mitigating conflict between pedestrians, bicycles, and automobiles.

B. Standards.

1. Required Parking. Off-street parking shall be provided for a principal use erected, altered, or expanded after the effective date of this Ordinance in accordance with the standards set forth in Article 10.

a. The Form Based districts are intended to encourage pedestrian and friendly design and compact mixed-use developments. Applicants are encouraged to consider the provisions for shared parking and flexibility in application set forth in Article 10, Section 10.03(e).

b. The placement and design of parking areas and structures shall foster safe pedestrian access and circulation and clearly identifiable public access and visitor parking. Pedestrian access shall be provided between all parking areas and public building entrances.

2. Location.

a. When parking is located in a side yard (behind the front building line) but fronts on the required building line, no more than twenty-five (25) percent of the total site's linear feet along the required building line or sixty (60) feet, whichever is less, shall be occupied by parking.

b. For a corner lot, no more than twenty-five (25) percent of the site's cumulative linear feet along the required building lines or sixty (60) feet, whichever is less, shall be occupied by parking. The building shall be located in the corner of the lot adjacent to the intersection.

c. Where off-street parking is visible from a street, it should be screened in accordance with the standards set forth herein.

(4) Architectural Design and Building Materials.

A. Intent. To create a character for the form based district that encourage the greatest amount of visual interest, architectural consistency, and high quality material use. The standards are not intended to limit imagination, innovation, or variety.

B. Architectural Design Standards.

1. Building Massing and Scale.

a. Rooflines and pitches shall be proportionate to nearby structures so as to provide transition or mitigation of significant changes to scale. Variety in massing can occur through step-backs as a building ascends upward.

b. Buildings shall maintain a consistent streetwall with the longest edge of the buildings oriented parallel to the roadway, where possible.

c. Buildings within the same development shall be designed to provide a unified and easily identifiable image. Methods to achieve this include using similar architectural styles and materials, complementary roof forms, signs, and colors.

2. Facade Variation.

a. Facade articulation or architectural design variations for building walls facing the street are required to ensure that the building is not monotonous in appearance, using the following architectural techniques: Building wall offsets (projections and recesses); cornices, varying building materials or pilasters shall be used to break up the mass of a single building; staggering of vertical walls; recessing openings; providing upper-level roof overhangs; using deep score lines at construction joints; contrasting compatible building materials; use of variety and rhythm of window and door openings; use of horizontal and vertical architectural elements, use of horizontal bands of compatible colors; and providing changes in roof shape or roof-line.

b. Materials shall be selected for suitability to the type of buildings and the architectural design in which they are used.

c. Material selection shall be consistent with architectural style in terms of color, shades, and texture, however monotony shall be avoided.

(5) Ground Story Activation.

A. Intent. The first floors of all buildings shall be designed to encourage and complement pedestrian-scale activity and crime prevention techniques. It is intended that this be accomplished principally by the use of windows and doors arranged so that active uses within the building are visible from or accessible to the street, and parking areas are visible to occupants of the building.

B. Standards.

1. Facade transparency shall be defined as the use of glass or transparent material that provides from the building exterior a view into the building of interior habitation and human scale. Signs covering windows, and the use of tinted, reflective or opaque glass do not meet the definition of facade transparency.

2. The first floor of any front facade facing a right-of-way shall be no less than fifty (50) percent windows and doors, and the minimum transparency for facades facing a side street, side yard, or parking area shall be no less than thirty (30) percent of the facade. The minimum transparency requirement shall apply to all sides of a building that abut an open space, including a side yard, or public right-of-way. Transparency requirements shall not apply to sides which abut an alley. Nothing shall be placed on or inside window to reduce transparency less than the 50% requirement.

3. Modified wall design may be used as an alternative to the standard set forth in Section 4A.03(e)(5)B.2. but may count for no more than eighty (80) percent of the transparency requirement. Wall designs must provide a minimum of three (3) of the following elements, occurring at intervals no greater than twenty-five (25) feet horizontally and ten (10) feet vertically:

- a. Expression of structural system and infill panels through change in plane not less than three (3) inches.
- b. System of horizontal and vertical scaling elements such as: belt course, string courses, cornice, pilasters.
- c. System of horizontal and vertical reveals not less than one (1) inch in width/depth.
- d. Variations in material module, pattern, and/or color.
- e. System of integrated architectural ornamentation.
- f. Green screen or planter walls.
- g. Translucent, fritted, patterned, or colored glazing.

(6) Landscaping.

A. Intent. To incorporate appropriate landscaping to enhance visual appearance, provide transitions between properties, and screen unsightly areas.

B. Landscaping Standards.

1. The standards set forth in Section 5.10, the following standards shall be met.
2. Landscaping shall conform and incorporate existing landscape and topographic features.
3. Landscaping within courtyards, patios, and pedestrian realm may include hardscape and softscape materials.
4. Landscaping shall maintain adequate sight lines for visual safety, visibility and efficient security.
5. Landscaped areas, including landscaped parking islands and medians, shall be separated from vehicular and pedestrian encroachment by curbs and raised planting areas.
6. Measured from the inside of the outermost curb line, a parking lot shall employ at least 10% of landscaped area in the form of parking islands, planting strips between parking rows.

(7) Loading and Storage Areas.

A. Intent. To ensure that loading, storage, and other building utility features are designed to be a part of the overall building as so to reduce the visual impact.

B. Standards.

1. Utilities and Mechanical Screening.

a. Utility structures located between the building and the public right-of-way be screened as set forth in Section 5.10. Screening may include walls, fencing, or landscaping that is consistent with the character and materials of the development.

b. Trash enclosures shall be placed adjacent to the rear wall of corresponding buildings or shall be located away from portions of the site which are highly visible from public roadways or private properties with dissimilar improvements. Trash enclosures shall be screened as set forth in Section 5.10 with walls, fencing or landscaping that are consistent with the character and materials of the development.

2. Loading.

a. Service areas should be designated by markings and/or signage to delineate them from pedestrian access and limit conflicts between service/delivery vehicles and patrons (e.g. pedestrians, bicyclists and transit users).

b. Service areas should be shared and/or consolidated within multi-tenant developments.

c. Loading and service areas shall be located on the sides or rears of the buildings.

d. Loading and service areas shall be screened from the public right-of-way with the use of fencing, landscaping, or walls.

e. Freestanding storage facilities (including warehousing) shall comply with all design standards.

f. Accessory facilities such as storage areas, and vehicle service areas shall be located away from portions of the

site which are highly visible from public roadways or private properties with dissimilar improvements.

(8) Signs.

1. All signs within a Form Based District shall meet all of the requirements of Article 7 Signs unless otherwise specified herein.

2. Freestanding Signs.

a. Freestanding signs within each Use Group shall comply with the following height and area requirements:

<i>Use Groups</i>	<i>Requirement</i>	
	<i>Height</i>	<i>Area</i>
1, 2	6	32 per side, not to exceed a total of 64
3	8	50 per side, not to exceed 100
4, 5, 6, 7	8	50 per side, not to exceed 100

b. A freestanding sign in a Form Based District shall be located no closer than five (5) feet from the public right-of-way.

3. Wall Signs. Wall signs within each use group shall comply with the following area requirements:

<i>Use Groups</i>	<i>Requirement</i>	
	<i>Area per One Foot of Building Frontage (sq. ft.)</i>	<i>Maximum Area (sq. ft.)</i>
1, 2	1	30
3	2	100
4, 5, 6, 7	2	100

4. Projecting Signs. Projecting signs shall be permitted for Use Group 3-6 only in accordance with Section 7.05 .

5. Interior Window Signs. Interior window signs shall be permitted for Use Groups 3-6 only in accordance with Section 7.06 , provided such signs do not reduce transparency requirements set forth in Section 4.04A (e)(5)B.

• **Section 4A.04 South Michigan Avenue District.**

(a) Intent. The South Michigan Avenue District is intended to implement the vision established by the City's Master Plan and the South Michigan Avenue Corridor Plan. The South Michigan Avenue Area Form Based District allows for the consolidation and creative redevelopment of parcels to develop a building pattern set close to the street along South Michigan Avenue. Though the existing built-out pattern is established with buildings set back from the street, redevelopment within the South Michigan Avenue Form Based District shall coordinate site design with adjoining sites to take advantage of buildings placed at the street, shared access and parking, similar perimeter landscape themes, or similar features.

Development of buildings and sites, including retrofitting and redevelopment of existing sites and buildings, can include residential, retail, office, service, and light industrial uses. Uses designed to support the residents and local workers are also encouraged, such as mixed-use developments with small scale retail or restaurant uses incorporated with housing units. The redeveloped Corridor will help diversify the City's housing and commercial stock, and incorporate architecturally interesting buildings.

Consolidation of parcels in the District is encouraged in order to provide for a quality and consistent development patterns. Incentives include additional building forms and more permitted uses.

(b) Regulating Plan.

1. The Regulating Plan, as set forth in Map 4A-1, identifies allowable uses and permissible development within the District based on location.

2. Site Types. The South Michigan Avenue District Regulating Plan includes four (4) different Site Types, described as follows:

- A. Site Type A (small residential or mixed use) - Site Type A, as described in Section 4A.03(b).
- B. Site Type B (small commercial/office or mixed use sites) - Site Type B, as described in Section 4A.03(b).
- C. Site Type C (medium commercial/office or mixed use site) - Site Type C, as described in Section 4A.03(b).

D. Site Type D (large scale regional sites) - Site Type D, as described in Section 4A.03(b).

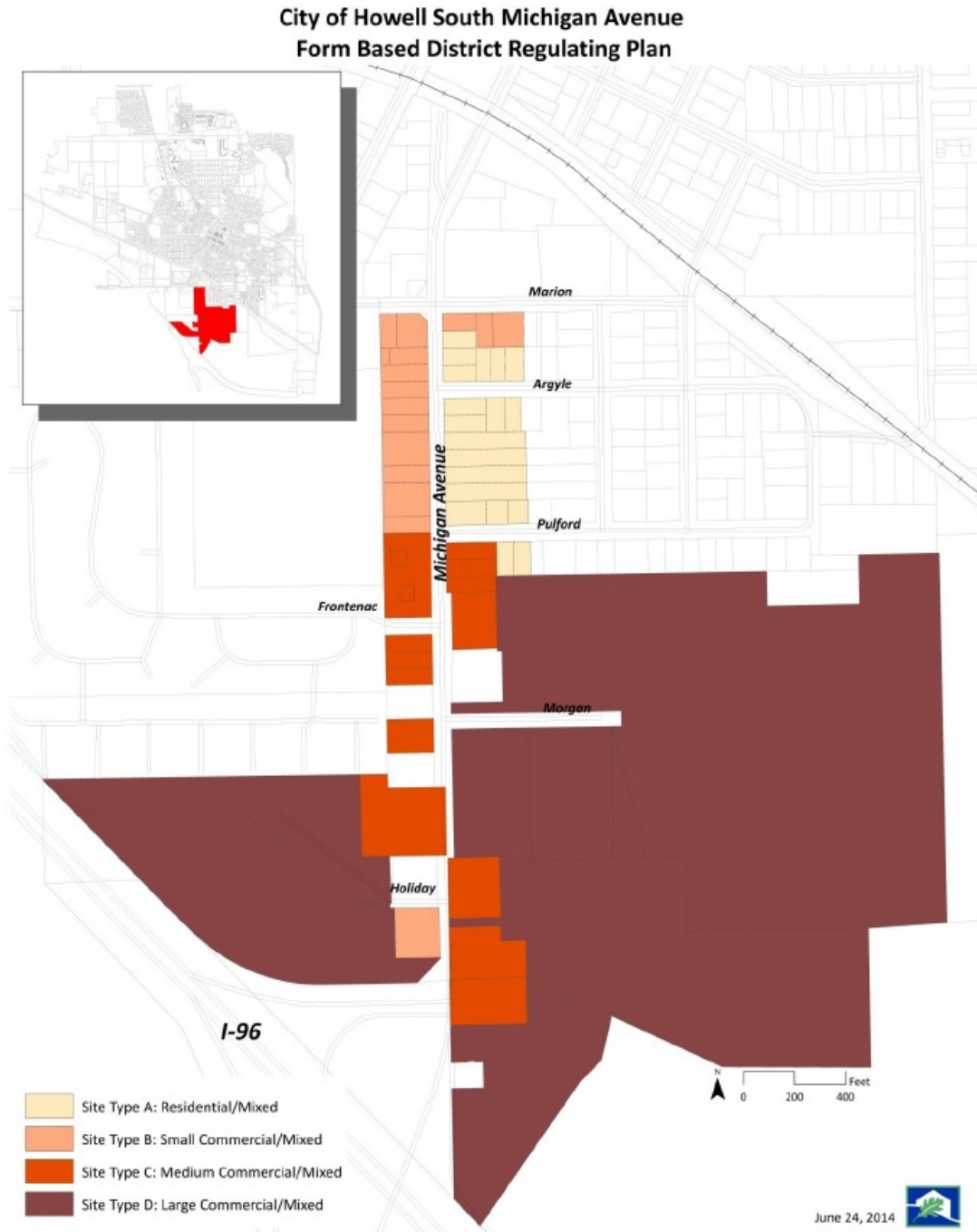
(c) Authorized Building Forms. Authorized building form regulations, as set forth in Section 4A.03(c) and Tables 4A-1 through 4A-6, are applied to the site types in the South Michigan Avenue District.

(d) Authorized Use Groups. Authorized use groups, as set forth in Section 4A.03(d) and Table 4A-7 are applied to the site types and street types in South Michigan Avenue District Regulating Plan.

(e) Design Standards. In addition to standards set forth in this Ordinance, all proposed development shall comply with the standards set forth herein.

**Map 4A-1**

**South Michigan Avenue Form Based District Regulating Plan**



**Table 4A-8**

**South Michigan Avenue Form Based Code District Regulating Plan Table**

Site Type	Building Form	Use Group
<b>Table 4A-8</b>		

South Michigan Avenue Form Based Code District Regulating Plan Table				
Site Type	Building Form		Use Group	
Site Type: A	Permitted Building Form	A1, A2	Permitted Use Group	1, 2, 3
			Special Use Group	
Site Type: B	Permitted Building Form	A1, A2, B	Permitted Use Group	1, 2, 3, 5
			Special Use Group	4
Site Type: C	Permitted Building Form	B, C, D	Permitted Use Group	1, 2, 3, 5
			Special Use Group	4, 6, 7
Site Type: D	Permitted Building Form	B, C, D, E	Permitted Use Group	1, 2, 3, 4, 5, 6
			Special Use Group	7

## ARTICLE 5

### GENERAL PROVISIONS

#### • Section 5.01 Intent.

The intent of this Article is to provide for those regulations that generally apply to all uses regardless of the particular zoning district.

#### • Section 5.02 Accessory Buildings, Structures and Uses.

(a) Detached Accessory Buildings (Residential). Except as otherwise permitted in this Zoning Ordinance, all detached accessory buildings located in a residential district are subject to the following regulations:

(1) All accessory buildings shall be architecturally compatible with the main building (i.e. building materials, roof pitch, height, etc.) A determination of architectural compatibility can be referred to the Planning Commission at the sole discretion of the Zoning Administrator.

(2) All multiple story detached accessory buildings shall be subject to the special land use criteria and procedures of Section 3.03.

(3) All detached accessory buildings with habitable space shall be subject to the special land use criteria and procedures of Section 3.03 and subsection 5.02(f).

(4) All detached accessory buildings exceeding 200 square feet shall be provided with an approved foundation system in accordance with The Michigan Building or Residential Code, as appropriate.

Districts	Location	Ground Floor Area	Minimum Yard Setbacks				Maximum Building Height	
			Front (ft.)	Side (ft.)	Rear (ft.)	Btw. Bldgs. (ft.)	Stories <sup>4</sup>	Feet <sup>4</sup>
R-1, R-2, R-T, and HL <sup>5</sup>	Rear Yard <sup>1</sup>	30% of the rear yard or 900 sq. ft.	25	3	3	See footnote 3	2	25
RM <sup>5</sup>	Rear Yard <sup>1</sup>	30% of the rear yard or 900 sq. ft. <sup>2</sup>	25	6	6	See footnote 3	2	25

Footnotes:

1. If located on a corner lot, the detached accessory building may be located in the side yard providing the front yard setback is comparable to the main building on the adjacent lot, and a minimum side yard setback of eight (8) feet is maintained.

2. These provisions only apply to maintenance garages and storage sheds. Carports and garages shall be subject to the



same provisions as the *main buildings*.

3. No *detached accessory building* of greater than two hundred (200) square feet shall be located closer than ten (10) feet from a *main building*, nor closer than six (6) feet from any other *accessory building*, regardless of whether or not the *buildings* are on the same or adjacent *lots*. Additionally, no *detached accessory building* shall be located closer than three (3) feet from the *side* or *rear lot line* so long as the maintenance of six (6) feet between the *accessory buildings* exists.

4. The height shall not exceed that of the existing *main building*.

5. Only one (1) *detached accessory building* and one (1) shed is permitted per *lot*.

(b) *Detached Accessory Buildings (Office and Commercial)*. Except as otherwise permitted in this Zoning Ordinance, all *detached accessory buildings* located in an office or commercial district are subject to the following regulations:

(1) All *buildings* shall be subject to *site plan* review.

(2) All *buildings* shall be located in the *rear yard* only.

(3) All *buildings* are subject to the same placement and *height* requirements applicable to *main buildings* in the *district* in which located except the O-1 and B-1 *districts*. *Detached accessory buildings* in the O-1 and B-1 *districts* shall be located no less than six (6) feet from the *side* and *rear* property lines and shall be located no less than ten (10) feet from all other on-site or off-site *buildings*.

(4) All *buildings* shall not exceed a ground *floor area* of nine hundred (900) square feet.

(c) *Attached Accessory Buildings*. Except as otherwise permitted in this Zoning Ordinance, all *attached accessory buildings* are subject to the following regulations:

(1) All *accessory buildings* shall be architecturally compatible with the *main building* (i.e. *building materials*, roof pitch, height, etc.). A determination of architectural compatibility can be referred to the Planning Commission at the sole discretion of the *Zoning Administrator*.

(2) The minimum *yard setbacks* shall be the same as the *main building* and governed by Section 4.07, Schedule of *Area, Height, Width and Setback Regulations*.

(3) *Attached accessory buildings* within the O-1, B-1 and B-2 *districts* shall be subject to the *special land use criteria* and procedures of Section 3.03.

<b>Districts</b>	<b>Ground Floor Area</b>	<b>Maximum Building Height</b>	
		<b>Stories<sup>1</sup></b>	<b>Feet<sup>1</sup></b>
R-1, R-2, R-T, and R- M	Greater of 40% of the <i>main building</i> or 528 sq. ft.	2-1/2	25
HL	40% of the <i>main building</i> or 528 sq. ft.	2-1/2	25

Footnotes:

1. The *height* shall not exceed that of the existing *main building*.

(d) *Decks*. *Decks* requiring a foundation shall be subject to the following:

(1) The total square footage, excluding steps, shall not exceed the ground *floor area* of the principal *building*.

(2) *Decks* shall be subject to the following minimum *setback* requirements:

A. A *deck* shall meet the required *side yard* requirements of the *district* in which it is located, except that steps shall be permitted to encroach up to five feet in the required *side yard setback*.

B. A *deck* shall be permitted to encroach in the required *rear* and/or *front yard* by no more than ten (10) feet, provided the portion of a *deck* that occupies the required *yard* shall not be above the elevation of the first floor of the residence. Furthermore, the portion of a *deck* that occupies the required *yard* shall not contain any enclosed or covered *structures*, such as a gazebo or screened *porch*.

(e) *Private Swimming Pools*. Except as otherwise permitted in this Zoning Ordinance, all *private swimming pools* shall be subject to the following:

(1) Only permitted in the *rear yard*.

(2) There shall be a distance of not less than ten (10) feet between the adjoining property line and the outside of the *pool wall*.

(3) No *swimming pool* shall be located less than thirty-five (35) feet from a *front lot line*.

(4) No *swimming pool* shall be located less than ten (10) feet from a *side street* or *alley right-of-way*, or the distance

required for *side yards* by this Zoning Ordinance, whichever is greater.

(5) No *swimming pool* shall be located in an easement.

(6) For the protection of the general public, all *swimming pools* shall comply with the *Building Code* as it relates to safety enclosures.

(7) All pools shall comply with the clearance requirements associated with overhead service power lines as per the *Building Code*.

(f) Accessory Residential Dwelling Units. Except as otherwise permitted in this Zoning Ordinance, all accessory residential *dwelling units* located on a parcel containing a permitted or special land use is subject to the following conditions:

(1) *Dwelling units* shall be located above the first floor.

(2) The minimum *floor area* requirements for *multiple family dwellings* set forth in Section 5.03 shall be met.

(3) The Planning Commission may impose reasonable conditions to ensure the health, safety and welfare of the occupants.

(g) Barrier Free Ramps.

(1) Temporary ramps to provide barrier free access to a single-family home shall be permitted to encroach into the required front or side yard setback to meet the required slope. Temporary ramps shall not have permanent below grade footings.

(2) Permanent ramps to provide barrier free access to a single-family home, or ramps at a structure other than a single-family home, shall be required to meet necessary side yard setbacks and shall be permitted to encroach into the front yard setback up to ten (10) feet.

• **Section 5.03 Minimum Floor Area of Dwelling units.**

The minimum *floor area* of *dwelling units* shall be as follows, and shall be satisfied within the stories above the *basement*:

<b>Type of Dwelling</b>	<b>Total Floor Area (sq. ft.)</b>
<i>One-family</i>	900
<i>Two-family, per dwelling unit</i>	800
<i>Multiple family:</i>	
<i>Efficiency Unit</i>	250
<i>1 bedroom unit</i>	450
<i>2 bedroom unit</i>	600
<i>3 bedroom unit</i>	750

• **Section 5.04 Buildings to be Moved.**

(a) No permit shall be granted for the moving of *buildings* or *structures* from outside of or within the limits of the City to be placed on property within said limits unless the *Building Official* completed an inspection of the *building* to be moved and has found that it is structurally safe, will not adversely affect the character of existing *buildings* in the neighborhood at the new location, and will fully comply with the *Building Code* and other codes regulating public health, safety, and general welfare. A performance guarantee, as established by the City Council, of sufficient amount to insure the cost of completing the *building* for occupancy within a period of not less than six (6) months from date of permit shall be furnished before permit is issued.

(b) Any *building* to be moved shall be subject to all the limitations and requirements herein set forth relating to *uses, construction, permits, and certificates* of said new zoning *district*.

• **Section 5.05 Demolition of Buildings.**

No permit shall be issued to demolish a *building* except in accordance with the requirements of this section.

(a) Upon receipt of an application for a *demolition* permit, the *Building Official*, in coordination with the *Zoning Administrator*, shall make a determination whether the *building* is historically significant or contributing, based on historic studies that may be prepared from time to time. If sufficient information is not available to make a determination, the *Building Official* may request the assistance of the Planning Commission.

(b) If a *building* is determined to be historically significant or contributing, the *Building Official* shall not issue a *demolition* permit until a period of ninety (90) days from the date of application has elapsed.

(c) If a *building* is determined to be non-contributing, the *Building Official* shall issue a *demolition* permit within a period of

ten (10) days from the date of application.

(d) Nothing in this section shall be construed as to prevent enforcement of Chapter 1480, Unsafe Buildings Ordinance.

• **Section 5.06 Visibility at Intersections.**

In any *district* except a CBD Central Business *District*, no *fence, wall, shrubbery, sign* or other obstruction to vision above a *height* of thirty-six (36) inches from the established *street grade* shall be permitted within the triangular area formed at the intersection of *street* right-of-way lines, by drawing a straight line between such right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection. See Figure 15 in the Appendix.

• **Section 5.07 Temporary Buildings and/or Uses.**

(a) A *temporary building* and/or *use* shall be reviewed in accordance with the provisions outlined in Section 3.08.

(b) The following standards shall apply to *temporary buildings* and/or *uses*:

(1) The granting of a permit for the *temporary building* and/or *use* shall in no way constitute a change in the basic *uses* permitted in the *district* or on the property where the *temporary building* and/or *use* are permitted.

(2) No temporary building shall be located on a parcel without a permanent, principal building.

(3) Temporary buildings (including tents and commercial vehicles) may not be used for commercial purposes unless the proposed building/use is incidental to an existing commercial use located on the same parcel.

(4) With the exception of Sidewalk Café Service, approval may be granted for a period not to exceed one (1) year.

(5) All temporary buildings shall comply with all setback requirements for the district in which the building is being located.

(c) Use of Property as Voting Place This Zoning Ordinance 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.

(d) Outdoor seasonal sales shall be permitted at any retail establishment, subject to the following conditions.

(1) The request for outdoor sales shall be submitted, in writing to the Zoning Administrator, prior to the beginning of the sale and shall outline the time period for the outdoor sales.

(2) Any tents being used as part of the outdoor sale shall be approved only upon the issuance of a building permit and an inspection by the Fire Marshal.

(3) All outdoor seasonal sales shall comply with the standards of Section 6.18.

• **Section 5.08 One-Family Dwellings and Pre-Manufactured Housing.**

(a) Standards.

(1) Construction Standards. Minimum *construction* standards for all *one-family dwellings* shall be pursuant to all applicable State, Federal and/or local laws, codes and ordinances.

(2) Unit Size and Dimensions. Each *dwelling unit* shall comply with the minimum square footage requirements of the zoning *district* in which it is located. Each *dwelling unit* shall have a minimum width on all elevations of twenty-four (24) feet.

(3) Foundation and Anchoring.

A. *One-family dwellings* must be installed on a permanent foundation. At a minimum, this shall include a cement *block* or poured foundation with cement footings around the complete outside perimeter of the *dwelling*. A *basement*, in accordance with applicable City Codes, may be substituted for equivalent portions of the foundation. If the foundation or *basement* does not meet specifications for imposed load capacity, adequate additional support shall be provided.

B. A crawl space of not less than twenty-four (24) inches shall be provided between the bottom of the home and the ground level. The crawl space shall not be utilized for storage purposes.

C. A minimum of two (2) exterior doors must be provided. All means of access, such as *porches*, steps and ramps, shall be fixed to the foundation of *dwellings*.

(4) Roof Design. The roof of each *dwelling unit* shall be pitched with a minimum 5:12 slope and shingled, with an overhang of not less than six (6) inches on all sides. The roof must be permanently *attached* to and supported by the *dwelling* and not by exterior supports. All *dwellings* shall have roof drainage systems concentrating roof drainage at collection points. Eaves troughs must be provided where appropriate.

Exceptions to roof design and materials may be granted when said roof design and materials are typical of a particular architectural style and/or are compatible with *dwelling units* in the surrounding area. Sealed architectural plans shall be furnished to the *Zoning Administrator* for his or her review as to this exception.

(5) Sewer and Water Service. All *one-family dwellings* shall be served by public sewer and water service, where available, or approved on-site systems in the case where public sewer and water service are not available.

(6) **Storage Areas.** All *one-family dwellings* shall contain inside storage areas equal to ten (10) percent of the square footage of the *building*, or one hundred (100) square feet, whichever is less. Such storage areas may be located in a *basement* beneath the *dwelling*, in an attic area, in one (1) or more closet areas or in an *attached* or detached *structure*, with *construction* standards and material of equal quality and durability to the principal *structure*.

(b) **Compatibility Determination.**

(1) In terms of *construction* standards, character, materials, design, appearance, aesthetics and quality, all *dwellings* shall be compatible, (i.e. meet equal or greater standards), as compared with existing *dwellings* in the area. The *Zoning Administrator* shall make the determination of compatibility in the first instance, based upon the plans, specifications and elevations that shall be presented upon application for a *building* permit. Such determination shall be made in view of the following:

A. The area of consideration. If the *dwelling* is to be located in a platted subdivision, planned unit development or *site condominium* development, it shall be compatible with the houses in the plat. If not in a platted subdivision, planned unit development or *site condominium* development, it shall be compatible with the *dwellings* within five hundred (500) feet of the property in question.

B. The square footage of floor space.

C. The length, width and *height* of the *structure*.

D. The architectural type and design, including, without limitation, exterior materials, the custom nature of the design, the roof style and the like, to the extent that the same would likely bear upon property values.

E. The attachment of *garages*.

F. Maximum *lot coverage* shall be in accordance with Section 4.07(n).

These regulations shall not be construed to prohibit innovative design concepts involving such matters as energy conscious devices, including solar energy, view, unique land contour and/or custom qualities.

(2) The *Zoning Administrator* may request a review by the Planning Commission of any *dwelling unit* with respect to this section. The *Zoning Administrator* or the 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.

• **Section 5.09 Home Occupations.**

*Home occupations* that are clearly incidental and secondary to the principal residential *use* are permitted in specific zoning *districts*; however, the following conditions shall apply:

(a) The total *floor area* utilized by the *home occupation* shall not exceed an area defined as not more than twenty-five (25) percent of the total *floor area* of any one (1) *story* of the residential premises so used.

(b) The *home occupation* shall involve no employees on the premises, other than members of the immediate *family* residing on the premises.

(c) All *home occupation* activities shall be conducted indoors, except gardening.

(d) There shall be no outside display of any kind, or other external or visible evidence of the conduct of *home occupation*. *Signs* advertising a *home occupation* are prohibited.

(e) There shall be no vehicular traffic permitted for the *home occupation*, other than that which is normally generated for a *one-family dwelling* unit in a residential area, both as to volume and type of vehicles.

(f) No *home occupation* shall be permitted which is injurious or a nuisance to the general character of the residential *district* or which creates a congested or otherwise hazardous traffic or parking condition.

(g) Any *uses* inconsistent with the *home occupation* provisions of this Zoning Ordinance shall be permitted to continue, but only until there is any change in the ownership of the land so used from and after the effective date of this section.

(h) Any *uses* inconsistent with the *home occupation* provisions of this Zoning Ordinance shall have one (1) year from and after the effective date hereof to cease and desist or to comply with this section.

• **Section 5.10 Landscaping, Greenbelts, Buffers, and Screening.**

(a) **Intent.** The intent of this section is to promote the public's health, safety, and general welfare by: minimizing noise, air, and visual pollution; improving the appearance of *off-street parking* and other vehicular *use* areas; requiring *buffering* between non-compatible land *uses*; regulating the appearance of property abutting public rights-of-way; protecting and preserving the appearance, character, and value of the community and its residential neighborhood areas; preventing soil erosion and soil depletion; and promoting soil water retention. It is further the intent of this section to ensure an appropriate mixture of *plant material*, such as evergreens, deciduous trees and shrubs, as a protective measure against insect and disease infestation and to produce a more aesthetic and cohesive design.

(b) **Application.** These requirements shall apply to all *uses* for which *site plan* review is required. No *site plan* shall be

approved unless said *site plan* depicts *landscaping*, *greenbelt buffers*, and screening consistent with the requirements set forth herein.

(c) Landscape Plan Required. A separate detailed landscape plan shall be required to be submitted as part of the *site plan* review. On sites of greater than one (1) acre, landscape plans shall be prepared and sealed by a registered landscape architect, licensed in the State of Michigan. The landscape plan shall include, but not necessarily be limited to, the following items:

(1) Location, spacing, size, and root type (bare root (BR) or balled and burlapped (BB)) and descriptions for each plant type proposed for use within the required landscape area.

(2) The minimum scale shall be 1" = 40' for property less than five (5) acres, or 1" = 100' for property five (5) acres or more. A different scale may be used provided it is sufficient to properly illustrate the landscape plan concept and that Ordinance requirements are met.

(3) On parcels of more than one (1) acre, existing and proposed contours on-site and fifty (50) feet beyond the site at intervals not to exceed two (2) feet.

(4) Typical straight cross-section, including slope, height, and width of *berms* and type of ground cover, or height and type of *construction of wall*, including footings.

(5) Significant *construction* details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.

(6) Planting and staking details in either text or drawing form to ensure proper installation of proposed *plant materials*.

(7) Identification of existing wetlands, forested areas, trees and vegetative cover to be preserved.

(8) Identification of grass and other ground cover and method of planting.

(9) Identification of landscape maintenance program, including a statement that all diseased, damaged, or dead materials shall be replaced in accordance with standards of this section.

(10) Identification of mulch in planting beds.

(d) Screening Between Land Uses.

(1) Upon any improvement for which a *site plan* is required, excluding duplexes, a landscape *buffer* shall be constructed to create a visual screen at least six (6) feet in height along all adjoining boundaries with residentially zoned or used property, as well as along all parcels abutting the I-96 corridor. A landscape *buffer* may consist of earthen *berms* and/or living materials so as to maintain a minimum *opacity* of at least eighty (80) percent. *Opacity* shall be measured by observation of any two (2) square yard areas of landscape screen between one (1) foot above the established *grade* of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three (3) years.

(2) Where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid *wall* or *fence* shall be required. Such *wall* or *fence* shall be a minimum of six (6) feet in height as measured on the side of the proposed *wall* having the higher *grade*.

A required *wall* shall be located on the *lot* line except where underground utilities interfere and except in instances where this Zoning Ordinance requires conformity with *front yard setback* requirements. Upon review of the landscape plan, the Planning Commission may approve an alternate location of a *wall*. A required *wall* may be located on the opposite side of an *alley* right-of-way from a non-residential *district* that abuts a residential *district* or *use* when mutually agreeable to affected property owners and the Planning Commission. The continuity of the required *wall* on a given *block* shall be a major consideration of the Planning Commission in reviewing such a request. The Planning Commission and the *Zoning Administrator* shall approve the *construction* materials of the *wall* or *fence*, which may include face brick, poured-in-place simulated face brick, precast brick face panels having simulated face brick, stone or wood.

(3) For *off-street parking* areas located either within a P-1 or other *district*, there shall be provided and maintained a solid *wall* of at least four (4) feet in height on those sides where the parking area abuts a residentially zoned or used property. When a *front yard setback* is required, all land between the *wall* and the *front* property line or *street* right-of-way line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and ornamental trees. The ground area shall be planted and kept in lawn.

(e) Parking Lot Landscaping. Separate landscaped areas shall be required either within or at the perimeter of parking *lots*. There shall be one (1) tree for every eight (8) parking spaces, with a minimum landscaped space within a designated parking area of fifty (50) square feet. A minimum distance of three (3) feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of the pavement. See Figures 4 and 16 in the Appendix for a depiction of *landscaping* options for parking *lots*.

(f) Greenbelt Buffers. The *greenbelt*, which is equal to the minimum required *yard setback* of its zoning classification, shall be landscaped with a minimum of one (1) tree per each thirty (30) linear feet. All *greenbelt* trees shall be no less than twelve (12) feet in height or a minimum caliper of two and one-half (2.5) inches (whichever is greater at the time of planting). The remainder of the *greenbelt* shall be landscaped with grass, ground cover, shrubs, and/or other natural landscape material. Access ways from public rights-of-way through required landscape strips shall be permitted, but such

access ways shall not be subtracted from the linear dimension used to determine the minimum number of trees required, unless such calculation would result in a violation of the spacing requirement set forth in this section. However, when an unusual or limiting hardship exists that is not self-created, the Planning Commission may waive the side and/or rear *greenbelt* requirements.

(g) Site Landscaping. In addition to any landscape *greenbelt* and/or parking *lot landscaping* required by this section, ten (10) percent of the site area, excluding existing thoroughfare right-of-way, shall be landscaped. Such site area *landscaping* may include a combination of the preservation of existing tree cover, planting of new trees and *plant material*, landscape plazas and gardens and *building* foundation planting beds. Site area *landscaping* shall be provided to screen potentially objectionable site features, such as, but not limited to, retention/detention ponds, transformer pads, air-conditioning units, and loading areas. See Figure 17 in the Appendix for a depiction of example site *landscaping*.

Up to five (5) percent of the net site area in a required landscape area may consist of landscaped areas used for storm drainage purposes, such as drain courses and retention areas, which are located in *front* or *side yards*, subject to the following conditions:

- (1) The area may not have a slope greater than one (1) on six (6).
- (2) The area within a *fenced* drain course or retention pond may not be included in the required landscape area.
- (3) Drain courses or stream bottoms may not be included in the required landscape area.
- (4) Materials used to landscape these areas must be those which will not be damaged by intermittent water conditions and shall be maintained in a healthy and growing condition as well as being neat and orderly in appearance.

(h) Landscape Elements. The following minimum standards shall apply.

(1) Quality. *Plant material* and grasses shall be of generally acceptable varieties and species, free of insects and diseases, hardy to Livingston County, conform to the current minimum standard of the American Association of *Nurserymen*, and have proof of any required governmental regulations and/or inspections.

(2) Berms. *Berms* shall be constructed with slopes not to exceed a 1:3 gradient. *Berm* slopes shall be protected with sod, seed, or other form of natural ground cover.

(3) Existing Trees. If existing *plant material* is labeled "To Remain" on *site plans* by the applicant or required by the City, protective techniques, such as, but not limited to, fencing or barriers placed at the drip line around the perimeter of the *plant material* shall be installed during *construction*. No vehicle or other *construction* equipment shall be parked or stored within the drip line of any *plant material* intended to be saved. Other protective techniques may be used provided such techniques are approved by the City.

In the event that healthy trees which are used to meet the minimum requirements of this section or those labeled to remain are cut down, destroyed, damaged, or excavated at the drip line, as determined by the City, the contractor shall replace them with trees which meet Ordinance requirements.

(4) Installation, Maintenance, and Completion. All *landscaping* required by this section shall be planted prior to obtaining a certificate of occupancy. Cash, a letter of credit, and/or a certified check may shall be placed in escrow in the amount of the cost of *landscaping* to be released only after *landscaping* is completed.

All *landscaping* and landscape elements shall be planted, and earth moving or grading performed, in a sound, workmanlike manner and according to accepted good planting and grading procedures.

The owner of property required to be landscaped by this section shall maintain such *landscaping* in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within one year of damage or death or the next appropriate planting period, whichever comes first.

(i) Screening of Trash Containers.

(1) Outside trash disposal containers shall be screened on three (3) sides with a solid *wall* no less than one (1) foot taller than the dumpster and no less than six (6) feet in height, while the fourth side shall consist of a lockable *fence* of equal height. See Figure 18 in the Appendix for a depiction of a typical trash container screen.

(2) Containers shall be consolidated to minimize the number of collection sites, and located so as to reasonably equalize the distance from the *building* they serve.

(3) Containers and enclosures shall be located away from public view insofar as possible.

(4) Containers and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby *buildings*.

(5) Concrete pads of appropriate size and *construction* shall be provided for containers or groups of containers having a capacity of six (6) thirty (30) gallon cans or more. Aprons shall be provided for loading of bins with capacity of 1.5 cubic *yards* or more.

(6) For storage of recyclable materials, the enclosure area and pad size shall be increased to amply accommodate the extra materials and their containers.



Honeylocust (seedless, thornless)										
Birch										
Sycamore										
<b>Small Deciduous Trees:</b>										
Flowering Dogwood (disease resistant)										
Flowering Cherry, Plum, Pear										
Hawthorn (thornless)										
Redbud										
Magnolia										
	<i>Minimum Size Allowable</i>						<i>Recommended On-Center Spacing (in feet)</i>			
	<i>Height</i>				<i>Caliper</i>					
<b>TREES</b>	5' - 6'	3' - 4'	2' - 3'	18" - 2'	2"	2.5"	30	25	15	10
	<i>Minimum Size Allowable</i>						<i>Recommended On-Center Spacing (in feet)</i>			
	<i>Height</i>				<i>Caliper</i>					
<b>TREES</b>	5' - 6'	3' - 4'	2' - 3'	18" - 2'	2"	2.5"	30	25	15	10
<b>Small Deciduous Trees:</b>										
Flowering Crabapple										
Mountain Ash										
Hornbeam										
Russian Olive										
	<i>Minimum Size Allowable</i>						<i>Recommended On-Center (in feet)</i>			
	<i>Height</i>				<i>Spread</i>					
<b>SHRUBS</b>	5' - 6'	3' - 4'	2' - 3'	18" - 2'	18" - 2'	6'	5' - 6'	5'	>4'	
	<i>Minimum Size Allowable</i>						<i>Recommended On-Center (in feet)</i>			
	<i>Height</i>				<i>Spread</i>					
<b>SHRUBS</b>	5' - 6'	3' - 4'	2' - 3'	18" - 2'	18" - 2'	6'	5' - 6'	5'	>4'	
<b>Large Evergreen Shrubs:</b>										
Irish Yew										
Hicks Yew										
Upright Yew										
Spreading Yew										
Pfitzer Juniper										
Savin Juniper										
Mugho Pine										
<b>Small Evergreen Shrubs:</b>										
Brown's Ward's Sebion Yew										
Dwarf Spreading Yew										
Dwarf Mugho Pine										
Euonymus varieties										
	<i>Minimum Size Allowable</i>						<i>Recommended On-Center (in feet)</i>			
	<i>Height</i>				<i>Spread</i>					



SHRUBS	5' - 6'	3' - 4'	2' - 3'	18" - 2'	18" - 2'	6'	5' - 6'	5'	>4'
	Minimum Size Allowable					Recommended On-Center (in feet)			
	Height			Spread					
SHRUBS	5' - 6'	3' - 4'	2' - 3'	18" - 2'	18" - 2'	6'	5' - 6'	5'	>4'
<b>Large Deciduous Shrubs:</b>									
Honeysuckle									
Lilac									
Border Privet (hedge planting)									
Sumac									
Buckhorn									
Pyracantha									
Weigela									
Flowering Quince									
Barberry									
Cotoneaster (Peking & Spreading)									
Sargent Crabapple									
Dogwood (Red Osier & Gray)									
Euonymus varieties									
Viburnum varieties									
Tall Hedge (hedge planting)									
<b>Small Deciduous Shrubs:</b>									
Dwarf Winged									
Regal Privet									
Fragrant Sumac									
Japanese Quince									
Cotoneaster (Rockspray)									
Potentilla									

• Section 5.11 *Fences and Walls.*

A. Residential Through and Interior Lots. A fence or wall not more than six (6) feet in height may be constructed in a required rear or side yard, and a fence or wall not more than thirty-six (36) inches in height may be constructed in the required front yard (e.g. along the property line). For buildings existing within the required front setback, the thirty-six (36) inch height restriction shall be in line with the adjacent house farthest from the front property line. However, the posts or columns associated with a thirty-six (36) inch fence may be forty-eight (48) inches tall.

B. Residential Corner Lots. A fence or wall shall be subject to the height requirements of Section 5.06, which details the clear space requirements for visibility at the intersection. Additionally, a fence or wall located within the addressed side of the front yard and outside of the clear space may be not more than thirty-six (36) inches in height while along the nonaddressed required front yard the fence or wall may be forty-eight (48) inches in height. For buildings existing within the required front setback, the height restrictions shall be in line with the adjacent house farthest from the front property line. Fences along the rear yard may be six (6) feet in height as noted for residential through and interior lots.

C. Nonresidential Lots. A fence or wall not more than six (6) feet in height may be constructed in a required rear or side yard, except as permitted elsewhere in this Chapter. For buildings existing within the required front setback, the height restrictions shall be in line with the front line of the existing building.

D. Exceptions. Municipal or other governmental uses are exempt from the fence and wall restrictions.

• Section 5.12 *Essential Services.*

Essential services are permitted as authorized and regulated by law and other ordinances of the City, it being the intention

of this section to exempt such *essential services* from the application of this Zoning Ordinance.

• **Section 5.13 Outdoor Storage of Commercial/Industrial Equipment and Vehicles.**

(a) The outdoor storage of commercial/industrial equipment and vehicles, when not intended for resale, is only permitted within the I-1, Light Industrial and I-2, General Industrial zoning districts. In all other districts, the storage of equipment and vehicles, when not intended for resale shall be within a fully enclosed structure.

(b) All areas intended for outdoor storage shall be designated as such on the site plan.

(c) The designated outdoor storage area shall be screened from view by no less than an eight (8) foot fence or solid wall and/or a double staggered row of eight (8) foot tall evergreens planted to ensure an 80% opacity.

(d) No equipment and/or vehicles shall be visible from the adjacent property and/or roadway.

(e) Semi-trailers and other similar vehicles may not be used as temporary storage facilities unless associated with a freight terminal, trucking/cartage facility, and/or truck and industrial equipment storage yards for which they may remain on-site for no more than seven (7) consecutive days. All such vehicles shall remain operable and licensed during the time they remain on the property.

(f) All outdoor storage areas shall be paved with a hard surface and curbed to ensure adequate containment in the event a contaminant spills while stored on site.

(g) No outdoor storage shall be permitted within the front yard and shall be setback no less than fifty (50) feet from any non-industrial property line and from all perimeter roadways.

(h) No less than one (1) acre of land shall be required to operate all such uses.

(i) When intended as a temporary building and/or use, the provisions of Section 5.07 shall apply.

• **Section 5.14 Residential Occupancy.**

(1) Intent. This section is intended to reasonably regulate the number of persons who can live in a residential dwelling unit. The City finds that occupancy limits are needed to provide density control; preserve and enhance residential neighborhoods as stable, quiet places for citizens to live and raise children; protect safety and welfare; and maintain property values. Such limits are also needed to ensure that there are adequate public and private facilities including adequate offstreet parking, utilities, and adequate lot size to accommodate the residents of each dwelling unit without impairing the character of the neighborhood. The City also finds there are a number of residential living arrangements other than the traditional biological family arrangement. This section is intended also to accommodate those alternative living arrangements.

(2) A dwelling unit may not be occupied by more persons than 1 of the following family living arrangements:

(a) A family.

(b) A domestic unit living as a single housekeeping unit which has received either administrative approval from the Zoning Administrator (domestic units with two or fewer members) or a Special Land Use Permit pursuant to Section 8.03.

(3) In addition to the standards of Section 3.03, a special land use permit for a domestic unit with three or more occupants is subject to the following standards and regulations:

(a) It must meet the definition of Domestic Unit in Section 2.02.

(b) Two offstreet parking spaces must be provided. Additional parking spaces may be required by the Planning Commission if any of the following conditions are met:

i. Street parking available for visitor parking is limited.

ii. The petitioner intends to park more than 2 vehicles regularly on the site and there is limited area available for tandem parking in a driveway. In order for the Planning Commission to determine if adequate parking will be provided, the petitioner must submit a plan indicating the location of proposed offstreet parking and an analysis of public parking provided within a 300-foot radius of the parcel.

(c) The permit shall apply only to the domestic unit which obtained the permit and shall be limited to the number of persons specified in the permit.

(d) There is a contact person who will act as head of household in relating to the City.

(4) The Zoning Board of Appeals may grant a variance from the standards of this section if it is reasonably necessary to give a handicapped person (as defined in 42 USC Section 3602) equal opportunity to use and enjoy a dwelling.

(5) The occupancy limits of this section do not apply to rooming or boarding houses, fraternity or sorority houses, student cooperatives, emergency shelters, or convalescent homes.

• **Section 5.15 Garage Sales.**

(1) Garage sales are permitted on all residentially zoned property in the City for homeowners or tenants to sell household

items. General retailers and resellers are not permitted to operate under the garage sale provisions.

(2) No more than three (3) garage sales are permitted in any calendar year and seven (7) days must pass between each consecutive sale.

(3) Sales are permitted for no more than four consecutive days between the hours of 8 am and 6 pm.

(4) Sale items cannot be stored outside overnight prior to the start of the sale and must be moved inside of a structure upon the completion of a sale.

(5) During the sale, precautions must be taken to prevent items from blowing onto neighboring properties.

(6) Motor vehicles, alcohol, and food items are prohibited to be sold through garage sales.

• **Section 5.16 Residential Units in Mixed Use Buildings.**

(1) First Floor Uses. Due to the potential for incompatibilities of use when a residential dwelling unit is located on the first floor of a building in a non-residential area, certain criteria must be satisfied as part of the special land use request. The criteria associated with a first floor residential use include the following:

A. The front facade of the building shall be designed to be compatible with the adjacent structures when located in a predominantly nonresidential area.

B. Only one driveway will be permitted for the structure unless located on a corner lot.

C. The required parking shall be provided on-site and located within the rear of the property.

D. All such containers shall be located within an enclosure situated within the rear of the property.

E. A residential use shall not occupy more than 50% of the gross first floor area.

(2) Upper Floor Uses. A residential use located above a first floor office or commercial use is permitted through the special land use process, and subject to the requirements of subsection (1) A through D above.

(3) Basement Uses. Residential uses shall not be permitted as a basement use in a mixed-use building.

• **Section 5.17 Collection Boxes.**

(1) Collection Bin Permit. No later than 90 days from the effective date of this section, no person shall place, operate, maintain, or allow any Collection Bin on any real property in the City of Howell without first obtaining a permit issued by the City Manager, or their designee.

(2) Permit Application.

(a) Any person desiring to secure a permit for a Collection Bin in the City of Howell shall make an application to the Community Development Department.

(b) A permit shall be obtained for each Collection Bin proposed. A separate fee shall be paid for each Collection Bin.

(c) The application for a permit shall be upon a form provided by the Community Development Department and shall require the following information:

i. The signature of an individual who is an officer, director, manager, or member of the applicant entity.

ii. The name, address, and email address of all partners of a partnership, all members of an LLC, all officers and directors of a non-publicly traded corporation, all stockholders owning more than 5% of the stock of a non-publicly traded corporation, and/or any other person who is financially interested directly in the ownership or operation of the business, including all aliases.

iii. Location of any previously approved permits for Collection Bins or unlicensed Collection Bins within the City.

iv. Name, address, email, and telephone number of a contact person for all matters related to the Collection Bin during the application and once licensed.

v. The physical address of the real property where the Collection Bin is proposed to be located.

vi. A scaled drawing sufficient to illustrate the proposed location of the Collection Bin on the real property and the dimensions of the proposed Collection Bin.

vii. A picture of rendering of the proposed Collection Bin.

viii. An affidavit, on a form provided by the Community Development Department, signed by the real property owner providing written permission for the Collection Bin on the property. This affidavit shall be executed by the same individual signing the application under subsection (i) above.

(d) A nonrefundable fee in an amount established by resolution of the City Council shall accompany all applications for Collection Bins.

(e) The City Manager, or their designee, shall approve or deny the application within ten days of the submittal of a

complete application, with specific reasons for denial stated in writing.

(f) No person to whom a permit has been issued shall transfer, assign, or convey such permit to another person or legal entity.

(3) Permit Requirements. A permittee shall operate and maintain, or cause to be operated and maintained, all Collection Bins located in the City for which the permittee has been granted a permit as follows:

(a) Collection Bins shall be metal and maintained in a good physical condition and appearance, with no structural damage, holes, or visible rust, and shall be free from all graffiti, stickers, or other exterior markings not shown on the permit application.

(b) All Collection Bins shall be locked or otherwise secured in such a manner that the contents cannot be accessed by anyone other than those responsible for the retrieval of the contents.

(c) There shall be, in at least one-half inch lettering on the front of each Collection Bin, the name, address, email, website, and phone number of the operator, as well as whether or not the Collection Bin is owned and operated by a for-profit or a not for profit company.

(d) No other information, advertising, or logos other than those related to the operator and shown on the permit application shall be permitted on the Collection Bin.

(e) At least every 30 days, or sooner as needed, Collection Bins shall be serviced and emptied.

(f) The permitted and property owner shall maintain, or cause to be maintained, the area immediately surrounding the Collection Bins free from any junk, debris, overflow items, or other material. The property owner shall be responsible for the City's cost to abate any nuisance.

(4) Collection Bin Standards. The following standards shall apply to the approval of all Collection Bins located within the City of Howell.

(a) Collection Bins are not permitted on any residentially zoned property or any land used for residential purposes.

(b) No Collection Bin shall be permitted on any unimproved parcel.

(c) If the principal use of any parcel has been closed or unoccupied for more than 30 days, all Collection Bins located on the parcel shall be removed.

(d) No more than two Collection Bins, both of which must be owned by the same permittee, may be permitted on a single parcel of record. They may be placed side by side, no more than one foot apart.

(e) There shall be a 1,000-foot separation between Collection Bins, measured as a straight line from one Collection Bin to another.

(f) Collection Bins shall be no more than seven feet in height, six feet in width, and six feet in depth.

(g) No visual obstruction to vehicular or pedestrian traffic shall be caused by the placement of any Collection Bin.

(h) A ten-foot setback is required from all public rights-of-way, driveways, and any adjacent residential property.

(i) No setback is required from private sidewalks if five feet of clearance is maintained.

(j) Fire lanes and building exits shall not be impeded by the placement of a Collection Bin.

(k) Collection Bins shall not be placed on or interfere with any access drive, off-street parking space, or parking lot maneuvering lane, nor shall any Collection Bin cause a safety hazard or unnecessary inconvenience to vehicular or pedestrian traffic.

(l) All Collection Bins shall be placed on a level surface paved with either asphalt or concrete.

(5) Term and Renewal of Permits.

(a) All permit years shall begin on January 1 in each year and shall terminate on December 31 of the same calendar year. An annual permit issued between those dates shall expire on December 31 of the same calendar year.

(b) Collection Bin permits shall be renewed on an annual basis. The application form must be submitted no later than 30 days before the expiration of the permit.

(c) The City Manager, or their designee, shall approve or deny the renewal application within ten days of the submittal of a complete application, with specific reasons for denial stated in writing. Failure of the City Manager, or their designee, to act within ten days shall constitute approval of the renewal of the permit.

(d) A permit renewal fee set by resolution of the City Council shall be submitted with the application for renewal.

(e) The permittee may voluntarily cancel a permit at any time by notifying the City Manager, in writing, of the intent to cancel the permit. A permit shall become void upon the receipt of such notice.

(f) Renewal requests shall be approved if the City Manager, or their designee, finds no circumstances existed during the term of the permit that would cause a violation to exist and that at the time of the submission of the application for

renewal, or at any time during the renewal process, there were no circumstances inconsistent with any finding required for approval of a new permit.

(g) Any permittee whose permit has been revoked shall be denied renewal of the permit for the subsequent calendar year.

(h) If a permit expires and is not renewed, the Collection Bins must be removed from the real property within ten days after the expiration of the permit.

(6) Revocation of Permit, Removal of Collection Boxes, and Liability.

(a) The City Manager shall have the right to revoke any permit issued hereunder for a violation of this section. Any of the grounds upon which the City Manager may refuse to issue an initial permit shall also constitute grounds for such revocation. In addition, the failure of the permittee to comply with the provisions of this section or other provisions of this Code or other law shall also constitute grounds for revocation of the permit. The City Manager shall provide a written notification to the permittee and property owner stating the specific grounds for a revocation and a demand for correction and abatement. The notice shall allow a maximum of ten days from mailing of the notice to correct or abate the violation. Upon failure to make the correction or abatement, the permit shall be revoked by the City Manager.

(b) Upon revocation, the Collection Bin shall be removed by the real property within ten days and, if not so removed within the time period, the City may remove, store, or dispose of the Collection Bin at the expense of the permittee and/or real property owner. All costs associated with the removal of the Collection bin incurred by the City or the City's contractor shall be the responsibility of the property owner. If such obligation is not paid within 30 days after mailing a bill of costs to the property owner, the City may place a lien upon such real property enforceable as a tax lien in the manner prescribed by the general laws of this state against the property and collected as in the case of general property tax. If the same is not paid prior to the preparation of the next assessment roll of the City, the amount shall be assessed as a special tax against such premises on the next assessment roll and collected thereunder.

(c) A permit for a Collection Bin may be revoked if any governmental authority or agency determines that the Collection Bin has violated the Michigan Consumer Protection Act and/or the Charitable Organizations and Solicitations Act.

(7) Appeals. Any person aggrieved by the decision rendered by the City Manager, or their designee, in granting or denying an application for a permit under this section or in revoking a permit issued under this section may appeal the decision to the Board of Zoning Appeals. The appeal shall be made by filing written notice of appeal not later than ten days after receiving notice of the decision of the City Manager. The Board of Zoning Appeals may grant relief only if the applicant presents clear and convincing evidence that there was an error in the decision of the City Manager.

(8) Penalties and Remedies.

(a) In addition to revocation of the permit provided in Section (6) above, any person violating the provisions of this section is guilty of a Civil Infraction, pursuant to Chapter 208 of the City code.

(b) Any condition caused or permitted to exist in violation of the provisions of this section, or any other ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.

(c) Nothing in this section shall prevent the City from pursuing any other remedy provided by law in conjunction with or in lieu of prosecuting persons for violations of this Section.

(d) The real property owner and permittee shall be jointly and severally liable for each violation and for payment of any fine and costs of abatement.

(e) No fines shall be imposed for a violation of this section until 90 days after its effective date. All Collection Bins existing as of the effective date of this Section shall apply for a permit as required herein within 30 days of the effective date. Any Collection Bins not in compliance with this section after 90 days of the effective date shall be subject to all remedies for violations as provided herein.

## ARTICLE 6

### SPECIFIC USE PROVISIONS

• **Section 6.01 Intent.**

The intent of this Article is to provide for those regulations that are applied to special land uses as identified in Article 4.

• **Section 6.02 *Child and Adult Day-Care Facilities.***

(a) *Family day-care homes* serving six (6) or fewer children shall be considered a residential use of property and a permitted use in all residential districts. The *family day-care home* shall receive minor children for care and supervision for periods of less than twenty-four (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. Such facilities also include homes that give care to an unrelated minor child for more than four (4) weeks during a calendar year.

(b) *Child group day-care homes* with greater than six (6) children are subject to the following:

(1) The proposed use of the residence for *group day-care* shall not change the essential character of the surrounding

residential area, and shall not create a nuisance of the surrounding residential area, and shall not create a nuisance relating to vehicular parking, noise, or additional congestion in excess of residential *uses* in the *district*.

(2) There shall be an outdoor play area of at least five hundred (500) square feet provided on the premises. Said play area shall not be located within the *front yard*. This requirement may be waived by the Planning Commission if a public play area is within five hundred (500) feet of the subject parcel.

(3) All outdoor play areas shall be enclosed by *afence* that is designed to discourage climbing, and is at least four (4) feet in height, but no higher than six (6) feet.

(4) The hours of operation do not exceed sixteen (16) hours within a twenty-four (24) hour period. Activity between the hours of 10:00 PM and 6:00 AM shall be limited so that the drop-off and pick-up of children is not disruptive to neighboring residents.

(5) Appropriate licenses with the State of Michigan shall be maintained.

(6) The granting of the special land *use* application shall not impair the health, safety, welfare, or reasonable enjoyment of adjacent or nearby residential properties.

(c) *Child day-care centers*, are subject to the following conditions:

(1) The property is maintained in a manner that is consistent with the character of the area.

(2) A separate drop-off and pick-up area shall be provided adjacent to the *main building* entrance, located off a public *street* and the parking access lane, and shall be of sufficient size so as to not create congestion on the site or within a public roadway.

(3) There shall be an on-site outdoor play area of the greater of one thousand five hundred (1,500) square feet or seventy-five (75) square feet for each child. Said play area shall not be located within the *front yard*. This requirement may be waived by the Planning Commission if a public play area is available within five hundred (500) feet from the subject parcel.

(4) All outdoor play areas shall be enclosed by *afence* that is designed to discourage climbing and is at least four (4) feet in height, but no higher than six (6) feet.

(5) For each child, a center shall have a minimum of fifty (50) square feet of indoor activity space for use by, and accessible to, the child, exclusive of all of the following: hallways, storage areas and cloakrooms, kitchens and reception and office areas.

(6) Appropriate licenses with the State of Michigan shall be maintained.

(d) *Adult day-care home* with greater than six (6) adults is subject to the following:

(1) The proposed use of the residence for *group day-care* shall not change the essential character of the surrounding residential area, and shall not create a nuisance in fact or law relating to vehicular parking, noise, or additional congestion in excess of residential *uses* in the *district*.

(2) Where outdoor areas are provided, they shall be enclosed by *afence* that is at least four (4) feet in height, but no higher than six (6) feet.

(3) The hours of operation do not exceed sixteen (16) hours within a twenty-four (24) hour period. Activity between the hours of 10:00 PM and 6:00 AM shall be limited so that the drop-off and pick-up is not disruptive to neighboring residents.

(4) Appropriate license with the State of Michigan shall be maintained.

(e) *Adult day-care centers* are subject to the following conditions:

(1) The property is maintained in a manner that is consistent with the character of the neighborhood.

(2) A separate drop-off and pick-up area shall be provided adjacent to the *main building* entrance, located off a public *street* and the parking access lane, and shall be of sufficient size so as to not create congestion on the site or within a public roadway.

(3) Where outdoor activity areas are provided, they shall be enclosed by *afence* that is at least four (4) feet in height but no higher than six (6) feet.

• **Section 6.03 Housing for the Elderly and Nursing Homes/Convalescent Centers.**

(a) *Housing for the elderly* shall comply with the following conditions:

(1) All *housing for the elderly* shall provide for the following:

A. Independent Living for the Elderly. *Dwellings* may be provided for as *one-family detached*, *two-family* or *multiple family units*. The minimum site area requirements for purpose of calculating density shall be as follows:

Dwelling Unit Size      Site Area/Unit (sq. ft.)

*Efficiency/One Bedroom*      2,000

Two Bedroom 4,000

Each additional bedroom 500

B. Assisted Living for the Elderly. Where such facilities contain individual *dwelling units* with kitchen facilities, the density requirements set forth in Section 6.03(a) shall apply. Where facilities do not contain kitchen facilities within individual *dwelling units*, the site area per bed shall be two hundred (200) square feet.

C. Both independent and assisted living facilities shall be contained within a *building* which does not exceed two hundred and fifty (250) feet in overall length, measured along the *front* line of connecting units, inclusive of any architectural features which are *attached* to or connect the parts of the *building* together. The Planning Commission may permit *buildings* of greater length when it can be demonstrated that architectural design and natural and topographic features ensure that the *building* is in scale with the site and surrounding areas.

D. *Building setbacks* shall comply with the following:

i. *Perimeter setbacks* shall be no less than seventy-five (75) feet from the *front* property line and fifty (50) feet from all other property lines.

ii. *Internal setbacks* for one and *two-family dwellings* located on an individual *lot* shall be as follows:

*Front* 25 feet

*Rear* 35 feet

*Least Side* 7.5 feet

*Total Side/Between Buildings* 20 feet

iii. *Internal setbacks* for one and *two-family dwellings* not located on an individual *lot* shall be as follows:

*Multiple One/Two-*

*Family Family*

*Internal Drives/Streets* 25 25

*Side/Side Orientation* 30 20

*Side/Front, Side/Rear* 30 35

*Front/Front, Front/Rear, Rear/Rear* 50 50

E. Minimum Floor Area. Each *dwelling unit* shall comply with the following minimum *floor area* requirements, excluding *basements*:

Dwelling Type Floor Area (sq. ft.)

Assisted Living Unit Independent Living Unit

*Efficiency* 400 500

*One Bedroom* 550 650

*Two Bedroom* 700 800

*Additional bedroom* 150 per 150 per

F. Building Height. The maximum height of a *building* is two (2) stories or thirty-five (35) feet. The Planning Commission may at its discretion, permit up to three (3) stories only if the following conditions are met:

i. The site contains significant natural resources such as slopes or wetlands.

ii. No increase in density shall be allowed.

iii. Approval by the Fire Department is required.

iv. An increased *front*, *rear* and *side yard setback* distance and spacing requirements between *buildings*. The extent of increase, if any, for each *setback* measurement shall be established as part of the approval of the Planning Commission.

v. In no event shall the maximum height of any such *building* exceed thirty-five (35) feet as calculated in accordance with the terms of this Ordinance.

G. Open Space/Recreation. Open space and recreation shall be provided in accordance with the following requirements:

i. Total open space required shall be a minimum of fifteen (15) percent of the site.

ii. Recreation facilities shall be appropriate and designed to meet the needs of the resident population. Active recreation shall be located conveniently in relation to the majority of *dwelling units* intended to be served.

H. Accessory Uses. Support uses offered solely to residents may be permitted provided they are contained within the principal *building* and are strictly accessory to the *principal use* as an elderly residential facility. Such support may include: congregate dining; health care; personal services; and social, recreational, and educational facilities and programs.

(b) Nursing homes and convalescent centers shall comply with the following conditions:

(1) Minimum *lot* size shall be based upon no less than two thousand (2,000) square feet per bed.

(2) The site shall be so developed as to create a *land-to-building* ratio on the *lot* or parcel whereby for each bed in the *nursing homes/convalescent centers* there shall be provided not less than one thousand five hundred (1,500) square feet of open space. Such space shall provide for landscape setting, *off-street parking*, service drives, loading space, *yard* requirements, employee facilities and any space required for *accessory uses*. The one thousand five hundred (1,500) square foot requirement is over and above the *building* coverage area requirement.

(3) No *building* shall be closer than forty (40) feet from a property line.

(4) The *lot* location shall be such that at least one (1) property line abuts a *collector street*, secondary thoroughfare, or primary thoroughfare. More than one (1) point of vehicle ingress and egress shall be provided directly from said thoroughfare.

(5) Area for access of emergency vehicles shall be provided for each primary *building* entrance.

• Section 6.04 Child and Adult Foster Care Facilities.

(a) Intent. It is the intent of this section to establish standards for *child* and *adult foster care facilities* that will insure compatibility with adjacent *land uses* and maintain the character of the neighborhood.

(b) Child Foster Care Facilities

(1) *Foster family homes* serving less than four (4) children shall be considered a residential *use* of property and a permitted *use* in all residential *districts*. Such facilities shall provide no less than forty (40) square feet of sleeping room per child with all other requirements provided in accordance with the applicable State standards.

(2) *Foster family group homes* serving between four (4) and eight (8) children under the age of seventeen (17), no more than two (2) of which may be under the age of one (1), shall be considered as a special *land use* subject to the requirements and standards of Section 3.03 and the following standards:

A. The proposed *use* of the residence for *foster family care* shall not change the essential character of the surrounding residential area, and shall not create a nuisance of the surrounding residential area, and shall not create a nuisance relating to vehicular parking, noise, or additional congestion in excess of residential *uses* in the *district*.

B. There shall be an outdoor play area of at least one thousand (1,000) square feet provided on the premises. Said play area shall not be located within the *front yard*. This requirement may be waived by the Planning Commission if a public play area is available within five hundred (500) feet from the subject parcel.

C. All outdoor play areas shall be enclosed by a *fence* that is designed to discourage climbing, and is at least four (4) feet in height, but no higher than six (6) feet.

D. Appropriate licenses with the State of Michigan shall be maintained.

(c) Adult Foster Care Facilities

(1) Application of Regulations.

A. A State licensed *adult foster care small group home* serving six (6) persons or less and *adult foster care family home* shall be considered a residential *use* of property and a permitted *use* in all residential *districts*.

B. The City may, by issuance of a special *land use* permit, authorize the establishment of *adult foster care small group homes* serving more than six (6) persons and *adult foster care large group homes*.

C. The City may, by issuance of a special *use* permit, authorize the establishment of a *adult foster care congregate facility*.

(2) *Adult foster care small group homes* serving between seven (7) and twelve (12) adults and *adult foster care large group homes* serving between thirteen (13) and twenty (20) adults, shall be considered as a special *land use* subject to the requirements and standards of Section 3.03 and the following additional standards:

A. The subject parcel shall meet the minimum *lot area* requirements for the zoning *district* in which it is located, provided there is a minimum site area of one thousand five hundred (1,500) square feet per adult, excluding employees and/or care givers.

B. The property is maintained in a manner that is consistent with the character of the neighborhood.

C. Appropriate licenses with the State of Michigan shall be maintained.

(3) *Adult foster care congregate facilities* shall be considered as a special *land use* subject to the requirements and standards of Section 3.03 and the following standards:



A. The subject parcel shall meet the minimum *lot area* requirements for the zoning *district* in which it is located, provided there is a minimum site area of one thousand five hundred (1,500) square feet per adult, excluding employees and/or caregivers.

B. Appropriate licenses with the State of Michigan shall be maintained.

• **Section 6.05 Self-Storage Facilities.**

*Self-storage facilities* are subject to the following conditions:

(a) No activity other than rental of storage units shall be allowed. No commercial, retail, industrial or other business *use* shall be operated from the facility. Examples of prohibited activities (commercial or personal) include but are not limited to:

(1) Auctions, retail sales and/or miscellaneous or garage sales.

(2) The servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, furniture, machinery or other similar property.

(3) The operation of power tools, painting equipment, compressors, welding equipment or similar tools and equipment.

(4) The storage of any toxic, explosive, corrosive, flammable or hazardous material is prohibited. Fuel tanks on any motor vehicle, boat, lawn mower or similar property will be drained or removed prior to storage. Batteries will be removed from vehicles before storage and shall not be stored within units under any circumstances.

(5) The storage of goods needed or used on a regular basis as part of a business and/or the storage of perishable materials, unless otherwise permitted by the Planning Commission as a special land *use* subject to the standards of this subsection and Section 3.03.

(b) All storage shall be contained within a *building*.

(c) No *structure* may exceed one (1) *story* in height.

(d) Exterior *walls* of all storage units that abut a residentially zoned area shall be of masonry *construction*.

(e) The total *lot coverage* by *structures* shall be limited to fifty (50) percent of the total *lot area*.

(f) Drives and loading areas shall be designed as follows:

(1) The distance between storage unit *buildings* shall be a minimum of twenty-four (24) feet.

(2) All storage units must be accessible by a safe circular drive clearly marked to distinguish direction. Furthermore, the applicant must demonstrate that fire and emergency vehicles and other vehicles that would typically utilize such a facility can access and circulate through the site adequately. Sufficient area and turning radii shall be provided between and at the end of storage units to accommodate large fire vehicles and trucks requiring access to and circulation within the site.

(g) Where a *self-storage facility* abuts a residentially zoned or used property, all *buildings* and drives for ingress to and egress from the facility shall have a *setback* of a minimum of fifty (50) feet from the property line. This *setback* area shall be landscaped and meet the minimum screening requirements set forth in Section 5.10.

• **Section 6.06 Outdoor Sales of Automobile or Vehicles.**

(a) Outdoor sales of new and used *automobiles* shall be subject to the following requirements:

(1) Separation shall be made between the internal pedestrian sidewalk and internal vehicular parking and maneuvering areas with the *use* of curbs, wheel stops, or traffic islands.

(2) All activities related to vehicle washing, service and repair equipment shall be entirely enclosed within a *building*. All such activities shall only be permitted on vehicles yet to be sold.

(3) Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner which is compatible with *uses* located adjacent to and across from the site.

(4) Inoperative or unlicensed vehicles or discarded or salvaged materials shall not be stored outside.

(5) Vehicle sales shall not be permitted on the premises of any *automobile service station*, *automotive wash* or *automobile or vehicle repair garage*.

(6) No *banners* or *flags* are permitted except as permitted in Article 7, Section 7.08.

(7) A landscaped *greenbelt* measuring a minimum of twenty (20) feet in width shall be provided along all parcel perimeters. No vehicles or merchandise shall be displayed within the required *greenbelt*.

(8) There shall be no broadcast of continuous music and/or announcements over any loudspeaker or public address system.

(9) The *automobile* sales agency must be located on a site having *frontage* of no less than two hundred and fifty (250) contiguous feet and area of no less than one (1) acre.

(10) All such uses shall be screened along the public road frontage through the use of a decorative three (3) foot *wall* and/or *berm*. These provisions are in addition to the greenbelt planting requirements in Section 5.10.

(b) Outdoor sales of new and used boats, *manufactured homes*, *recreational equipment*, commercial lawn care, *construction* machinery and other similar vehicles, shall be subject to the following requirements:

(1) Separation shall be made between the internal pedestrian sidewalk and internal vehicular parking and maneuvering areas with the *use* of curbs, wheel stops, or traffic islands.

(2) No vehicle washing, service and/or repair may be completed on site.

(3) Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner which is compatible with *uses* located adjacent to and across from the site.

(4) Inoperative equipment, discarded or salvaged materials shall not be stored on site.

(5) No *banners* or *flags* are permitted except as permitted in Article 7, Section 7.08.

(6) A landscaped *greenbelt* measuring a minimum of thirty (30) feet in width shall be provided along all non-road perimeters while twenty (20) foot *greenbelt* is required along all road perimeters. No vehicles or merchandise shall be displayed within the required *greenbelt*.

(7) There shall be no broadcast of continuous music and/or announcements over any loudspeaker or public address system.

(8) The sales agency must be located on a site having *frontage* of no less than two hundred fifty (250) contiguous feet and area of no less than one and a half (1.5) acres.

(9) All such uses shall be screened along the public road frontage through the use of a decorative three (3) foot *wall* and/or *berm*, along with no less than six (6) foot tall large species evergreen (i.e., spruce, fir, pine) planted in a staggered pattern no less than fifteen (15) feet on center.

#### • Section 6.07 Public, Parochial and Private Schools.

Public, parochial and private schools are subject to the following conditions:

(a) *Buildings* of greater than the maximum permitted height of the zoning *district* may be allowed, provided that *front*, side and *rear yards* are increased above the minimum requirements by one (1) foot for each foot of *building* that exceeds the maximum height allowed.

(b) The proposed site shall have direct access and egress only to or from an existing or planned major thoroughfare or *collector street*.

(c) All such *buildings* located within a subdivision shall be designed to be compatibility with the character of the neighborhood.

(d) Where school grounds adjoin public parks, playgrounds or playfields, the minimum area and width requirements may be reduced by no more than half provided the public park, playground or playfield is an adjoining parcel and not separated by a public *street*.

(e) Adequate *off-street parking* shall be provided to accommodate both staff, students and visitors to ensure that no *on-street* parking is required. Therefore a portion of the site shall be dedicated as a parking easement in the event that insufficient spaces are provided on-site.

(f) All sites shall be landscaped in accordance with Section 5.10 and screened from adjoining residential *uses*.

(g) Additional conditions for private and parochial schools located in HL-1 District:

(1) The school shall not generate the need for more parking than an office of similar size based on square feet of floor area.

(2) The school shall not generate more trips (based on the International Traffic Engineer's trip generation standards) than a similarly sized office use.

(3) A pick up and drop off area shall be provided adjacent to the main entrance of sufficient size and with sufficient stacking so to avoid creating congestion on any adjacent public street.

(4) Vehicular access to the school shall be provided solely from Grand River or Michigan Ave.

(5) Recreation facilities, such as playgrounds or playfields, shall be screened from neighboring residential properties in accordance with Sec. 5.10(d).

(6) All outdoor activities shall be held no earlier than 7am and no later than 10pm.

(7) Exterior lighting shall meet the standards set forth in Sec. 8.05.

#### • Section 6.08 Municipal Office Buildings.

Municipal office *buildings* are subject to the following conditions:

- (a) All *structures* shall be in character with the neighborhood.
- (b) Direct access and egress only to and from an existing or planned major thoroughfare or *collector street*.

• **Section 6.09 Churches and Other Incidental Facilities.**

*Churches* and other facilities normally incidental thereto are subject to the following conditions:

- (a) Direct access and egress only to and from an existing or planned major thoroughfare or *collector street*.
- (b) Existing *churches* and *church* lands purchased before the effective date of this Ordinance and not meeting these requirements shall not be prevented from constructing and/or expanding their facilities and, for the purpose of this Zoning Ordinance, shall not be considered *nonconforming*.
- (c) The principal *buildings* on the site shall be *setback* from abutting properties zoned for residential *use* not less than twenty-five (25) feet.
- (d) *Buildings* of greater than the maximum height allowed in the zoning *district* may be allowed, provided that *front*, side and *rear yards* are increased above the minimum requirements by one (1) foot for each foot of *building* that exceeds the maximum height allowed.

• **Section 6.10 Utilities and Public Service Buildings and Uses.**

All utility and public service *buildings* and *uses* (excluding transformers, phone and cable boxes) are subject to the following conditions:

- (a) Storage *yards* are permitted provided they are screened in accordance with Section 5.10.
- (b) All *buildings* or *structures* shall comply with the *setback* provisions identified in the applicable zoning *district*.

• **Section 6.11 Golf Courses, Country Clubs, Recreation Centers and Swim Clubs.**

Golf courses, country *clubs*, recreation centers and swim *clubs*, are subject to the following conditions:

- (a) All ingress to and egress from such site shall be directly by an existing or planned major thoroughfare or *collector street*.
- (b) *Front*, side and *rear yards* shall be at least eighty (80) feet wide, except on those sides adjacent to residential *districts*, when all *structures* shall be *setback* no less than two hundred (200) feet from the *lot* line of the adjacent residential land.
- (c) Golf courses may include accessory *clubhouses*, driving ranges, pro shops and maintenance *buildings*, while country *clubs*, recreation centers and swim *clubs* may include accessory *clubhouses* and maintenance *buildings*, provided all such *buildings* shall not exceed one (1) *story* in height.
- (d) All pool areas shall be screened in accordance with the *Building Code*.
- (e) All outdoor sound systems shall be specifically reviewed by the Planning Commission to ensure that it does not impact adjacent land *uses*. In no case shall such speakers be directed towards residentially zoned or used property.
- (f) The Planning Commission may impose additional restriction or requirement so as to ensure that contiguous residential areas will be adequately protected.

• **Section 6.12 Public and Private Colleges, Universities and Other Such Institutions of Higher Learning.**

All colleges, universities and other such institutions of higher learning, public and private, are subject to the following conditions:

- (a) All sites shall be landscaped in accordance with Section 5.10 and screened from adjacent residential *uses*.
- (b) The proposed site shall have a minimum of two hundred (200) feet *offfrontage* on an existing or planned major thoroughfare. All ingress and egress from such site shall be directly from an existing or planned major thoroughfare.
- (c) All *structures* shall be *setback* no less than seventy-five (75) feet from the property line, but no less than two hundred (200) feet from the *lot* line of any adjacent residential land.
- (d) *Buildings* of greater than the maximum permitted height of the zoning *district* may be allowed, provided that *front*, side and *rear yards* are increased above the minimum requirements by one (1) foot for each foot of *building* that exceeds the maximum height allowed.

• **Section 6.13 Cemeteries.**

Cemeteries are subject to the following conditions:

- (a) A cemetery shall consist of no less than five (5) acres of land.
- (b) *Accessory buildings*, which includes but is not limited to *mausoleums*, *crematoriums*, *columbariums*, maintenance

*buildings* and care tenders homes, shall be *setback* no less than three hundred (300) feet from all perimeter parcel lines.

(c) Grave sites shall be *setback* no less than fifty (50) feet from all perimeter parcel lines.

(d) All access shall be provided only from an existing or planned major thoroughfare or *collector street*.

• **Section 6.14 *Bed and Breakfast Accommodations.***

*Bed and breakfast* accommodations are subject to the following conditions:

(a) Each premises must be occupied and operated by its owner.

(b) The proposed *use* shall not cause a nuisance to adjoining residences due to noise, odor, lighting or traffic.

(c) No *bed and breakfast* sleeping room shall be permitted that does not comply with the *Building Code*.

(d) There shall be no separate cooking facilities used for *bed and breakfast stay*.

(e) *Bed and breakfast* bedrooms shall be a minimum of one hundred and twenty (120) square feet for the first two (2) occupants and an additional thirty (30) square feet for each additional occupant.

(f) The stay of *bed and breakfast* occupants shall be no more than fourteen (14) consecutive days and not more than thirty (30) days in any one (1) calendar year.

(g) The operator of each facility shall keep a list of the names of all persons staying at the *bed and breakfast*, which list shall be available for inspection by the *Building Inspector*.

(h) One (1) bathroom for every three (3) sleeping rooms shall be provided, with a minimum of two (2) bathrooms.

(i) Every *bed and breakfast* bedroom shall contain a functional smoke detector, and an approved fire extinguisher shall be located on each floor on which such sleeping room is located.

(j) The Planning Commission may increase or decrease required parking in order to meet the purposes of this section and protect the public health and safety.

• **Section 6.15 *General Hospitals.***

*General hospitals* are subject to the following conditions:

(a) Such *hospitals* shall be developed only on sites consisting of at least ten (10) acres in area.

(b) All access to and egress from the site shall be through a major thoroughfare or *street*.

(c) The minimum distance of any *building* from a residentially zoned or occupied parcel shall be one hundred (100) feet for *front*, rear and *side yards*, including parcels separated by a public *street*.

(d) Mobile units, ambulances and delivery areas shall be located in the side and rear *yards* and shall be screened in accordance with Section 5.08 of this Zoning Ordinance.

(e) All parking areas of greater than five (5) spaces shall be *setback* from residential zoned or occupied parcel by no less than twenty-five (25) feet for rear and *side yards*.

(f) The location of all helipads shall be subject to Planning Commission review, based upon the applicant demonstrating the following conditions are met:

(1) The location will be located to provide the least possible disturbance to adjacent property owners.

(2) The location will not be a safety hazard due to physical and natural features within the immediate area.

• **Section 6.16 *Motels and Hotels.***

*Motels* and *hotels* are subject to the following conditions:

(a) A site shall contain no less than two (2) acres of land, and no less than one thousand (1,000) square feet of *lot area* shall be available per guest unit.

(b) Each unit shall contain not less than two hundred and fifty (250) square feet of heated/air-conditioned *floor area* per guest unit.

(c) All *buildings* shall be *setback* no less than fifty (50) feet from all perimeter parcel lines, while one hundred (100) feet is required when adjacent to a residential zoning *district*.

(d) *Accessory uses* may include, but not be limited to meeting rooms, ballrooms, *restaurants*, bars, recreational *uses*, and gift shops.

(e) Cooking and/or kitchen facilities may be provided in new *motels* upon demonstration by the applicant that the provisions of all applicable fire prevention and *Building Code* requirements have been satisfied.

(f) No existing *motel* units shall be converted for *use* of cooking and/or a kitchen facilities unless the owner first obtains a

*building* permit, complies with all applicable fire prevention and *building codes* and obtains a certificate of occupancy for each unit prior to renting it.

• **Section 6.17 Automobile Filling Stations, Automobile Repair Garages, Automobile Service Stations, Automobile Washes, and Automobile Dealerships.**

*Automobile filling stations, repair garages, service stations, and washes* shall comply with the following conditions:

(a) The curb cuts for ingress to and egress from a *filling* or *service station* are not permitted at such locations as will create traffic hazards in the streets immediately adjacent thereto. Entrances shall be not less than thirty (30) feet from a *street* intersection (measured from the road right-of-way) or from adjacent residential *districts*. No more than one (1) curb opening shall be permitted for each fifty (50) feet of *frontage* or major fraction thereof along any *street*. No driveway or curb opening shall be located nearer than ten (10) feet to any corner or exterior *lot* line. No driveway shall be located nearer than thirty (30) feet to any other driveway serving the site. When considering new applications under this Section, the Planning Commission may base approval of the Site Plan or Special Land Use on the removal of curb cuts that are non-compliant with these standards.

(b) The minimum *lot area* shall be ten thousand (10,000) square feet, so arranged that ample space is available for motor vehicles which are required to wait.

(c) Separation shall be made between the pedestrian sidewalk and vehicular parking and maneuvering areas with the use of curbs, wheel stops, *greenbelts* or traffic islands.

(d) All activities related to vehicle washing, service and repair equipment shall be entirely enclosed within a *building* located not less than forty (40) feet from any *street/lot* line, and not less than ten (10) feet from any *side lot line*.

(e) Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner which is compatible with *uses* located adjacent to and across from the site.

(f) Inoperative or unlicensed vehicles shall not be stored outside for more than seven (7) days. Such storage shall not occur in *front* of the *building*.

(g) Vehicle sales shall not be permitted on the premises of any *automobile filling station, automobile repair garage, automobile service station, and automobile wash*.

(h) All coverings of the *service* or *filling station* gasoline pumps shall be no taller than the principal *structure* and constructed of compatible materials. Such canopies shall not be lit internally for signage purposes. All proposed lighting shall be fully recessed.

(i) Gasoline pumps shall be located not less than twenty (20) feet from any *lot* line, and shall be arranged so that motor vehicles do not park upon or overhang any public sidewalk, *street* or right-of-way while waiting for or receiving fuel service.

(j) A *filling* or *service station* shall have no more than eight (8) gasoline pumps and two (2) enclosed stalls for servicing, lubricating, greasing and/or washing motor vehicles. An additional two (2) gasoline pumps and/or one enclosed stall may be included for each additional two thousand (2,000) square feet of *lot area* above the minimum area set forth in subsection (b).

(k) Where the *filling* or *service station* site abuts any residentially zoned *district*, the requirements for protective screening shall be provided as specified in Section 5.10. All masonry *walls* shall be protected by a fixed curb or barrier to prevent vehicles from contacting the *wall*.

(l) All exterior lighting, including illuminated *signs*, shall be *erected* and hooded or shielded so as to be deflected away from adjacent and neighboring property and comply with Section 8.05.

(m) All combustible waste and rubbish, including crankcase drainings, shall be kept in metal receptacles fitted with a tight cover until removed from the premises. Sawdust shall not be kept in any gasoline *service station* or place of storage therein, and sawdust or other combustible material shall not be used to absorb oil, grease or gasoline.

(n) No advertising *signs* may be placed on-site other than the permitted maximum *wall* and/or ground *sign* area per Article 7. The prohibited *signs* include *banners* and *flags*.

• **Section 6.18 Outdoor Displays of Materials Intended for Retail Sale or Rental.**

The outdoor display of products or materials intended for retail sale or rental may be permitted only in CBD, MXD, B-1 and B-2 *Districts*, subject to the following conditions:

(a) General Standards.

(1) An outdoor display shall be considered as an *accessory use* to the *principal use* conducted on the premises.

(2) The exterior of the premises shall be kept clean, orderly and maintained.

(3) The City shall not be held liable or responsible for any type of damage, theft or personal injury that may occur as a result of an outdoor display.

(4) In the administration of these provisions, the *Zoning Administrator* shall be permitted to refer a request to the Planning Commission for review and approval where site conditions may create difficulty in adherence to the standards

contained herein.

(5) For any outdoor display that requires a tent, a Building Permit shall be required to be obtained prior to installing the tent and the Fire Marshal shall inspect the tent prior to use.

(b) Standards Within CBD Districts.

(1) An outdoor display shall be located directly adjacent to the establishment. An outdoor display that extends beyond the property lines of the applicant shall require the permission of the affected property owners.

(2) If an outdoor display is located on a public sidewalk, a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained. Sufficient room shall also be provided to allow car doors to open along the curbside. An outdoor display on a public sidewalk shall be confined to normal business hours.

(c) Standards Within MXD, B-1 and B-2 Districts.

(1) An outdoor display may be located within any required *yard* but shall not be located within any public road right-of-way.

(2) An outdoor display shall not occupy or obstruct the use of any fire lane, required *off-street parking* or landscaped area required to meet the requirements of this Zoning Ordinance.

(d) Building Materials, Nursery Stock and Garden Supplies.

(1) Outdoor sales areas shall not be located within the required *front setback*, except for sales of living *nursery stock*. Ornamental displays associated with the sale of *nursery stock* shall be permitted; however, in no case shall the outdoor storage or sale of bulk materials, such as topsoil, mulch or gravel, whether packaged or not, be permitted within the *front yard setback*.

(2) Outdoor sale and display areas that abut residentially zoned or used property shall be screened in accordance with Section 5.10.

• **Section 6.19 Seasonal and Transient Display of Products or Materials Intended for Sale.**

The sale of seasonal items such as Christmas trees, flowers and plants, pumpkins and other such seasonal items and the sale of any other merchandise by persons other than the owner or tenant of the premises, shall require a license from the Howell City Clerk pursuant to Chapter 873 of the Howell City Code, subject to the following standards and conditions:

(a) Transient or seasonal sales may be located within any required *yard* provided a ten (10) foot landscaped *greenbelt* meeting the requirements of Section 5.10 is provided between any outdoor display and any public road right-of-way. Where outdoor displays abut the residentially zoned property, landscape screening in accordance with Section 5.10 shall also be provided.

(b) Transient or seasonal sales shall not occupy or obstruct the use of any fire lane, required *off-street parking* or landscaped area required to meet the requirements of this Zoning Ordinance, or create a traffic or safety hazard.

(c) Such sales shall be permitted only in the CBD, B-1 and B-2 *Districts*.

(d) All such sales shall be conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties.

(e) *Off-street parking* shall be provided in accordance with Article 10 along with adequate ingress and egress to the site.

(f) Upon discontinuance of the seasonal *use*, any temporary *structure* shall be removed.

(g) *Signs* shall be temporary and shall comply with the provisions of Section 7.08.

• **Section 6.20 Sidewalk Café Service.**

A *sidewalk café* service operated by a *restaurant* or other food establishment that sells food for immediate consumption may be permitted in the CBD, Central Business *District*, subject to the following conditions:

(a) An application in accordance with Section 3.08 and this Section shall be submitted to the *Zoning Administrator*.

(b) A permit shall remain in effect for a period of one year or the operation of the café fails to meet the standards contained herein. Permits may be renewed annually by the City upon written request of the owner or operator of the sidewalk café.

(c) A *sidewalk café* may be located in *front* of or adjacent to the establishment. A *sidewalk café* that extends beyond the property lines of the applicant shall require the permission of the affected property owners.

(d) If a *sidewalk café* is located on a public sidewalk, a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained.

(e) A *sidewalk café* shall be allowed during normal operating hours of the establishment.

(f) The exterior of the premises, including the sidewalks, shall be kept clean, orderly and maintained or the permit may be revoked. All food preparation shall be inside of the premises.

(g) The City shall not be held liable or responsible for any type of damage, theft or personal injury that may occur as a result of a *sidewalkcafé* operation.

(h) All *sidewalkcafes* shall comply with applicable regulations of the County Health Department and the State.

(i) Sidewalk cafes shall be permitted between April 1<sup>st</sup> and October 31<sup>st</sup>.

(j) Outside of the permitted dates, all tables, chairs, and barriers used for a sidewalk café shall be stored indoors.

• **Section 6.21 *Wireless Communication Facilities***

(a) **Purpose and Intent.** It is the general purpose and intent of the City to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the City to provide for such authorization in a manner that will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, attempt has been made to balance these potentially competing interests.

Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further purpose and intent of this section to:

(1) Facilitate adequate and efficient provision of sites for *wirelesscommunicationfacilities* and ensure that *wireless communication facilities* are situated in appropriate locations and relationships to other landuses, *structures* and *buildings*.

(2) Establish predetermined *districts* or zones of the number, shape, and in the location considered best for the establishment of *wireless communication facilities*, subject to applicable standards and conditions.

(3) Recognize that operation of a wireless communication system may require the establishment of facilities in locations not within the predetermined *districts* or zones.

(4) Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.

(5) Minimize the negative visual impact of *wireless communication facilities* on neighborhoods, community landmarks, historic sites and *buildings*, natural beauty areas and public rights-of-way.

(6) Require all *wireless communication facilities* to collocate on an existing tower or provide for no less than three (3) additional carriers on a new facility.

(b) **Authorization as a Permitted Use.** Subject to the standards and conditions set forth herein, *wireless communication facilities* shall be permitted uses in the following circumstances, and in the following *districts*:

(1) In all zoning *districts*, a proposal to establish a new *wireless communication facility* shall be deemed a permitted use in the following circumstances:

A. An existing *structure* which will serve as an *attached wireless communication facility* within a nonresidential zoning *district*, where the existing *structure* is not, in the discretion of the Planning Commission, proposed to be either materially altered or materially changed in appearance.

B. A proposed *collocation* upon an *attached wireless communication facility* that had been preapproved for such *collocation* as part of an earlier approval by the City.

C. An existing *structure* which will serve as an *attached wireless communication facility* consisting of a utility pole or *structure* located within a right-of-way, where the existing pole is not proposed to be modified in a manner which, in the discretion of the Planning Commission, would materially alter the *structure*.

(2) *Wireless communication facilities* shall also be a permitted use in the I-1 and I-2 Industrial *Districts*.

(c) **Authorization as a Special Land Use.** If it is demonstrated by an applicant that a *wireless communication facility* is required to be established outside of a *district* identified in paragraphs (b)(1) and (2) above, in order to operate such *wireless communication facility*, may be permitted elsewhere in the community as a special landuse, subject to the requirements set forth herein, standards set forth in Section 3.03 and the following:

(1) At the time of the submittal, the applicant shall demonstrate that a location within the areas identified in paragraphs (b)(1) and (2) above cannot reasonably meet the coverage and/or capacity needs of the applicant.

(2) Locations outside of the *districts* identified in paragraphs (b)(1) and (2) above, shall be permitted on the following sites, subject to application of all other standards contained in this section:

A. Municipally owned site.

B. Other governmentally owned site.

C. Public school site.

(d) **General Regulations Applicable to All Facilities.** All applications for *wireless communication facilities*, whether a permitted or special land use, shall be reviewed, constructed and maintained in accordance with the following standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions

imposed by the City in its discretion:

(1) Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.

(2) Facilities shall be located and designed to be harmonious with the surrounding areas.

(3) Facilities shall comply with applicable Federal and State standards relative to the environmental effects of radio frequency emissions.

(4) The following additional standards shall be met:

A. The maximum height of the new or modified support *structure* and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant and by other entities to collocate on the *structure*. Applicants shall demonstrate a justification for the proposed height of the *structures* and an evaluation of alternative designs that might result in lower heights.

B. The *accessory building* contemplated to enclose switching equipment shall be limited to the maximum height for *accessory structures* within the respective *district*.

C. The *setback* of a proposed new support *structure* from any residential *district* and/or any existing or proposed public *street rights-of-way* shall be no less than the height of the *structure*. Where a proposed new support *structure* abuts a parcel of land zoned for a *use* other than residential, the minimum *setback* of the *structure* from all property lines shall be equal to one-half the *height* of the *structure*.

D. Where an existing *structure* will serve as an *attached wireless communication facility*, *setbacks* of the existing *structure* shall not be materially changed or altered, based upon a determination by the Planning Commission.

E. There shall be an unobstructed paved access drive to the support *structure* for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access drive shall be a minimum of fourteen (14) feet in width.

F. The division of property for the purpose of locating a *wireless communication facility* is prohibited unless all zoning requirements and conditions are met.

G. Where an *attached wireless communication facility* is proposed on the roof of a *building*, any equipment enclosure shall be designed, constructed and maintained to be architecturally compatible with or enclosed within the principal *building*.

H. The City shall review and approve the color of the support *structure* and all *accessory buildings* so as to minimize distraction, reduce visibility, maximize aesthetic appearance and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the *wireless communication facility* in a neat and orderly condition.

I. The support system shall be constructed in accordance with all applicable *building codes* and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements indicating the suitability of soil conditions for the proposed *use*. The requirements of the Federal Aviation Administration, Federal Communications Commission and Michigan Aeronautics Commission shall be noted.

J. A maintenance plan and any applicable maintenance agreement shall be presented and approved as part of the *site plan* for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonable prudent standard.

(e) Standards and Conditions Applicable to Special Land Use Facilities. Applications for *wireless communication facilities* under the special land *use* requirements shall be reviewed by the Planning Commission and if approved, shall be constructed and maintained in accordance with the standards and conditions in subsection (d) and the following standards:

(1) The applicant shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of one (1) or more of the following factors:

A. Proximity to a major thoroughfare.

B. Areas of population concentration.

C. Concentrations of commercial, industrial and/or other *business centers*.

D. Areas where signal interference has occurred due to tall *buildings*, masses of trees, or other obstructions.

E. Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.

F. Other specifically identified reasons creating facility need.

(2) The proposal shall be reviewed in conformity with the *collocation* requirements of this section.

(3) *Wireless communication facilities* shall be of a design that is compatible with the existing character of the proposed site, neighborhood and general area as approved by the City.

(f) Application Requirements Applicable to All Facilities.



(1) A *site plan* prepared in accordance with Section 3.04.

(2) The *site plan* shall also include a detailed *landscaping* plan illustrating screening and aesthetic enhancement for the *structure* base, *accessory buildings* and enclosure. In all cases, there shall be shown on the plan fencing which is required for protection of the support *structure* and security from children and other persons who may otherwise access facilities.

(3) The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to any potential structural failures, which certification will be utilized along with other criteria, such as applicable regulations for the *district* in question in determining the appropriate *setback* to be required for the *structure* and other facilities.

(4) The application shall include a description of security to be posted at the time of receiving *building* permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in subsection (h) below. In this regard, the security shall be in the form approved by the City Attorney and recordable at the office of the Register of Deeds establishing a promise of the applicant and owner of the property to timely remove the facility as required under this section, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney fees incurred by the City in securing removal.

(5) The application shall include a map showing existing and known proposed *wireless communication facilities* within the City and further showing existing and known proposed *wireless communication facilities* within areas surrounding the borders of the City which are relevant in terms of potential *collocation* or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the community, the applicant shall be required only to update as needed. Any proprietary information may be submitted with a request for confidentiality.

(6) The application shall include the name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be updated annually by the owner during all times the facility is on the premises.

(7) The applicant shall provide proof of feasibility for *collocation* when a new tower is to be constructed.

(8) As deemed necessary by the Planning Commission, the applicant shall pay to have a certified engineer of the City's choosing to review the proposed *wireless communication facility* plans and application material.

(g) Collocation.

(1) Statement of Policy. It is the policy of the City to minimize the overall number of newly established locations for *wireless communication facilities* and encourage the use of existing *structures*.

(2) Feasibility of Collocation. *Collocation* shall be deemed to be "feasible" for purposes of this section where all of the following are met:

A. The wireless communication provider entity under consideration for *collocation* will undertake to pay market rent or other market compensation for *collocation*.

B. The site on which *collocation* is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.

C. The *collocation* being considered is technologically reasonable, e.g., the *collocation* will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the *structure*, antennas and the like.

D. The height of the *structure* necessary for *collocation* will not be increased beyond a point deemed to be permissible by the City, taking into consideration the standards set forth in this section.

(3) Requirements for Collocation.

A. Approval for the *construction* and *use* of a new *wireless communication facility* shall not be granted unless and until the applicant demonstrates that a feasible *collocation* is not available for the coverage area and capacity needs.

B. All new and modified *wireless communication facilities* shall be designed and constructed so as to accommodate no less than three (3) additional collocators.

C. If a party who owns or otherwise controls a facility shall fail or refuse to alter *structure* so as to accommodate a proposed and otherwise feasible *collocation*, such facility shall thereupon and thereafter be deemed to be a *nonconforming structure* and *use* and shall not be altered, expanded or extended in any respect.

(h) Removal.

(1) The City reserves the right to request evidence of ongoing operation at any time after the *construction* of an approved *wireless communication facility*.

(2) A condition of every approval of a *wireless communication facility* shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:

A. When the facility has not been used for one hundred and eighty (180) days or more, for purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use.

B. Six (6) months after new technology is available at reasonable cost as determined by the City, which permits the

operation of the communication system without the requirement of the support *structure*.

(3) The situation in which removal of a facility is required may be applied and limited to portions of a facility.

(4) Upon the occurrence of one (1) or more of the events requiring removal, the property owner or persons who had used the facility shall immediately apply or secure the application for any required *demolition* or removal permits, and immediately proceed with and complete the *demolition/removal*, restoring the premises to an acceptable condition as reasonably determined by the *Building Official* and *Zoning Administrator*.

(5) If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the City may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected from the security posted at the time application was made for establishing the facility.

• **Section 6.22 Mixed Use District Development Regulations.**

Uses located within the *Mixed Use (MXD) District* are subject to the following development procedures and regulations, in addition to standards set forth above, and shall be applicable to all *uses* within the *District*.

(a) **Review Procedures.** All developments within the *MXD District* shall consist of no less than ten (10) *net acres* unless located within the *Central Business District*, and shall be subject to all applicable preliminary *site plan*, final *site plan* and special *land use* review procedures.

(1) **Preliminary.** As part of the preliminary *site plan* review phase, the applicant shall submit a concept plan for comment from the Planning Commission. The concept plan shall include the following information:

- A. Evidence of ownership; location and description of site; dimensions and area;
- B. General topography and natural features;
- C. Scale, north arrow, date of plan;
- D. Existing zoning and *land use* of the site and adjacent parcels; location of existing *building*, drives and streets on the site;
- E. Location, type and land area of each proposed *land use*; *dwelling unit* density per net acre;
- F. Estimated location, size and *uses* of open space;
- G. General form of ownership and maintenance;
- H. General landscape concept, including existing features to be maintained;
- I. General description of existing and proposed utilities;
- J. Conceptual road layout;
- K. Development phases, if applicable; and
- L. Examples of typical *building* materials and styles.

(2) **Final.** Following concept plan review by the Planning Commission, all developments shall be subject to *site plan* review requirements outlined in Section 3.04, *Site Plan Review*. Non *one-family* and *two-family* uses shall also be subject to the requirements outlined in Section 3.03, *Special Land Uses*.

(b) **Building Dimensions, Area Requirements, Density, and Setbacks.** Requirements of *MXD District* relating to the height and bulk of *buildings*, the minimum size of a *lot* permitted by *land use*, the maximum density permitted and minimum *yard setbacks*, are contained in Section 4.07, and detailed below:

(1) **One-Family Uses.**

A. **Lot Area and Width.** The intent of the *MXD District* is to provide a variety of housing styles on a variety of parcel sizes, not just within the development, but on a per *block* basis as well. Therefore, the *lots* shall range in size between 5,500 and 7,700 square feet, and between fifty (50) and seventy (70) feet in width. The actual mix shall be approved by the Planning Commission. Additionally, the area and width of irregular shaped *lots* as a result of site limitations, shall be approved by the Planning Commission.

B. **Front Yard.** There shall be a *front yard* of not less than twenty-five (25) feet as measured from the *front lot line*, but *porches* may encroach up to eight (8) feet inside of the required *front setback*. However, the Planning Commission may consider a modified *setback* through the special *land use* procedures outlined in Section 3.03, and providing the modification does not result in an increased density.

C. **Side Yard.** The *side yard* shall be a minimum of four (4) feet on one side, with a total of twenty (20) feet for both sides. There shall also be no less than twenty (20) feet between homes on abutting parcels, unless the *Building Code* requires a greater *setback* for fire separation.

D. **Rear Yards.** There shall be a *rear yard setback* of not less than thirty (30) feet, but a garage may encroach fifteen (15) feet inside of the required *setback*.

E. State Highway Setback. A fifty (50) foot *setback* shall be required for all parcels abutting a State Highway.

F. Height Regulations. No *building* or *structure* shall exceed two (2) stories or twenty-five (25) feet.

(2) Two-Family Uses.

A. Lot area and Width. No *lot* shall have a minimum area of less than 6,600 square feet and a minimum width of no less than sixty (60) feet.

B. Front, Side and Rear Yards.

i. Individual Lots: All *setbacks* shall comply with those for *one-family uses*.

ii. Regular Condominiums:

- Front Yards. Twenty-five (25) feet as measured from the *frontlotline*, but *porches* may encroach up to eight (8) feet inside of the required *front setback*. However, the Planning Commission may consider a modified *setback* through the special *land use* procedures outlined in Section 3.03, and providing the modification does not result in an increased density.

- Minimum Distance Between Buildings. Twenty (20) feet when side to side, forty (40) feet in all other cases, unless the *Building Code* requires a greater *setback* for fire separation.

C. State Highway Setback. A fifty (50) foot *setback* shall be required for all parcels abutting a State Highway.

D. Height Regulations. No *building* or *structure* shall exceed two (2) stories or twenty-five (25) feet.

(3) Multiple Family Uses.

A. Maximum Density. The intent of the MXD *District*, is to provide a variety of housing unit sizes within each development. Therefore, the maximum density shall be computed as follows, and shall be calculated exclusive of any dedicated public right-of-way of either an interior or adjacent *street*:

i. Efficiency or one (1) bedroom units shall not exceed ten (10) *dwelling units* per net acre or 4,356 square feet of site area for each *dwelling unit*.

ii. Two (2) bedroom units shall not exceed eight (8) *dwelling units* per net acre or 5,445 square feet of site area for each *dwelling unit*.

iii. Three (3) bedroom units shall not exceed six (6) *dwelling units* per net acre or 7,260 square feet of site area for each *dwelling unit*.

The actual mix shall be approved by the Planning Commission.

B. Front Yard. There shall be a *front yard* of not less than ten (10) feet as measured from the *front lot line*. However, the Planning Commission may consider a modified *setback* providing the modification does not result in an increased density.

C. Side Yard. The *side yard* shall be a minimum of eight (8) feet unless adjacent to a one (1) or two (2) *family residential use* for which a minimum of a sixteen (16) foot *setback* is required.

D. Distance Between Buildings. The minimum distance between two (2) *multiple family dwelling building* shall be twenty-five (25) feet for a two (2) *story building* and thirty (30) feet for a three *story building*, unless the *Building Code* requires a greater *setback* for fire separation.

E. Perimeter Setback. Up to a one hundred (100) foot *setback* shall be required along the perimeter of the development, unless modified or waived by Planning Commission.

F. State Highway Setback. A fifty (50) foot *setback* shall be required for all parcels abutting a State Highway.

G. Height Regulations. No *building* or *structure* shall exceed two (2) stories or twenty-five (25) feet.

(4) Mixed Use, Commercial (excluding retail), Office, Other Non-Commercial Uses.

A. Front Yard. There shall be a *front yard* of not less than ten (10) feet as measured from the *front lot line*. However, the Planning Commission may consider a modified *setback* providing the modification does not result in an increased density.

B. Side Yard. The *side yard* shall be a minimum of five (5) feet unless adjacent to a one (1) or two (2) *family residential use* for which a minimum of a twenty (20) foot *setback* is required.

C. Distance Between Buildings. The minimum distance between two (2) *mixed use buildings* which include *multiple family dwellings* shall be twenty-five (25) feet for a two (2) *story building* and thirty (30) feet for a three (3) *story building*, unless the *Building Code* requires a greater *setback* for fire separation.

D. Rear Yards. There shall be a *rear yard setback* of not less than twenty (20) feet, but a garage with access off a rear *alley* may be *setback* a minimum of five (5) feet.

E. Perimeter Setback. A one hundred (100) foot *setback* shall be required along the perimeter of the development, unless modified or waived by Planning Commission.

F. State Highway Setback. A fifty (50) foot *setback* shall be required for all parcels abutting a State Highway.

G. Height Regulations. No *building* or *structure* shall exceed two (2) stories or twenty-five (25) feet for a single tenant *use*, or three (3) stories or thirty-five (35) feet for a multi-tenant *use*.

(5) Retail Uses.

A. No larger than twenty-five thousand (25,000) square feet; however, the Planning Commission, at its sole discretion, may consider retail *buildings* greater in size, providing the following criteria are satisfied:

i. No more than twenty (20) percent of the parking is provided in front of the building, the remaining eighty (80) percent may be divided between the rear and *side yards*. However, the ratio may be modified at the sole discretion of the Planning Commission based upon satisfying at least one (1) of the following criteria:

a. A solid wall, *landscaping*, or a combination thereof, in excess of the requirements for Section 5.10(d) is provided around the perimeter of the parking lot. Architectural features/focal points may be included to complement the *landscaping*.

b. Multiple smaller *buildings* are provided adjacent to the perimeter public road to screen the internal parking area.

c. A combination of a. and b.

ii. The architectural style shall be consistent with the adjacent *structures* (including residences) and shall not vary between the *front*, rear and side facades, with the exception of the loading/unloading areas.

iii. Horizontal masses shall not exceed a height:width ratio of 1:3 without substantial variation in massing that includes a change in height with projecting or recessed elements.

iv. No more than two (2) direct access drives shall be provided from the adjacent arterial or *collector street*. Access to other portions of the *building* shall be provided via internal and/or service drives.

v. All *buildings* shall have a roof pitch of no less than four (4) inches of rise (vertical) to twelve (12) inches of run (horizontal). However, larger *buildings* for which this is demonstrated not to be practical, shall provide an alternate solution to be reviewed and approved by the Planning Commission (i.e. extended parapet, mansard roof, etc.).

vi. The exterior of the *building* shall appear to be an abundance of individual *uses* through the inclusion of windows and varying architectural treatments, while the interior may consist of one (1) individual *use*.

(c) Minimum Floor Area. The minimum *floor area of dwelling units* shall be as follows:

Type of Dwelling                      Total Usable Floor Area (sq. ft.)

*One Family*                              900

*Two Family, per dwelling unit*                      800

*Multiple Family:*

*Efficiency unit*                      450

*One-bedroom unit*                      600

*Two-bedroom unit*                      750

*Three bedroom unit*                      900

(d) Open Space Requirement and Computation.

(1) Residential Uses. An active and passive recreation/open space plan shall be submitted to Planning Commission for consideration. The plan shall demonstrate that at least fifteen (15) percent of the gross land area is maintained for recreation/open space amenities which accurately reflect the intended demographics of the development.

(2) All Non-Residential Uses. Each non-residential use shall contribute to the establishment or enhancement of community and public spaces by providing at least two (2) of the following: patio/seating area, pedestrian plaza with benches, transportation center, window shopping walkway, outdoor playground area, kiosk area, water feature, clock tower or other such deliberately shaped area, focal feature or amenity that, in the judgment of the City, adequately enhances such community public spaces. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the *building* and landscape. Two (2) adjacent occupants may provide combined open/public space amenities where the resulting space is more beneficial to the City due to size and location.

(e) Site Access. Access to public roads for both pedestrians and vehicles shall be controlled in the interest of public safety. Each *building* or group of *buildings* and its parking or service area, shall be subject to the following restrictions:

(1) Provisions for circulation between adjacent parcels are required through coordinated or joint parking systems.

(2) Driveway placement must be such that loading and unloading activities will not hinder vehicle ingress or egress.

(3) When applicable, the primary access point into a site may be permitted to be via a rear access drive~~al~~ley to be shared by all adjoining *uses*. The drive shall be no less than twenty (20) feet wide within a forty (40) foot easement.

(f) Parking/Loading. All *off-street parking* areas shall conform to Article 10 unless a stricter provision is provided below:

(1) *Off-street parking* for non-residential *uses* shall be located predominantly within the side or *rearyard* areas. Up to twenty (20) percent of the *off-street parking* may be permitted within the *frontyards* when abutting a public right-of-way. All parking areas shall be *setback* a minimum of ten (10) feet from any public road right-of-way, a minimum of fifteen (15) feet from the property line of any residential *use*, and a minimum of five (5) feet from the property line of any nonresidential *use*, unless the *lots* contain shared parking areas.

(2) All loading areas for non-residential *uses* shall be located within *rear yard* areas.

(g) Pedestrian Pathways and Sidewalks. Vehicular access and circulation shall be planned to ensure safe pedestrian movement within the development. Pedestrian systems shall provide safe, all-weather surface, efficient, and aesthetically pleasing means of on-site movement and shall be an integral part of the overall site design concept. Pedestrian pathway connections to parking areas, *buildings*, other amenities and between on-site and perimeter pedestrian systems shall be planned and installed wherever feasible. All paths and sidewalks shall be a minimum of eight (8) feet when abutting a parking lot, all others shall be five (5) feet in width, and each shall be constructed of concrete or decorative pavers. Sidewalks are required along all roadways.

(h) Signage. All *signs* permitted within this *district* shall be subject to the provisions of Article 7, *Signs*, unless a stricter provision is provided below. The intent of this section is to ensure that *signs* shall be compatible in size, design, appearance and material, and subject to the following requirements and standards.

(1) Billboards are strictly prohibited.

(2) No *signs* shall be *attached* to exterior glass, nor contain exposed neon tubing.

(3) All *signs* shall be designed so as to be integral and compatible with the architecture and *landscaping* component of the development.

(4) Conceptual *sign* designs shall be submitted with the *site plan* and the Planning Commission shall review these conceptual plans together with the *site plan*.

(5) Wall Signs for Non-Residential Uses.

A. Multi-tenant *buildings* with a shared entrance may have one (1) *wall sign* that measures 1.5 times the total area permitted for a *wall sign*.

B. Multi-tenant *buildings* with separate entrances may each have one (1) *wall sign* per tenant that complies with the *sign* area permitted in this subsection.

C. Corner tenants may have two (2) *signs*, one (1) on the face of each facade facing a public road, driveway or parking lot. The second *sign* may measure up to seventy-five (75) percent of the area permitted for the principal *wall sign*.

D. The face of each *wall sign* shall measure no larger than thirty (30) square feet, forty-five (45) square feet for multi-tenant *buildings* with a shared entrance. However, an additional ten (10) square feet may be approved by the Planning Commission when the following criteria are met:

- i. The *building* is located more than one hundred (100) feet from the edge of the public road right-of-way.
- ii. The tenant occupies a proportionately larger portion of the *building* than the remaining tenants.
- iii. The *sign* is proportionate to the mass and scale of the *building*.

*Wall signs* exceeding the permitted area noted above will be subject to the *special land use* criteria of Section 7.04(c).

E. All *walls signs*, if illuminated, shall be illuminated in a manner that is not intermittent, nor causing a hazard to others.

F. Mixed *use/commercial/office/other non-residential uses* may substitute a *projecting sign* for a *wall sign* based upon the following considerations:

- i. The size, shape and topography of the property.
- ii. The relationship of the *sign* to neighboring properties and *signs*.
- iii. The relationship to and visibility from the public *street* where the property is located.

(6) Ground (Free-Standing) Signs for Non-Residential Uses.

A. Only one (1) free-standing *sign* is permitted on any premise; however, the Planning Commission may permit a second sign which is not to exceed seventy-five (75) percent of the first *sign* area when having frontage on two (2) streets.

B. All ground *signs* shall be *setback* a minimum of ten (10) feet from the public right-of-way, ten (10) feet from the edge of the pavement of any driveway and ten (10) feet from the public sidewalk.

- C. No ground *sign* shall be within one hundred (100) feet of another ground*sign*.
- D. All ground *signs*, if illuminated, shall be illuminated in a manner that is not intermittent, nor causing a hazard to others.
- E. All ground *signs* shall be no taller than six (6) feet above *grade*, unless Planning Commission deems there to be a demonstrated need for increased height based upon the *special land use* criteria of Section 7.04(c).
- F. No ground *sign* shall exceed thirty-two (32) square feet per side, or sixty-four (64) square feet total. The ground *sign* shall also only identify the name of the center.

(i) Lighting. All lighting shall conform to the requirements of Section 8.05, in order to maintain vehicle and pedestrian safety, site security, and accentuate architectural details.

- (1) All *street* lighting shall be installed in accordance with City standards.
- (2) Architectural lighting, which is strongly recommended, shall articulate the particular *building* design, as well as provide the required functional lighting for safety of pedestrian movement.
- (3) Pedestrian walk lighting shall clearly identify the pedestrian walkway and direction of travel.

(j) Landscaping/Greenbelts/Buffers/Screening Elements. All landscape features of the site shall conform to the requirements detailed in Section 5.10, in order to ensure that the image of the City is promoted by the organization, unification and character of the *District*.

(k) General Site Design/Architectural Guidelines for Non-Residential Uses. It is the intent of the *District* to provide an environment of high quality and complementary *building* architecture and site design. Special emphasis shall be placed upon methods that tend to reduce the large-scale visual impact of *buildings*, to encourage tasteful, imaginative design for individual *buildings*, and to create a complex of *buildings* compatible with the streetscape.

(1) Miscellaneous Design Criteria.

A. *Building* entries shall be readily identifiable and accessible, with at least one (1) main entrance facing and open directly onto a connecting walkway with pedestrian *frontage*.

B. Architecture will be evaluated based upon its compatibility and relationships to the landscape, and vice versa.

(2) Building Massing and Form.

A. Architectural interest shall be provided through the use of repetitious patterns of color, texture and material modules, at least one (1) of which shall repeat horizontally. Each module should repeat at intervals of no more than fifty (50) feet.

B. *Building* facades greater than one hundred (100) feet in length shall incorporate recesses, projections, or spandrel windows along at least twenty (20) percent of the length of the facade. Windows, awnings, and arcades must total at least sixty (60) percent of a facade length abutting a public *street* or connecting pedestrian *frontage*.

C. Primary *building* entrances shall be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the summer sun and winter weather.

(3) Materials.

A. Low maintenance shall be a major consideration.

B. Materials shall blend with those existing on adjacent properties.

C. One (1) dominant material shall be selected, with a preference towards masonry and stone.

(4) Building Roofs.

A. In instances where roof vents, roof-mounted mechanical equipment, pipes, etc., can be viewed from above, they shall be grouped together, painted to match roof color to reduce their appearance, and screened from view.

B. In instances where flat roof areas can be viewed from below, all roof vents, roof-mounted mechanical equipment, pipes, etc., shall be screened from view.

C. Sloped and pitched roof treatments are preferred.

D. There shall be variations in roof lines to reduce the massive scale of the *structure* and add visual interest.

(5) Color and Texture.

A. Simple and uniform texture patterns are encouraged.

B. Variations in color shall be kept to a minimum.

C. Colors shall be subdued in tone, of a low reflectance and of neutral or earth tone colors.

D. Accent colors may be used to express corporate identity, however, neon tubing is prohibited.

(l) Screening of Exterior Electrical Equipment and Transformers.

(1) Transformers that may be visible from any primary visual exposure area shall be screened with either plantings or a durable non combustible enclosure which are unified and harmonious with the overall architectural theme.

(2) Exterior-mounted electrical equipment shall be mounted on the interior of *abuilding* wherever possible, or shall be located where it is substantially screened from public view. Such equipment shall never be located on the *street* side or primary exposure side of any *building*.

(m) Utilities and Communication Devices.

(1) All exterior on-site utilities, including but not limited to drainage systems, sewers, gas lines, water lines, and electrical, telephone, and communications wires and equipment, shall be installed and maintained underground whenever possible.

(2) On-site underground utilities shall be designed and installed to minimize disruption of off-site utilities, paving, and landscape during *construction* and maintenance.

(3) Satellite dish and antennas shall comply with the standards set forth in Section 6.23.

(n) Cross-Parcel Coordination. The intent of the MXD *District* is to provide a continuous development pattern which flows between *uses* and developments. Therefore, a developer shall show proof that an attempt has been made to coordinate all elements of a development with existing adjacent developments and property owners to ensure a coordinated development pattern within the area.

• Section 6.23 Historic Overlay District Regulations.

Any resident, or group of residents, residing within the City of Howell, may petition the Planning Commission for Historic Overlay *District* designation. Upon receiving the designation, all future *construction*, *reconstruction*, alteration, moving or *demolition* shall comply with the regulations of this section.

(a) Regulations for All Structures. The following standards apply to all structures and uses in the HL-1 and HL-2 districts:

(1) Standards for Approval. The following standards shall apply to all proposed construction, reconstruction, alteration, moving or demolition:

A. Submit a site plan for consideration by the Planning Commission.

B. Where the Planning Commission deems it necessary, it may hold a public hearing concerning the application.

C. The Planning Commission shall consider the following:

1. The historical or architectural value and significance of the structure and its relationship to the historical value of the surrounding area;

2. The relationship of the exterior architectural features of the structure to the rest of the structure and the surrounding area;

3. The general compatibility of exterior design, arrangement texture and materials proposed to be used; and

4. Other factors, including aesthetic value, which the Planning Commission considers pertinent.

D. If the Planning Commission determines that the proposed construction, reconstruction, alteration, moving or demolition is appropriate, it shall approve the application.

E. If the Planning Commission determines that the site plan is not appropriate, the minutes shall reflect the reasons for such determination.

(2) Permitted Repairs and Restorations.

A. Original Appearance. Repairs may be made to the exterior of any significant or contributing historic structure, or noncontributing structure, if the repairs will not change the appearance and type of materials of any part of the structure. A change in the appearance of such structures by repair or replacement will be permitted if the result is the restoration of the structure to a documented earlier or original condition.

B. Mortar Repair. Repointing of defective mortar shall match the original mortar in color, profile and texture.

C. Roofs. Except for roofs made of slate, metal or terra cotta, roofing materials may be replaced.

D. Surface Covering. Surfaces that are currently painted or stained may be repainted or restained. Surfaces which are currently covered with wood, vinyl or aluminum siding may be repaired with the same materials as currently exist.

E. Awnings, Windows and Doors. Existing awnings may be repaired and replaced. Windows, storm windows and doors may be repaired and replaced, provided that the size of the opening does not change and that all frames are painted.

F. Porches, Trim and Architectural Features. Porches, trim and architectural features may be repaired or replaced with materials of the same type, style and texture as the original.

G. Emergency Repairs. This section shall not be deemed to prevent the construction, reconstruction, alteration, restoration or demolition of any feature that the Zoning Administrator or a similar official certifies is required because of a threat to the public safety due to an unsafe or dangerous condition.

(3) Demolition. The following standards shall apply to all structures within the District:

A. No person shall demolish or move a significant, contributing or noncontributing structure, unless such demolition or move is approved by the Planning Commission. The Planning Commission may approve such demolition or move if it receives satisfactory evidence that the structure in question will be replaced by a structure having a design that is consistent with the historic architecture of the District.

B. Deliberate or irresponsible neglect of a building or structure resulting in any of the following conditions shall constitute demolition by neglect and shall be a violation of this section.

1. The deterioration of exterior walls or other vertical supports;
2. The deterioration of roofs or other horizontal members;
3. The deterioration or crumbling of exterior plaster or mortar;
4. The deterioration of exterior chimneys;
5. The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows and doors; or
6. The deterioration of any exterior architectural feature so as to create or permit the creation of a hazardous or unsafe condition which, in the judgment of the Planning Commission, produces a detrimental effect upon the character of the structure.

(4) Standards. The following standards shall apply to all structures within the District:

A. Air Conditioning Units. Air conditioning machinery for central units shall be screened from view on all sides, and window air conditioning units may only be used where such units are not visible from the street, either by locating such units in windows hidden from street view or by screening them as aforesaid. Window air conditioning units in rooms used for residential purposes only are exempt from this subsection.

B. Fences. Chain link or similar security-type wire fencing is prohibited on corner lots and within fifty (50) feet of the front lot line for all other properties. Other types of fencing shall be subject to Section 5.11.

C. Vegetation. Natural trees, shrubs, vines and other vegetation may be installed, removed, trimmed and otherwise maintained, except that trees having a trunk diameter greater than twelve (12) inches at fifty-four (54) inches above grade level may be removed only after permission is granted by the Zoning Administrator upon a determination that the tree is diseased, dead or dangerous.

D. Skylights. Skylights and dormers may be installed on roofs not facing a street. Except on rear-facing or flat roofs, skylights must have glazing which is parallel to the roof surface. Flanges of skylights shall not extend more than six (6) inches above the roof surface.

E. Openings. The addition of new openings, such as windows and doors, or enlargement of existing openings, may be made to facades not facing a street. The addition of new openings or enlargement of existing openings may be made to facades facing a street only when such change adds to the historical or architectural value and significance of the structure.

F. Additions. Additions may be made to building facades not facing a street. Additions may be made to building facades facing a street only when such addition adds to the historical or architectural value and significance of the structure.

G. Surface Covering. Unpainted brick, terra cotta or stone shall not be painted or otherwise covered. Otherwise, new materials of any kind may be applied to existing wall surfaces, provided that:

1. The width of all new materials covering wooden or clapboard siding, window and door frames, eaves, fascia, corners and skirt or drip boards shall be within one (1) inch of the original.

2. Resurfacing materials applied to the exterior of any existing building shall not conceal or require the removal of any original architectural detail associated with barge boards, brackets, ornamental shingle work or other similar features.

(5) Recommended Restoration. The following restoration practices are encouraged to allow all buildings within the District to conform more closely to their original appearance.

A. Replacement of excessively deteriorated details with new material that is visually identical to the original;

B. Uncovering of original wooden shingles, clapboard, board and batten siding;

C. Changes in exterior siding and in the form of windows and doors, porches, trim and ornamentation where evidence of the original appearance is available;

D. Preservation of original glass in windows and doors;

E. Replacement of concrete steps and metal banisters with wood where such replacement is in keeping with the architectural character of the building;



F. Location or relocation of air conditioners, meter boxes and similar mechanical equipment so as not to be visible from the street;

G. Removal of non original materials from front and side facades, especially plastic, fiberglass, imitation stone or aluminum; and

H. Maintenance of original interior woodwork, including windows, doors, frames, banisters, staircases, open stairwells, original light fixtures, ornamental plaster work, hardware, marble bathroom fixtures, fireplaces, mantelpieces and hearths.

I. Unpainted woodwork should not be painted.

(b) Regulations for Non-Residential Structures in the HL-1 District.

(1) Standards.

A. Barrier-Free Ramps. Barrier-free ramps conforming to the architectural style of a building in the District may be used, if required by State authority, or at the discretion of the property owner, to provide access to the building. Any variances from barrier-free building requirements must be obtained from the State.

B. Fire Escapes. No person shall install a fire escape on the street facade of a building in the District. Fire escapes on side facades may be installed only with the prior approval of the Planning Commission.

(2) Parking. Parking requirements for uses permitted in the underlying zoning district are provided in Article 10. In addition, the following standards shall apply:

A. The Planning Commission may increase or decrease required parking in order to meet the purposes of this section and protect the public health and safety.

B. Parking shall not be permitted in a front or side yard.

C. Parking areas shall have appropriate means of vehicular access to a street as well as maneuvering areas. No driveway or curb cut shall exceed thirty (30) feet in width, and detailed plans shall be submitted to the Planning Commission for approval before a permit may be obtained therefore. Such parking areas shall be paved with an asphaltic or concrete surfacing, afford adequate drainage and have bumper guards where needed.

D. Parking areas shall be used only for automobile, light truck and bicycle parking for the business invitees, employees, proprietors and residents of a building.

E. If lighting is provided, it shall be arranged to reflect away from the residential area and from any public street or highway.

F. Additional screening of parking areas by a hedge or slightly fence or wall, not less than five (5) feet high nor more than seven (7) feet high, located in back of the setback building lines, may be required to conceal such parking areas from the street, from the sides and from the rear.

(3) Signs. Requirements of the District relating to signs are provided in Article 7.

(c) Variances and Appeals. Persons aggrieved by any decision of the Zoning Administrator or the Planning Commission in the enforcement of this section may appeal such decision to the Board of Zoning Appeals. Applications for variances from the strict application of this section may also be made to the Board.

• Section 6.24 Mobile Home Park Requirements.

The Mobile Home Code, as established by the *Mobile Home* Commission and the Michigan Department of Environmental Quality Rules under the authority of 1987 P.A. 96, as amended, regulates development of *mobile home parks*. All *mobile home parks* must be constructed according to the standards of the Code. In addition to the rules and standards of the State of Michigan, the City of Howell imposes the following conditions:

(a) *Mobile home parks* shall be constructed, licensed, operated, and managed in accordance with the provisions of the Mobile Home Commission Act, 1987 P.A. 96, as amendment, and subsequently adopted rules and regulations governing *mobile home parks*.

(b) *Mobile home parks* shall not be permitted on parcels less than ten (10) acres in size.

(c) Individual *mobile home* sites within a *mobile home park* shall have a minimum *lot* size of 5,500 square feet per *mobile home* being served. This 5,500 square foot minimum may be reduced by twenty (20) percent, provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through this reduction of the site below 5,500 square feet, an equal amount of land shall be dedicated as open space. In no case shall the open space requirements be less than that required under R125.1946, Rule 946 of the Michigan Administrative Code.

(d) The on-site storage of boat trailers, boats, camping units, horse trailers and similar *recreational equipment* shall be prohibited on *mobile home* sites and in designated open space areas. The *mobile home park* may provide, within the confines of the park, a common outdoor storage area for the storage of the above mentioned equipment.

(e) The minimum *setback* for *mobile home parks* shall be fifty (50) feet from a public right-of-way. *Mobile home parks* shall be landscaped as follows:

(1) If the *mobile home park* abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development.

(2) If the park abuts a non-residential development, the park need not provide screening.

(3) In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way.

(f) The *landscaping* shall consist of evergreen trees or shrubs of minimum three (3) feet in height that is spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the *mobile home park* as effectively as the required *landscaping* described above.

(g) *Mobile home parks* shall be subject to preliminary plan review requirements in accordance with 1987 P.A. 96, as amended.

(h) A permit shall not be required for the *construction* or erection of canopies or awnings that are open on three (3) sides. A *building* permit shall be required, however, before the *construction* or erection of any screened, glassed-in, or otherwise enclosed awning or canopy.

#### • Section 6.25 Sexually Oriented Businesses.

(a) Purpose and intent. The purpose and intent of this Section is to regulate the location and operation of sexually oriented businesses and to minimize their negative secondary effects. Based upon studies undertaken and reported by numerous other communities, it is recognized that the adult businesses, identified in this ordinance because of their very nature, have serious objectionable operational characteristics that cause negative secondary effects upon nearby residential, educational, religious, and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety, and general welfare of residents.

The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution, or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities which are prohibited by City ordinance or state or federal law. The regulations in Section 6.25 are for the purpose of locating these uses in areas where the adverse impact of their operations may be minimized by the separation of such uses from one another and places of public congregation.

Prior to adopting these regulations, the City reviewed studies prepared on these uses, reviewed ordinances and regulations prepared by other municipalities, and reviewed applicable federal and state case law. Based on evidence of the adverse effects of adult uses presented in reports made available to the City Council and on findings incorporated in the cases of *Pap's AM v City of Erie*, 529 US 277 (2000), *Deja Vu of Nashville v Metropolitan Government of Nashville & Davidson County*, 466 G3d 391 (6th Cir 2006), *Sensations, Inc. v City of Grand Rapids*, 2006 WL 2504388 (WD MI 2006), *Van Buren Township v Garter Belt*, 258 Mich App 594; 673 NW2d 111 (2003), *Bronco's Entertainment v Charter Township of Van Buren*, 421 F3d 440 (6th Cir 2005), *Thomas v Chicago Park District*, 122 S Ct 775 (2002), *City of Renton v Playtime Theatres Inc*, 475 US 41 (1986), *Young v American Mini Theatres*, 426 US 50 (1976), *Barnes v Glen Theatre Inc*, 501 US 560 (1991); *California v LaRue*, 409 US 109 (1972); *DLS Inc v City of Chattanooga*, 107 F3d 403 (6th Cir 1997); *East Brooks Books Inc v City of Memphis*, 48 F3d 2200 (6th Cir 1995), *Broadway Books v Roberts*, 642 F Supp 4867 (ED Tenn 1986); *Bright Lights Inc v City of Newport*, 830 F Supp 378 (ED Ky 1993); *Richland Bookmart v Nichols*, 137 F3d 435 (6th Cir 1998), *Richland Bookmart v Nichols*, 278 F3d 570 (6th Cir 2002); *Déjà vu of Cincinnati v Union Township Board of Trustees* 411 F3d 777 (6th Cir 2005); *Déjà vu of Nashville v Metropolitan Government of Nashville*, 274 F3d 377 (6th Cir 2001); *Bamon Corp v City of Dayton*, 7923 F2d 470 (6th Cir 1991); *Threesome Entertainment v Strittmather*, 4 F Supp 2d 710 (ND Ohio 1998); *JL Spoons Inc v City of Brunswick*, 49 F Supp 2d 1032 (ND Ohio 1999); *Triplett Grille Inc v City of Akron*, 40 F3d 129 (6th Cir 1994); *Nightclubs Inc v City of Paducah*, 202 F3d 884 (6th Cir 2000); *O'Connor v City and County of Denver*, 894 F2d 1210 (10th Cir 1990); *Deja Vu of Nashville Inc et al v Metropolitan Government of Nashville and Davidson County*, 2001 USA App LEXIS 26007 (6th Cir Dec 6, 2001); *ZJ Gifts D-2 LLC v City of Aurora*, 136 F3d 683 (10th Cir 1998); *Connection Distribution Co v Reno*, 154 F3d 281 (6th Cir 1998); *Sundance Associates v Reno*, 139 F3d 804 (10th Cir 1998); *American Library Association v Reno*, 33 F3d 78 (DC Cir 1994); *American Target Advertising Inc v Gianì*, 199 F3d 1241 (10th Cir 2000); *ZJ Gifts D-2 LLC v City of Aurora*, 136 F3d 683 (10th Cir 1998); *ILQ Investments Inc v City of Rochester*, 25 F3d 1413 (8th Cir 1994); *Bigg Wolf Discount Video Movie Sales Inc v Montgomery County*, 2002 US Dist LEXIS 1896 (D Md Feb 6 2002); *Currence v Cincinnati*, 2002 US App LEXIS 1258 (3rd Cir Jan 24, 2002); and other cases; and on testimony to Congress in 136 Cong Rec S 8987; 135 Cong Rec S 14519; 135 Cong Rec S 5636; 134 Cong Rec E 3750; and reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona - 1979; Minneapolis, Minnesota - 1980; Houston, Texas - 1997; Amarillo, Texas; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Seattle, Washington - 1989; Oklahoma City, Oklahoma - 1986; Cleveland, Ohio - and Dallas, Texas - 1997; St. Croix County, Wisconsin - 1993; Bellevue, Washington - 1998; Newport News, Virginia - 1996; New York Times Square 1993; Bellevue, Washington - 1998; Newport News, Virginia - 1996; New York Times Square study - 1994; Phoenix, Arizona - 1995-98; and also on findings from the paper entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota, and from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan 12, 2000, and the Report of the Attorney General's Working Group On the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), the City Council finds that sexually oriented businesses as a category of establishments are correlated with harmful secondary effects, and that the foregoing reports are reasonably believed to be relevant to the

problems that Howell is seeking to abate and prevent in the future. Due to the potential for harmful secondary effects, the City Council further determines that it is in the best interests of the City that the decision on any application for a special use approval for a sexually oriented business be made by the City Council after review and recommendation by the Planning Commission. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one (1) area (i.e., not more than two (2) such uses within a specified distance of each other which would create such adverse effect(s). Sexually oriented businesses are classified as follows.

1. adult arcades;
2. adult bookstores or adult video stores;
3. adult cabarets;
4. adult massage parlors;
5. adult motels;
6. adult motion picture theaters;
7. adult theaters;
8. adult nudity or retail stores;
9. escort and escort agencies;
10. nude model studios; and
11. sexual encounter centers.

(b) Location. Sexually oriented business uses, as defined herein, shall be permitted within the B-2 (General Business), I-1 (Industrial 1) and I-2 (Industrial 2) Districts as a use subject to special approval, and further subject to the following conditions:

(1) No sexually oriented business as defined herein shall be permitted within one thousand (1,000) feet of an existing sexually oriented business. Measurement of the 1,000 feet shall be made in a straight line without regard to intervening structures or objects from the closest exterior wall of each business.

(2) No sexually oriented business as defined herein shall be permitted within five hundred (500) feet of a residentially zoned or used parcel, school, library, public park, playground, licensed group day-care home or center, or religious institution. Measurement of the five hundred (500) feet shall be made without regard to intervening structures or objects from the nearest point of the property line of the premises where the sexually oriented business is conducted, to the nearest point of the property line of those uses mentioned above.

(3) A sexually oriented business site shall not be located closer than five hundred (500) feet to the right-of-way of Interstate 96 as well as all principal and/or minor arterial roads within the City of Howell, as designated by the City's Master Plan.

(4) A person is in violation of this Ordinance if he/she causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.

(5) A person is in violation of this Ordinance if he/she causes or permits the operation, establishment or maintenance of more than one (1) sexually oriented business in the same building, structure or portion thereof or the substantial enlargement of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.

(6) For the purposes of measuring the required distances and separations in Sub-Section (1) and (2) above, access easements or portions of the parcel that are exclusively used to provide access to the site of the sexually oriented business shall be excluded from the parcel boundary in determining whether the site complies with the required separation. The intent of this exclusion is to allow sexually oriented businesses to comply with the separation requirement from major thoroughfares by means of an access easement or access strip of land from the site to the thoroughfare.

(c) Review. Any application for special use approval for a sexually oriented business shall proceed before the Planning Commission for recommendation, and the City Council for final decision. In reviewing an application for special use approval, the Planning Commission and City Council shall apply the standards contained in Section 3.03 of this Ordinance. Further, the Planning Commission and City Council shall consider the following additional standards with respect to the sexually oriented business:

(1) That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this Section will be observed.

(2) That the proposed use will not enlarge or encourage the development of an area in which the homeless, unemployed, transients or others may loiter or congregate for no gainful purpose.

(3) That the establishment of any additional sexually oriented business use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any plans for future development of the area according to the

City's Master Plan.

(4) That all applicable regulations of this Ordinance will be observed.

(d) Time limits for review. The following time limits shall apply to the review of an application by the Planning Commission and City Council for special approval of a sexually oriented business as regulated by this Section.

(1) The Planning Commission will publish notice and hold a public hearing as required for special land use approval review within sixty (60) days of receiving a complete and technically compliant special approval and site plan application as required by Section 3.03(b) of the Zoning Ordinance for a sexually oriented business.

(2) The Planning Commission will make its recommendation regarding the special approval application for a sexually oriented business at the next regularly scheduled meeting of the Planning Commission following the public hearing held to review the application, unless additional information is required from the applicant. If additional information is required, the Planning Commission will make its recommendation at the next regularly scheduled meeting after receipt of the requested additional information, provided the additional information is received no later than fifteen (15) days prior to the meeting.

(3) The recommendation of the Planning Commission will be forwarded to the City Council within sixty (60) days of the meeting at which Planning Commission issues its recommendation. The City Council will render its decision to grant or deny special approval of the sexually oriented business or to grant approval with conditions, as stipulated by the Zoning Ordinance at this meeting.

(4) Failure of the City to act within the above specified time limits shall not be deemed to constitute the grant of special approval to the sexually oriented business.

(5) The Planning Commission may recommend that the City Council impose such conditions or limitations upon the establishment, location, construction, maintenance or operation of the sexually oriented business, as shall, in its judgment, be necessary for the protection of the public health, safety, welfare and interest, except that any conditions imposed on a sexually oriented business as defined in this Section shall be limited to those conditions necessary to assure compliance with the standards and requirements in this Section. Likewise, the City Council may impose conditions or limitations as deemed necessary. Any evidence and guarantee may be required as proof that the conditions stipulated in connection with the establishment, maintenance and operation of a sexually oriented business shall be fulfilled.

(e) Effect of denial. No applicant for a regulated use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence or proof of changed conditions.

(f) Revocation. In any case where a building permit for a regulated use is required and has not been obtained within six (6) months after the granting of the special approval by the City Council, the grant of special approval shall become null and void.

(g) Miscellaneous requirements and conditions.

(1) No person shall reside in or permit any person to reside in the premises of a sexually oriented business.

(2) Such uses shall comply with all applicable federal, state, and local licensing regulations. Initial and annual proof of such compliance shall be a condition for continuance of licensure by the City.

(3) Nothing contained in this Section shall relieve the operator(s) of a sexually oriented business from complying with other requirements of this Ordinance as it may be amended from time to time, or any subsequently enacted Ordinances.

(4) All off-street parking areas and entry door areas of a sexually oriented business shall be illuminated from dusk until the closing time of the business with a lighting system which provides an average maintained horizontal illumination of one foot-candle of light on all parking surfaces and/or walkways. This requirement is to ensure the personal safety of patrons and employees, and to reduce the incidence of vandalism and other criminal conduct.

(5) The landscaping requirements of Section 5.10 shall apply to all such uses with the following exceptions:

(a) No shrub/hedge shall be taller than three (3) feet within the required front yard of the building and when grouped shall maintain an opacity of no greater than 80% (as defined in Section 5.10(d)).

(b) All trees shall be limbed up (removal of all lower limbs) to ensure a clear zone of no less than four (4) feet from grade.

(6) Where a fence/wall is required it shall be no taller than six (6) feet in all locations with the exception of the required front yard where three (3) feet shall prevail.

(7) Any business now classified as sexually oriented business lawfully operating on the date of adoption of the Ordinance, that is in violation of Sub-Sections (b)(1), (2) or (3) above shall be deemed a nonconforming use.

(h) Nude entertainment prohibited in alcoholic commercial establishment It shall be unlawful for any person to perform in any alcoholic commercial establishment, to knowingly permit or allow to be performed therein, any of the following acts or conduct:

(1) The public performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellations, or any sexual acts which are prohibited by law;

- (2) The actual or simulated touching, caressing or fondling on the breasts, buttocks, anus or genitals in public; or
- (3) The actual or simulated public displaying of the pubic hair, anus, vulva or genitals.

(4) It shall be unlawful for the owner, operator, agent or employee of an alcoholic commercial establishment to allow any female to appear in an alcoholic commercial establishment so costumed or dressed that one or both breasts are wholly or substantially exposed to public view. Topless or bottomless or totally uncovered waitresses, bartenders or barmaids, entertainers including dancers, impersonators, lingerie shows, or any other form for the attraction or entertainment of customers, is strictly prohibited. "Wholly or substantially exposed to public view" as it pertains to breasts shall mean the showing of the female breast in an alcoholic commercial establishment with less than a fully opaque covering of all portions of the areola and nipple, and the prohibition shall also extend to such events similar to wet t-shirt contests, lingerie shows or bikini shows.

(i) Exterior display and signs. A sexually oriented business is in violation of this Section if:

- (1) The merchandise or activities of the establishment are visible from any point outside the establishment; or
- (2) The exterior portions of the establishment or signs have any words, lettering, photographs, silhouettes, drawing or pictorial representatives of any specified anatomical area or sexually explicit activity as defined in this Ordinance.

(j) Advertising.

(1) The building and premises shall be designed and constructed so the material depicting, describing, or relating to specified sexual activities or specified anatomical areas cannot be observed by pedestrians or from vehicles on any public right-of-way. This provision shall apply to any display, decoration, sign, show window, or other opening. This prohibition shall not extend to advertising of the existence or location of such sexually oriented business.

(2) The permittee shall not allow any portion of the interior premises to be visible from outside the premises.

(3) Pursuant to Article 7, each conforming sexually oriented business shall be permitted both wall and freestanding signs which announce the names of the business. No off-premise or portable signs shall be permitted.

(k) Parking/Lighting.

(1) All off-street parking areas and premise entries of the sexually oriented business shall meet the requirements for parking under Article 10 of this Ordinance.

(2) Premise entries and parking areas shall be illuminated from dusk to closing hours of operation with a lighting system that complies with Article 8, Section 8.05(a), Exterior Lighting from Direct Sources. The lighting shall be shown on the required site plan.

(l) Hours of Operation. No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 A.M. and 8:00 A.M., on weekdays and Saturdays, and 1:00 A.M. and 12:00 P.M. on Sundays.

(m) License required to operate a sexually oriented business Special approval and site plan approval shall be granted on the condition that the operator or owner of a sexually oriented business obtains a license to operate the business as required by Chapter 810 of the Howell City Code.

(n) Nonconforming use. Any sexually oriented business lawfully operating on the effective date of this Section that is in violation of this Section shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to conforming use. If two (2) or more sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at the particular location is the conforming use and the later established business(es) is nonconforming. Nothing in this Section shall prevent the reconstruction, repairing or rebuilding and continued use of any non-conforming building or structure, which is damaged by fire, collapse, explosion or act of God, provided that the expense of such reconstruction does not exceed fifty percent (50%) of the reconstruction cost of the building or structure at the time such damage occurred. Where the reconstruction repair or rebuilding exceeds the above-stated fifty (50%) percent, the reestablishment of the use shall be subject to all provisions of this Ordinance.

(o) Enforcement. A violation of the provisions of this Section shall result, in addition to the remedies provided herein, possible criminal violations consisting of a fine of five hundred (\$500.00) dollars or a jail term of ninety (90) days, or both.

(p) Injunction. In addition to the provisions of this Section, the City, at its option, may commence proceedings in the circuit court under the appropriate court rule or statute to enjoin any activity conducted by a sexually oriented business that is deemed to be in violation of these provisions.

• **Section 6.26 Private Clubs, Lodges and Reception Halls.**

(a) Private Club or Lodge. A private *club* or lodge includes *buildings* and grounds used for and operated by a non-profit organization, whose membership is by invitation and election according to qualifications in the *club's* charter or bylaws. The *use* of the facilities is primarily restricted to members and their guests. *Privateclubs* and lodges may be allowed subject to the following:

- (1) A minimum *lot area* of sixteen thousand (16,000) square feet.
- (2) A minimum *front, rear and side yard* of twenty-five (25) feet.

(3) No person shall reside in or permit any person to reside in the premises.

(4) All such *uses* shall be screened per Section 5.10, but when located adjacent to a residentially zoned or used parcel, shall be screened per Section 5.10(d)(2).

(b) Reception Hall. A reception hall is used for and operated by a for profit organization, and is not associated with a *motel*, *hotel*, school, private *club* or lodge. All such facilities may be allowed subject to the following:

(1) A minimum *lot area* of sixteen thousand (16,000) square feet.

(2) A minimum *front*, rear and *side yard* of twenty-five (25) feet.

(3) All such *uses* shall be screened per Section 5.10, but when located adjacent to a residentially zoned or used parcel, shall be screened per Section 5.10(d)(2).

#### • Section 6.27 Transitional Housing Facility

(a) Intent. The purpose of this section is to allow reasonable consideration of transitional housing facilities, as defined by this Ordinance, and to ensure that such housing does not alter the fundamental character of the City. This section is further intended to advance legitimate governmental interests by regulating transitional homes in a manner that ensures that the use of land is situated in appropriate locations and with proper relationships particularly to the surrounding land uses, limits inappropriate overcrowding of land or particular uses and/or congestion of population, and ensures that public streets and facilities are not overburdened. Such transitional housing shall be planned, designed and located in a manner that protects public health, safety and welfare.

(b) Applicability. The provisions of this section shall be applicable to various types of transitional and permanent homes which occupy dwellings or other structures. The Planning Commission may approve a transitional housing facility subject to and in accordance with this section and Section 3.03 .

(c) Conditions of Approval. As a condition to approval of a transitional housing facility, the applicant must comply with all the terms of this section and Section 3.03 , and must demonstrate all of the following:

(1) Taking into consideration the needs, facts, and circumstances which exist throughout the City and the population to be served by the use, the proposed transitional housing facility shall be necessary to afford such persons served by the home and opportunity to reside in and enjoy the City;

(2) Approval of the proposed housing shall not require or will not likely result in a fundamental alteration in the nature of the Zoning District and neighborhood in which the property is situated, or result in an excess concentration of such proposed housing in a particular area, considering the cumulative impact of one (1) or more other uses and activities in, or likely to be in, the area, and shall not impose undue financial and administrative burden. The interests of the City shall be balanced against the need for accommodation on a case-by-case basis; and

(3) No other specific Ordinance provision exists that is available to provide the relief sought.

(d) Application Provisions. The application for a transitional housing facility shall include the following:

(1) A concept plan drawn to scale showing the proposed use and development. At a minimum, the plan shall include the following information:

A. Evidence of ownership; location and description of site; dimensions and areas;

B. Scale, north arrow, date of plan;

C. Existing zoning of site; existing land use and zoning of adjacent parcels; location of existing buildings, drives and streets on the site and within 100 feet of the site;

D. Location, type and land area of each proposed land use; dwelling unit density (dwelling units per acre);

E. General description of proposed water, sanitary and storm drainage systems;

F. Existing natural and man-made features to be preserved or removed; location of existing structures, streets and drives; location, width and purpose of existing easements;

G. General location, function, surface width and rights-of-way of proposed public and private streets;

H. General location of proposed parking and number of spaces required and provided.

(2) A separate document that provides the number of residents served, resident services provided and the anticipated length of stay, and staffing and duties performed.

(e) Standards and Regulations. In order to be entitled to the approval of a transitional housing facility, the following must be demonstrated by the applicant:

(1) All the requirements for entitlement to approval under subsection 6.27 (c) of this section, shall be met;

(2) The intensity of the use (e.g., number of residents in the residential facility) shall be the minimum required in order to achieve feasibility of the use; and

(3) The use, and all improvements on the property shall be designed and constructed to meet the following standards and conditions:

A. Taking into consideration the size, location and character of the proposed use, the proposed use shall be established in such a manner to be compatible and harmonious, as determined by the application of generally accepted planning standards and/or principles, with;

- i. The surrounding uses; and/or
- ii. The orderly development of the surrounding neighborhood and/or vicinity.

B. The proposed use shall be designed to ensure that vehicular and pedestrian traffic shall be no more hazardous than is normal for the district involved, taking into consideration traffic volume, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and pedestrian traffic safety;

C. The proposed use shall be designed and operated so as not to unreasonably impact upon surrounding property in terms of noise, dust, fumes, smoke, air, water, odor, light and/or vibration, and shall not unreasonably impact upon persons perceiving the use in terms of aesthetics;

D. The proposed use shall be such that the location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings and will not have a detrimental effect upon their value;

E. The proposed use shall be designed, located, planned and operated in such a manner that the public health, safety and welfare will be protected; and

F. The proposed use shall be designed and operated so as not to cause substantial injury to the other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

(f) Design Standards. All regulations and standards for buildings, structures and site improvements within the district in which the property is situated shall apply, subject to the right of the Planning Commission to alter and supplement such standards and regulations the Planning Commission finds to be needed and reasonably proportionate to the impacts of the use given the facts and circumstances attendant to a particular case. In rendering a decision, the Planning Commission will weigh the need or extent of the accommodation which may be required, against the spirit of this Ordinance to ensure that public safety is secured, and substantial justice done, and that the essential character of the neighborhood and/or district is not altered.

(g) Conditions. In connection with the approval of a transitional housing facility, the Planning Commission may impose such conditions as are authorized by law.

(h) Effect of Approval.

(1) The effect of an approval under this section shall be for the exclusive benefit and occupancy of such persons in need of transitional housing as represented by the applicant. If a change in such use occurs such that it is occupied by others, the regulations applicable within the district in which the property is situated shall thereupon immediately and fully apply. An approval under this section shall not be final until such time as the applicant records an affidavit at the office of the register of deeds in connection with the property, in a form approved by the City Attorney, providing notice of the terms of this provision.

(2) An approval under this section shall be effective for a period of one (1) year and shall thereafter be void unless there is an occurrence of actual occupancy by persons for whom the transitional home has been made in granting approval.

(3) Transitional housing facilities shall obtain a certificate of registration in accordance with Chapter 1460, Residential Rental Properties, of the Code.

#### • **Section 6.28 Kennels**

Kennels shall be subject to the following requirements:

- (1) No property used for the purposes of a kennel shall be adjacent to a residentially zoned or used property.
- (2) The business shall be located entirely within a building, with the exception of outdoor exercise areas, which may be located adjacent to the building and screened from surrounding properties.
- (3) No animals may be housed outdoors.

#### • **Section 6.29 Special Accommodation Use**

(a) Intent. This section is intended to authorize the grant of relief from the strict terms of this Ordinance for Transitional Housing Facilities in order to provide equal housing opportunities particularly suited to the needs of persons entitled to reasonable accommodation under state or federal law, such as but not limited to, the Federal Fair Housing Act, as amended, 42 USC § 3604(f)(1) *et seq.*, the Americans with Disabilities Act, as amended, 42 USC § 12131 *et seq.*, and the Rehabilitation Act, as amended, 29 USC § 794(a). This Section of the Ordinance responds to the prohibition of housing discrimination based on a disability which is defined as:

- (1) A physical or mental impairment which substantially limits one or more of such person's major life activities;
- (2) A record of having such an impairment; or
- (3) Being regarded as having such a physical or mental impairment that limits one (1) or more of such person's major life activities.

This section is further intended to advance a legitimate governmental interest by regulating special accommodation uses in a manner that ensures that the use of land is situated in appropriate locations and with proper relationships particularly to the surrounding land uses, limits inappropriate overcrowding of land or particular uses and/or congestion of population, and ensures that public streets and facilities are not overburdened.

(b) Applicability. The provisions of this section shall be applicable to various types of transitional and permanent homes and structures which occupy dwellings and may include, but not be limited to, adult foster care large group homes and congregate facilities, and transitional housing facilities. The City Manager and/or his/her designee may approve a special accommodation use, subject to and in accordance with this section. It is further the intent of this Ordinance that a transitional housing facility granted a special use accommodation will be exempt from applying for or obtaining special land use approval under Section 3.03 and Section 6.27 .

(c) Conditions of Approval. As a condition to approval of a special accommodation use, the applicant must comply with all the terms of this section, and must demonstrate all of the following:

(1) The ultimate residential user or users of the property shall be persons for whom state or federal law mandates the City to make reasonable accommodations in connection with proposed uses of land under the existing circumstances;

(2) Taking into consideration the needs, facts, and circumstances which exist throughout the City and the population to be served by the use, the proposed reasonable accommodation shall be necessary to afford such person equal opportunity to the proposed use and enjoyment within the City;

(3) Approval of the proposed housing shall not require or will not likely result in a fundamental alteration in the nature of the Zoning District and neighborhood in which the property is situated, or result in an excess concentration of such proposed housing in a particular area, considering cumulative impact of one (1) or more other uses and activities in, or likely to be in, the area, and shall not impose undue financial and administrative burden. The interests of the City shall be balanced against the need for accommodation on a case-by-case basis; and

(4) No other specific Ordinance provision exists that is available to provide the relief sought.

(d) Application Provisions. The application for a special accommodation use shall include the following:

(1) A concept plan drawn to scale showing the proposed use and development. At a minimum, the plan shall include the following information:

A. Evidence of ownership; location and description of site; dimensions and areas;

B. Scale, north arrow, date of plan;

C. Existing zoning of site; existing land use and zoning of adjacent parcels; location of existing buildings, drives and streets on the site and within 100 feet of the site;

D. Location, type and land area of each proposed land use; dwelling unit density (dwelling units per acre);

E. General description of proposed water, sanitary and storm drainage systems;

F. Existing natural and man-made features to be preserved or removed; location of existing structures, streets and drives; location, width and purpose of existing easements;

G. General location, function, surface width and rights-of-way of proposed public and private streets;

H. General location of proposed parking and number of spaces required and provided.

(2) A separate document that provides the following:

A. A summary of the basis on which the applicant asserts entitlement to approval of a special accommodation use, covering each of the requirements of subsections (c), (d), (e), and (f) of this Ordinance.

B. The number of residents served, resident services provided and the anticipated length of stay, and staffing and duties performed.

(e) Standards and Regulations. In order to determine whether a special accommodation use should be granted, the need to provide a reasonable accommodation under State or Federal law shall be considered and weighed by the City in relationship to the following:

(1) If the proposed housing does not constitute a permitted use in the zoning district in which the property is situated, the intensity of the use (e.g., number of residents in the residential facility) shall be the minimum required in order to achieve feasibility of the use; and

(2) The use, and all improvements on the property shall be designed and constructed to meet the following standards and conditions:



A. Taking into consideration the size, location and character of the proposed use, the proposed use shall be established in such a manner to be compatible and harmonious, as determined by the application of generally accepted planning standards and/or principles, with:

- i. The surrounding uses; and/or
- ii. The orderly development of the surrounding neighborhood and/or vicinity.

B. The proposed use shall be designed to ensure that vehicular and pedestrian traffic shall be no more hazardous than is normal for the district involved, taking into consideration traffic volume, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and pedestrian traffic safety;

C. The proposed use shall be designed and operated so as not to unreasonably impact upon surrounding property in terms of noise, dust, fumes, smoke, air, water, odor, light and/or vibration, and shall not unreasonably impact upon persons perceiving the use in terms of aesthetics;

D. The proposed use shall be such that the location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings and will not have a detrimental effect upon their value;

E. The proposed use shall be designed, located, planned and operated in such a manner that the public health, safety and welfare will be protected; and

F. The proposed use shall be designed and operated so as not to cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

(f) Design Standards. All regulations and standards for buildings, structures and site improvements within the district in which the property is situated shall apply, subject to the right of the City Manager and/or his/her designee to alter and supplement such standards and regulations the City Manager and/or his/her designee finds to be needed and reasonably proportionate to the impacts of the use given the facts and circumstances attendant to a particular case. In rendering a decision, the City Manager and/or his/her designee will weigh the need or extent of the accommodation which may be required, against the spirit of this Ordinance to ensure that public safety is secured, and substantial justice done, and that the essential character of the neighborhood and/or district is not altered.

(g) Conditions. In connection with the approval of a special accommodation use, the City Council may impose such conditions as are authorized by law.

(h) Effect of Approval.

(1) Approval of a special accommodation use shall be solely for the benefit of the particular class of users who were the basis of requiring the City to make a reasonable accommodation under applicable state and/or federal law, and not for the benefit of any other persons. Accordingly, the effect of an approval under this section shall be for the exclusive benefit and occupancy of such class of persons. If a change in such use occurs such that it is occupied by others, the regulations applicable within the district in which the property is situated shall thereupon immediately and fully apply. An approval under this section shall not be final until such time as the applicant records an affidavit at the office of the register of deeds in connection with the property, in a form approved by the City Attorney, providing notice of the terms of this provision.

(2) An approval under this section shall be effective for a period of one (1) year and shall thereafter be void unless there is an occurrence of actual occupancy by persons for whom the special accommodation has been made in granting approval.

(3) Special accommodation uses shall obtain a certificate of registration in accordance with Chapter 1460, Residential Rental Properties, of the Code.

## ARTICLE 7

### SIGNS

#### • Section 7.01 Intent.

The intent of this article is to regulate the location, size, *construction*, design and architectural compatibility with the surrounding areas and manner of display of *signs* and outdoor advertising in order to minimize their harmful effects on the public health, safety and welfare. While this article recognizes that *signs* and outdoor advertising are necessary to promote commerce and public information, failure to regulate them may lead to poor identification of individual businesses, deterioration and blight of business and residential areas of the City, conflicts between different types of land *use*, and reduction in traffic safety to pedestrians and motorists. To achieve its intended purpose, this article has the following objectives:

- (a) To prevent the placement of *signs* in a manner that will conceal or obscure *signs* or adjacent businesses;
- (b) To keep the number of *signs* and *sign* messages from exceeding the level reasonably necessary to identify a business and its products;
- (c) To keep *signs* within a reasonable scale with respect to the *buildings* they identify and are located upon or near;

- (d) To reduce visual distraction and obstructions to motorists traveling along, entering or leaving streets;
- (e) To promote a quality manner of display which enhances the character of the City;
- (f) To prevent the proliferation of temporary *signs* which might promote visual blight; and
- (g) To insure that the design, *construction* material and architecture of *signs* is harmonious with the *buildings* and *structures* in the immediate area in order to avoid visual blight.

• **Section 7.02 General Conditions.**

(a) Location. All *signs* must advertise a business or service on the premises upon which the *sign* is located and to which the *sign* is accessory, unless otherwise specified herein.

(b) Illumination.

(1) The City, in its sole discretion, shall approve the method of *sign* illumination to ensure that the standards contained herein are met.

(2) No *sign* shall be illuminated by other than electrical means.

(3) The intensity and direction of light from an illuminated *sign* shall not interfere with vehicular traffic or the use and enjoyment of adjacent or nearby properties. Particular attention shall be paid to the effect of illuminated *signs* on neighboring residential uses.

(c) Safety.

(1) All *signs* shall be *erected* and maintained in compliance with all applicable *building codes*, and other applicable ordinances governing *construction* within the City of Howell. In the event of conflict between this article and other laws, the most restrictive shall govern.

(2) All *signs* shall be placed so as to not interfere with the visibility or effectiveness of any official traffic *sign* or signal, motorist or pedestrian.

(3) No *sign* shall be *erected*, relocated or maintained so as to obstruct fire fighting or prevent free access to any door, window or fire escape.

(d) Preservation of Community Landscape. In the application of this article, it is the intent to protect the public welfare and to enhance the appearance and economic value of the landscape by providing that *signs* comply with the following:

(1) Do not interfere with scenic views;

(2) Do not create a nuisance to persons using the public right-of-way;

(3) Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height, or movement;

(4) Are not detrimental to surrounding property values;

(5) Contribute to the special character and historical significance of particular areas or *districts* in the City; and

(6) Are compatible in design, architecture, *construction* material and manner of lighting with the *buildings* in the area in which the *signs* are located.

(e) Signs Prohibited in All Districts.

(1) *Roof signs.*

(2) *Signs* containing flashing, scrolling, blinking, intermittent or moving lights, *digital/electronic signs*, or *signs* with moving or revolving parts. Exceptions to this restriction may be permitted by the Planning Commission based upon good justification, for example, the historical significance of signage. *Digital/electronic signs* may be considered for the display of gas prices at *automobile filling stations* located outside of the Central Business District but only as a special land use. A portion of a drive-in/drive-through restaurant *menu board* may also incorporate a *digital/electronic sign* pursuant to Section 7.09(d)(7).

(3) *Signs* affixed to trees, rocks, shrubs or similar natural features, but not when an integral part of or carved out of such features.

(4) *Signs* that imitate traffic signals, traffic direction *signs*, or similar traffic control devices.

(5) Temporary *signs* mounted upon trucks, vans, or other wheeled devices. *Signs* permanently painted on, or otherwise permanently displayed upon a vehicle, licensed and operating on the public streets and highways, identifying the owner's occupation or livelihood, shall be permitted.

(6) Permanent *signs* other than those *erected* by a public agency that are located within or overhang the public right-of-way or on public property.

(7) Any *sign* or *sign structure* which:

- A. Is structurally unsafe; or
- B. Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment; or
- C. Is not kept in good repair; or
- D. Is capable of causing electrical shocks to persons likely to come in contact with it.

(8) *Signs* that make use of words such as "Stop", "Look", "Danger" or any other words, phrases symbols or characters, in such manner as to interfere with, mislead or confuse traffic.

(9) Any *sign* or other advertising *structure* containing any obscene, indecent or immoral matter.

(10) Any *sign* unlawfully installed, *erected* or maintained.

(11) Abandoned signs.

(f) Signs Permitted in All Districts.

(1) Nameplates not exceeding two (2) square feet in size.

(2) Political *signs* shall be *erected* on private property only and not within any public *right-of-way*. All *political signs* shall be removed within five (5) days following the day of each election. *Political signs* shall not be erected or displayed less than one hundred (100) feet from any entrance to a *building* in which a polling place is located.

(3) On-premises directional *signs* that indicate direction of traffic flow shall be permitted, subject to the following:

A. On-premise directional *signs* that are intended to direct traffic flow into a site from a public *street* are permitted in all *districts*. Such *signs* shall not exceed four (4) square feet in area and four (4) feet in height, shall be located a minimum of five (5) feet from any property line and shall be positioned in a manner which will not obstruct the vision of motorists and/or pedestrians.

B. On-premise directional *signs* which are intended to direct traffic flow within a site shall be permitted in all *districts* for the following permitted and special *uses*: schools, *hospitals*, offices, parks, governmental facilities and other similar *uses*. Such *signs* shall not exceed twenty (20) square feet in area and six (6) feet in height, shall be located a minimum of fifty (50) feet from any property line and shall be positioned in a manner which will not obstruct the vision of motorists and/or pedestrians.

C. On-premise directional *signs* may be illuminated and shall contain no advertising, but may include corporate identification.

D. The Planning Commission may vary the size and location of an on-premises directional *sign* in order to facilitate traffic flow and safety.

(4) *Signs* denoting a site of historic significance shall be permitted in all *districts*. However, location, size, *structure*, etc., shall be approved by the Planning Commission.

(5) Restaurant menu signs not to exceed three square feet in size. Such signs are limited to one per restaurant and the menu sign shall not count against the amount of wall sign permitted for the restaurant.

(6) Building directory signs for multi-tenant buildings, listing the tenants of the building. Such signs are limited to one per building and shall not exceed six square feet.

(7) Construction signs advertising an upcoming or ongoing project, subject to the following provisions:

a. The maximum size of a construction sign shall not exceed thirty-two (32) square feet in a residential district and sixty-four (64) square feet in a non-residential district.

b. The maximum height of a construction sign shall not exceed eight (8) feet.

c. Corner lots shall be permitted two (2) signs, one on each road frontage.

d. Construction signs shall be removed thirty (30) days after the certificate of occupancy is issued for the project.

e. No construction sign shall remain on premises if the project has not commenced after six (6) months of the sign's installation or if construction has ceased for a period of six (6) months.

(8) *Promotional banner* for civic or charitable activity may be authorized by the *Zoning Administrator* after a Permit application is submitted, showing the banner to be installed and the location.

• **Section 7.03 Permitted Freestanding Signs.**

*Freestanding signs* shall be permitted in the following *districts* in accordance with the regulations herein.

(a) General Requirements.

(1) Only one (1) *freestanding sign* shall be located on any premises; however, the Planning Commission may permit a second *sign* which is not to exceed seventy-five (75) percent of the first *sign* area when having *building frontage* on two (2) public rights-of-way.

(2) A freestanding sign shall be located no closer than ten (10) feet from the public right-of-way.

(b) Height and Area Requirements. Freestanding signs shall be permitted in accordance with the following requirements:

	<u>Height (ft.)</u>	<u>Area (sq. ft.)</u>
<b>CBD District</b>		
All permitted and special land uses, not located within a business center.	12	32 per side, not to exceed a total of 64
<b>B-1, B-2, I-1 and I-2 Districts</b>		
All permitted and special land uses, not located within a business center.	12	50 per side, not to exceed a total of 100
<b>O-1 Districts</b>		
All permitted and special land uses, not located within a business center.	6	32 per side, not to exceed a total of 64
<b>R-1, R-2, R-T and R-M Districts</b>		
Applicable to the following uses: libraries, parks and recreational facilities; public and private schools; Municipal office buildings; churches; golf courses, country clubs and cemeteries; convalescent homes; bed and breakfast operations, and funeral homes or mortuaries.	6	32 per side, not to exceed a total of 64
Applicable to the following uses: colleges, universities and other such institutions of higher learning; general hospitals; and other uses of a community-wide or regional nature.	12	50 per side, not to exceed a total of 100
<b>R-1, R-2, R-T and R-M Districts</b>		
All one-family, multiple family or mobile home park developments.	6	32 per side, not to exceed a total of 64
<b>HL Districts</b> (Only one (1) sign per building, either a freestanding sign or a wall sign in this district)		
All special land uses:	5	8 per side, not to exceed a total of 16
<b>Business Center</b> (Each sign shall state only the name of the business center and the tenants located therein. Individual tenants shall not have separate freestanding identification signs, except non-residential platted subdivision or site condominium business center.)		
All business center developments.	Same as the district in which located	50 per side, not to exceed a total of 100

(c) Freestanding Signs Requiring Special Land Use Approval. The Planning Commission may consider a sign that is greater than the maximum height and area requirements or less than the minimum setback requirements as a special land use.

In review of a special land use, the Planning Commission shall consider the standards set forth in Section 7.03 and the following:

- (1) The standards set forth in Sections 7.02 and 7.07;
- (2) The size, shape and topography of the property;
- (3) The relationship of the sign to neighboring properties and signs; and
- (4) The relationship to and visibility from the public street where the property is located.

• **Section 7.04 Permitted Wall Signs.**

The following wall signs shall be permitted in the following districts in accordance with the regulations herein.

(a) General Requirements.

- (1) No wall sign shall be erected to extend above the top of the wall to which it is attached, nor extend beyond the ends

of the *wall* to which it is *attached*. *Signs erected* on the vertical portion of a mansard roof are considered to be *wall signs*.

(2) All *wall signs* shall be safely and securely *attached* to the *building* by means of metal anchors, bolts or expansion screws. In no case shall any *wall sign* be secured with wire, straps of wood or nails.

(3) For wall signs that are oriented horizontally, the vertical dimension of the sign shall not be in excess of six (6) feet. For wall signs that are oriented vertically, the horizontal dimension of the sign shall not be in excess of six (6) feet.

(4) For *buildings* with distinct and separate *uses*, separate *wall signs* shall be permitted for each such use. Corner tenants, and/or tenants with front and rear street frontage, may have two (2) *signs*, one (1) on the face of each *building frontage* facing a public right-of-way. In multi-tenant buildings, the total allowable square footage of all signs shall not exceed 1.5 times the maximum allowable square footage specified for each *district*. A single tenant may not exceed the maximum square footage specified, without the multi-tenant bonus noted above.

(5) For purposes of this article, signage incorporated as part of a *canopy sign* shall be regulated in the same manner as *wall signs*.

(b) Area Requirements. *Wall signs* shall be permitted in accordance with the following requirements:

	Area Per One Foot of <i>Building Frontage</i> (sq. ft.)	Maximum Area (sq. ft.)
<b>CBD District</b>		
All permitted and special land <i>uses</i> .	2	100
<b>B-1, B-2, I-1 and I-2 Districts</b>		
All permitted and special land <i>uses</i> .	2	100
<b>O-1 Districts</b>		
All permitted and special land <i>uses</i> .	1	50
<b>R-1, R-2, R-T and R-M Districts</b>		
Applicable to the following <i>uses</i> : libraries, parks and recreational facilities; public and private schools; Municipal office <i>buildings</i> ; <i>churches</i> ; golf courses, country <i>clubs</i> and cemeteries; <i>convalescent homes</i> ; <i>bed and breakfast</i> operations, funeral homes or mortuaries.	2	30
Applicable to the following <i>uses</i> : colleges, universities and other such institutions of higher learning; general <i>hospitals</i> ; and other <i>uses</i> of community-wide or regional nature.	2	50
<b>R-M Districts</b>		
All <i>multiple family</i> developments.	1	30
<b>HL Districts</b> (Only one (1) <i>sign</i> per <i>building</i> , either <i>freestanding</i> or <i>wall</i> , is permitted in this <i>district</i> .)		
All special land <i>uses</i> .	1	6
<b>Business Center</b> (Each <i>sign</i> shall state only the name of the <i>business center</i> and the tenants located therein.)		
All business center developments.	2	100

(c) Wall Signs Requiring Special Land Use Approval. The Planning Commission may consider a *sign* that is greater than the maximum height and area requirements as a special land *use*.

In review of a special land *use* the Planning Commission shall consider the standards set forth in Section 7.03 and the following:

- (1) The standards set forth in Sections 7.02 and 7.07;
- (2) The size, shape and topography of the property;
- (3) The relationship of the *sign* to neighboring properties and *signs*; and
- (4) The relationship to and visibility from the public *street* where the property is located.

• **Section 7.05 Permitted Projecting Signs.**

(a) General Requirements.

- (1) Projecting and *suspended signs* shall be permitted in B-1, B-2, and CBD, Districts.

(2) The *maximum* area of a *projecting* or *suspended* sign shall not exceed twenty (20) square feet on each side or a total of forty (40) square feet. The total square feet of signage (both sides) shall be subtracted from the total allowable *wall signage* square footage for the *district*.

(3) The bottom of the *projecting* or *suspended* sign shall be a minimum of seven (7) feet above the *surface* of the sidewalk or ground area, or otherwise be located so as not to interfere with pedestrian traffic.

(4) The City shall approve the lighting of all *signs*.

(b) Projecting or Suspended Signs Requiring Special Land Use Approval. The Planning Commission may consider a *sign* that is greater than the maximum area requirements as a special land use. The Planning Commission may also consider more than one (1) *projecting* sign per premises as a special land use.

In review of a special land use, the Planning Commission shall consider the standards set forth in Section 8.03 and the following:

- (1) The standards set forth in Section 7.02 and Section 7.07;
- (2) The size, shape and topography of the property;
- (3) The relationship of the *sign* to neighboring properties and *signs*; and
- (4) The relationship to and visibility from the public *street* where the property is located.

• **Section 7.06 Interior Window Signs.**

Interior *window signs* shall be permitted in the CBD Central Business *District*, B-1 Local Business *District*, and B-2 General Business *District*. Interior *window signs* shall be permitted for each *use* on each floor level but in total shall not exceed twenty-five (25) percent of the window area of each *building* face on each floor level, and no more than fifty (50) percent coverage per window.

• **Section 7.07 Permitted Portable Signs.**

The following temporary *signs* shall be permitted in accordance with the regulations herein.

(a) Permitted Real Estate Signs (On-Site).

(1) In all *zoning districts* one (1) non-illuminated *freestanding* sign shall be permitted to advertise individual *lots*, land or *buildings* for rent, lease or sale, (including weekend open house signs), provided that such *signs* are located on the property intended to be rented, leased or sold. *Corner lots* are permitted to have two (2) *signs*. Such *signs* shall not exceed an area of six (6) square feet and a height of four (4) feet in all residential *districts*, and an area of twenty (20) square feet and a height of eight (8) feet in all other *districts*.

(2) For all residential projects involving the sale of individual *lots* and/or *dwelling units*, one (1) non-illuminated *freestanding* sign shall be permitted per each entrance to the project advertising the sale of such *lots* and/or *dwelling units* (including weekend open house signs). Such *signs* shall not exceed twenty (20) square feet in area and a height of twelve (12) feet.

(3) For all residential projects involving the rental or leasing of *dwelling units*, one (1) non-illuminated *freestanding* sign shall be permitted per each entrance to the project advertising the rental or leasing of such units (including weekend open house signs). Such *signs* shall not exceed twenty (20) square feet in area and a height of eight (8) feet.

(4) All *signs* advertising the rental, lease or sale of a property or dwelling unit shall be removed within forty-eight (48) hours after the property is no longer available for rent or lease, closing on the sale or completion of construction work.

(5) All weekend open house *signs* may be posted no more than twenty-four (24) hours before the open house and shall be removed within four (4) hours following the open house.

(6) All *signs* shall be located outside of the public road right-of-way.

(7) All permitted *real estate signs* shall otherwise comply with all other standards for *freestanding signs* set forth in this article.

(b) Permitted Weekend Open House Real Estate Signs (off-site).

(1) For a residential dwelling within an established neighborhood in the City of Howell, no more than two (2) *freestanding signs* shall be permitted.

(2) For a new development in the City of Howell with multiple dwellings being listed for sale, no more than three (3) *freestanding signs* shall be permitted. However, additional *freestanding signs* may be permitted by the *Zoning Administrator* when circumstances exist that are unique to the property and not self-created. Approval for the additional *signs* shall be for up to six (6) months at which time another permit would have to be sought.

(3) Such *signs* shall not exceed an area of four (4) square feet and a height of three (3) feet.

(4) The *sign* may be located within the City's public road right-of-way but shall not interfere with the free passage of vehicular and pedestrian traffic and shall not be a hazard to the public safety. *Signs* located within a State trunkline right-of-

way are also subject to the applicable MDOT regulations.

(5) All such *signs* may be posted no more than twenty-four (24) hours before the open house and shall be removed within four (4) hours following the open house.

(6) All permitted weekend open house *real estate signs* shall otherwise comply with all other standards for *freestanding signs* set forth in this article.

(c) Permitted Portable Signs.

(1) Intent. It is the intent of this ordinance to provide opportunities for businesses to provide pedestrian-scale advertising to customers near the entrances to their businesses while preventing sign clutter along the City's thoroughfares.

(2) General Standards.

A. One (1) portable sign shall be permitted per building in the CBD, B-1, B-2, O-1, and MXD Districts. Buildings with frontage on two streets are permitted to have one sign on each street.

B. In all districts, except the CBD, a portable sign shall be located on the premises of the business it is intended to advertise, but not within the public right-of-way.

C. All sandwich board signs shall be located within 10 feet of the building containing the business it is advertising. In the CBD, a portable sign may be located on the sidewalk in the public right-of-way either in front of or adjacent to the business it is intended to advertise.

D. All portable signs may only be displayed during regular business hours.

E. A portable sign shall not occupy or obstruct the use of any fire lane or required off-street parking. Any sign that creates a visual or safety hazard may be ordered to be removed by the Zoning Administrator.

F. A portable sign shall not exceed nine (9) square feet per side or a total of eighteen (18) square feet. The height shall not exceed four and one-half (4.5) feet.

(3) Additional Standards in the CBD District. If a *portable sign* is located on a public sidewalk, a minimum of five (5) feet of unobstructed pedestrian access shall be maintained. Sufficient room shall also be provided to allow car doors to open.

• Section 7.08 Permitted Temporary Signs and Promotional Banners.

(a) Within all non-residential zoning districts, one (1) *promotional banner* is permitted per premise at any given time, but in no case shall it remain in place for more than two (2) non-consecutive thirty (30) day periods per calendar year.

(b) Promotional banners shall be permitted to be thirty (30) square feet in size and mounted no more than six (6) feet high and ten (10) feet in length.

(c) Temporary *promotional banners* shall not be located in a public right-of-way, must be affixed to the principal *building* of the business or freestanding, removable poles and shall be located and designed to avoid interference with or distraction to vehicular and pedestrian traffic.

(d) All *promotional banners* that are not properly maintained shall be removed at the order of the *Zoning Administrator*.

(e) All other *promotional banners* are strictly prohibited.

• Section 7.09 Miscellaneous Signs.

(a) Signs for Bed and Breakfast Accommodations.

(1) The Planning Commission, in its sole discretion, may approve one (1) of the following types of *signs*: ground, *wall*, projecting or suspended.

(2) A ground *sign* shall not exceed four (4) feet in height and six (6) square feet in area per side, nor to exceed a total of twelve (12) square feet in area.

(3) A *wall sign* shall not exceed six (6) square feet in area.

(4) A projecting or *suspended sign* shall not exceed six (6) square feet in area per side, not to exceed a total of twelve (12) square feet in area. A projecting or *suspended sign* shall provide a minimum of eight (8) feet of ground clearance or otherwise be located so as to not interfere with pedestrian traffic.

(5) The Planning Commission shall approve the lighting of all *signs*.

(b) Signs for Outdoor Sales of Automobiles or Vehicles. No advertising *signs* may be placed on-site other than the permitted maximum *wall* and/or ground *signs* as per this article. The prohibited *signs* include *banners*, *flags* and *digital/electronic signs*.

(c) Signs for Automobile Filling Stations, Automobile Repair Garage, Automobile Service Stations, Automobile Washes, and Automobile Dealerships. No advertising *signs* may be placed on-site other than the permitted maximum *wall* and/or ground *signs* as per this article. The prohibited *signs* include *banners* and *flags*. *Digital/electronic signs* for the display of gas prices may be permitted under the following circumstances:

The Planning Commission may consider a *digital/electronic sign* for *automobile filling stations* as a special land use. In review of the application for a special land use, the Commission shall consider the standards set forth in Section 3.03 and the following:

- (1) The *digital/electronic sign* shall be exclusively for the display of gas prices.
- (2) The *sign message* and background shall each be a single contrasting color and shall not include flashing, scrolling, blinking, intermittent or moving lights.
- (3) The foot-candles shall comply with the requirements of Section 8.05.
- (4) The size of the *electronic/digital sign message area* shall not exceed 50% of the total *sign surface area*.
- (d) Menuboard Signs for Drive-In and Drive-Through Businesses.
  - (1) The Planning Commission, in its sole discretion, may approve up to two (2) *menuboards* upon determination that it is integral to the nature of the business.
  - (2) Each *menuboard* shall not exceed seven (7) feet in height.
  - (3) One (1) *menuboard* (in stacking lane) shall not exceed sixteen (16) square feet and the other (at the speaker) shall not exceed thirty-two (32) square feet in area.
  - (4) The area of the *menuboard* is exclusive of the structures framing.
  - (5) All *menuboards* shall be single sided.
  - (6) No *menuboard* may be located within the front yard.
  - (7) The *menuboard* may include *digital/electronic signage* not to exceed four (4) square feet.
  - (8) The Planning Commission may consider a modified *sign* area, subject to the following:
    - A. Only one (1) of the *menuboards* may be increased in area.
    - B. The *menuboard* is completely screened from the roadway.
    - C. Under no circumstances shall the *menuboard* exceed forty-eight (48) square feet in area.

• **Section 7.10 Administration.**

This article shall be administered by the *Zoning Administrator* or his or her designated representative.

(a) Review and Approval of Signs by the Administration. All new or replacement *signs* for existing *structures* or *uses* that are not subject to Planning Commission review, including temporary *signs* and *banners*, shall be reviewed and approved by the *Zoning Administrator* or his or her designated representative. In any case, the *Zoning Administrator* reserves the right to refer a *sign* application to the Planning Commission for a recommendation.

(b) Review and Approval of Signs by Planning Commission. *Signs* subject to the review and approval of the Planning Commission are as follows:

- (1) All new *signs* subject to the provisions of this article, whether for existing or new *structures* and *uses* that are subject to *site plan* review.
- (2) *Signs* requiring special land use approval as set forth in Sections 7.03(c) and 7.04(c), and 7.05(b).
- (3) *Signs* designating sites of historical significance as set forth in Section 7.02(f)(4).
- (4) *Signs* for *bed and breakfast* accommodations as set forth in Section 7.09(a).

The application shall also describe the colors, *construction* materials and method of lighting of all such *signs*.

(c) Review Standards. The *Zoning Administrator* or the Planning Commission, depending upon the review authority set forth in subsections (a) and (b) hereof, shall review the *sign* plan for conformity with the objectives and standards of this article, specifically Section 7.02, and including the following:

- (1) Prevention of the placement of *signs* in a manner that will conceal or obscure *signs* or adjacent businesses;
- (2) Keeping the number of *signs* and *sign* messages from exceeding the level reasonably necessary to identify a business and its products;
- (3) Keeping *signs* within a reasonable scale with respect to the *buildings* they identify and are located upon or near;
- (4) Reduction of visual distraction and obstructions to motorists traveling along, entering or leaving streets;
- (5) Promotion of a quality manner of display which enhances the character of the City; and
- (6) Insuring that the design, *construction* material, architecture and method of lighting of *signs* are harmonious with the *buildings* and *structures* in the immediate area in order to avoid visual blight.



(d) Permits Required.

(1) It shall be unlawful to display, erect, relocate or alter any *sign* without obtaining a *sign* permit. Signs meeting the provisions of Section 7.02(f) shall not require a permit.

(2) *Sign* permits shall be issued for *signs* in compliance with the standards of this article. When a *sign* permit has been issued by the City, it shall be unlawful to change, modify, alter or otherwise deviate from the terms or conditions of said permit without first amending the permit or applying for a new permit.

(3) The application for a *sign* permit shall be made by the owner or tenant of the property on which the *sign* is to be located, his or her authorized agent, or a *sign* contractor. Such application shall be made in writing on forms furnished by the *Zoning Administrator* and shall be *signed* by the applicant.

(4) The application for a *sign* permit, whether reviewed by the Administrator or the Planning Commission, shall be accompanied by the following information:

A. The name, address and telephone number of the owner or persons entitled to possession of the *sign* and of the *sign* contractor or erector.

B. The location by *street* address of the proposed *sign structure*.

C. Complete information as required on application forms, including a *site plan* and elevation drawings of the proposed *sign*, caption of the proposed *sign*, and such other data as are pertinent to the application, including the locations of the proposed *sign(s)* on the property and/or *buildings* as well as any other existing *signs* located upon the property and *buildings* on the site, the dimensions of the proposed *sign* and all existing *signs*, and a drawing of such *sign(s)* showing the shape and details of all names, messages, logos, symbols and other material to be displayed upon such *sign(s)*. The application shall also describe the colors, *construction* materials and method of lighting of all such *sign(s)*.

D. Plans indicating the scope and structural detail of the work to be done, including details of all connections, guy lines, supports and footings, and materials to be used.

E. Application for, and required information for such application, and an electrical permit for all electrical *signs* if the person *building* the *sign* is to make the electrical connection.

F. A statement of valuation.

(e) Removal of Abandoned Signs.

(1) The owner's intent to abandon or no longer continue the use of the sign shall be established by a preponderance of the evidence before the zoning administrator. Such evidence may include, but not be limited to, any factor involving the use (or lack thereof) or the condition of the sign or the business it advertises, and may include, by way of example, such considerations as:

A. Whether utilities have been disconnected to the premises to which the sign relates.

B. Whether any fixtures within and outside the premises to which the sign relates have been removed.

C. Whether the premise to which the sign relates have fallen into disrepair or is considered "blighted."

D. Whether U.S. Mail delivery for the business to which the sign relates has been terminated or mail is forwarded to another address.

E. Whether the classification of the property for tax purposes has been changed to reflect another use.

F. Whether any license associated with the use of the premises to which the sign relates has expired.

G. Any other evidence indicating that the business or activity to which the sign relates is no longer operating from the advertised premises.

(2) Exceptions to this restriction may be permitted by the Planning Commission based upon the historical significance of signage. In determining historical significance of a sign, the Planning Commission shall use the following guidelines:

A. Whether or not the sign is located on an historically significant or contributing structure, as defined in this ordinance.

B. The historical or architectural value and significance of the sign and its relationship to the historical value of the surrounding area;

C. The relationship of the exterior architectural features of the sign to the rest of the structure and the surrounding area;

D. The general compatibility of exterior design, arrangement, texture and materials of the sign; and

E. Other factors, including aesthetic value, which the Planning Commission considers pertinent.

(3) A sign shall be removed by the owner or lessee of the premises upon which the sign is located within 30 days after the business which it advertises is no longer conducted on the premises. The zoning administrator or designee shall order the removal of any sign, including the sign structure, erected or maintained in violation of this ordinance. Notice in writing

shall be given to the owner of such sign or of the building, structure, or premises on which such sign is located, to remove the sign or bring it into compliance with the ordinance. Notice in writing shall be delivered in person or sent certified, return receipt requested, within 5 days of discovery of the violation.

(4) If the owner or lessee fails to remove the sign, then the City may remove the sign by issuance of a Municipal Civil Infraction to the owner or by applying to a court of competent jurisdiction seeking an order requiring removal of the sign. Any cost of removal incurred by the city shall be assessed to the owner of the property on which such sign is located and may be collected in the manner of ordinance debt or in the manner of taxes and such charge shall be a lien on the property.

(5) The city shall also remove the sign immediately and without notice if it reasonably appears that the condition of the sign is such as to present an immediate threat to the safety of the public, with the cost of removal assessed against the owner as set forth herein.

## ARTICLE 8

### ENVIRONMENTAL PERFORMANCE AND DESIGN STANDARDS

#### • Section 8.01 Intent.

No use otherwise allowed shall be permitted within a *district* that does not conform to the standards of use, occupancy and operation provided in this article, which standards are hereby established as the minimum requirements to be maintained within such *district*.

#### • Section 8.02 Airborne Emissions, Noxious Fumes and Odors.

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.

(a) Smoke. No person shall permit the emission of smoke from any source to a density greater than that density described as No. 1 on the Ringelmann Chart, except for smoke, the shade or appearance of which is equal to, but not darker than, No. 2 of the Ringelmann Chart for a period or periods aggregating four (4) minutes in any thirty (30) minutes.

For the purpose of grading the density of smoke, the Ringelmann Chart, as now published and used by the United States Bureau of Mines, and which is hereby made a part of this Zoning Ordinance, shall be the standard. However, the Umbrascope readings of smoke densities may be used when correlated with the Ringelmann Chart.

(b) Other Air Pollutants. No person shall operate or maintain, or cause to be operated or maintained, any process, furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating (while using such process, furnace or combustion device) recognized and approved equipment, means, methods, devices or contrivances to reduce the quantity of gas-borne or air-borne solids or fumes emitted into the open air. Such equipment, means, methods, devices or contrivances shall be operated in conjunction with such process, furnace or combustion device so that the quantity of gas-borne or air-borne solids does not exceed twenty (20) grains per cubic foot of the carrying medium at a temperature of five hundred (500) degrees Fahrenheit.

For the purpose of determining the adequacy of such equipment, means, methods, devices or contrivances, such conditions shall be met when the percentage of excess air in the stack does not exceed fifty (50) percent at full load. This requirement shall be measured by the American Society of Mechanical Engineers Test Code for dust-separating apparatus. All other forms of dust, dirt and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The *Zoning Administrator* may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt and fly ash have been made.

(c) 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.

#### • Section 8.03 Noise and Vibration.

(a) Noise that is objectionable as determined by the City due to volume, frequency, or beat 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) Noise levels shall not exceed seventy five (75) decibels between the hours of 6:00 a.m. and 10:00 p.m. and shall not exceed sixty (60) decibels between the hours of 10:00 p.m. and 6:00 a.m., and must comply with the levels set forth in the following table:

#### **Sound Levels in Decibels at Property Lines**

<b>Octave Band Cycles per Second</b>	<b>Adjacent to All Residential Uses</b>	<b>Adjacent to All Commercial, Office &amp; Industrial Uses</b>
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**Sound Levels in Decibels at Property Lines**

<b>Octave Band Cycles per Second</b>	<b>Adjacent to All Residential Uses</b>	<b>Adjacent to All Commercial, Office &amp; Industrial Uses</b>
0 to 75	58	73
75 to 150	54	69
150 to 300	50	65
300 to 600	46	61
600 to 1200	40	55
1200 to 2400	33	43
2400 to 4800	26	41
over 4800	20	35

(c) 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 directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following standards shall apply:

**Particle Velocity, Inches-Per Second**

<b>Frequency in Cycles per Second</b>	<b>Displacement in Inches</b>
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**Particle Velocity, Inches-Per Second**

<b>Frequency in Cycles per Second</b>	<b>Displacement in Inches</b>
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0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

If requested by the Zoning Administrator, the petitioner shall provide evidence of compliance with the above noted vibration calculations.

(d) Vibrations resulting from temporary construction activity shall be exempt from the requirements of this section.

**• Section 8.04 Electrical Disturbance, Electromagnetic, or Radio Frequency Interference.**

No use shall create an electrical disturbance that adversely affects any operations or 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. 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.

**• Section 8.05 Glare and Exterior Lighting.**

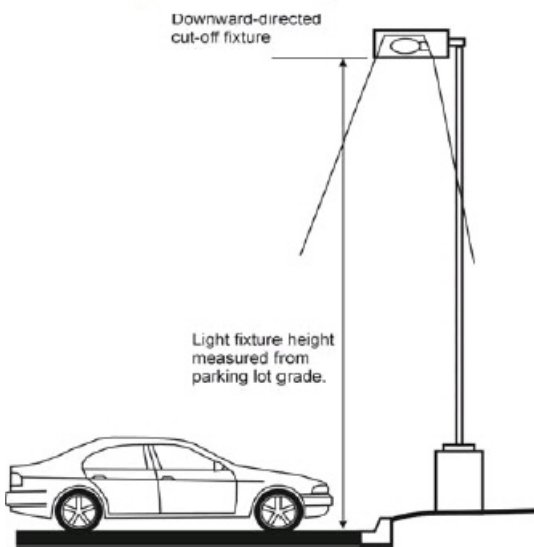
(a) Intent. The intent of this Section is to protect the health, safety, and welfare of the public by recognizing that buildings and sites need to be illuminated for safety, security, and visibility for pedestrians and motorists. To do so, this Section provides standards for various forms of lighting that will: minimize light pollution and light trespass (i.e. "sky glow"), minimize the intrusion of excess lighting levels into residential neighborhoods, conserve electrical energy, and curtail the degradation of the nighttime visual environment.

(b) Exterior Lighting From Direct Sources. Subject to the provisions set forth herein, all parking areas, walkways, driveways, building entryways, off-street parking and loading areas and building complexes with common areas, shall be sufficiently illuminated to ensure the security of property and the safety of persons using such public or common areas. Additionally, the following standards shall apply:

(1) Only non-glare, color-corrected lighting (such as metal halide fixtures) shall be permitted to maintain a unified lighting standard throughout the City and prevent "sky glow".

(2) Lighting shall utilize full cut-off shielding to prevent the lamp from extending beyond the light fixture, and the

illumination shall be downward directed to prevent off-site glare.



(3) Light intensity shall not exceed one (1) foot-candle when measured at the property line and five (5) feet above *grade*. However, light intensity shall not exceed 0.3 foot-candles when measured at the property line and five (5) feet above *grade* if the property abuts a residentially zoned and/or used parcel.

(4) Running, chasing or otherwise intermittent lighting shall be prohibited. However, this shall not be considered to include LED type lighting when permitted as a part of a sign (see Article 7).

(5) Lighting fixtures shall not exceed a height of twenty-five (25) feet or twenty (20) feet when adjacent to areas zoned and/or used for residential purposes. However, the Planning Commission and/or Zoning Administrator may consider increased height when all other ordinance provisions are satisfied.

(6) All lighting, including ornamental lighting, shall be shown *onsite plans* in sufficient detail to allow determination of the effects of such lighting upon adjacent properties and traffic safety.

(7) The Planning Commission may require decorative light fixtures as an alternative to shielded fixtures where it will be compatible with the traditional City character of the surrounding area. In this case, it must be proven that there will be no offsite glare.

(8) All outdoor lighting installed and maintained upon private property within any non-residential district shall be turned off between 11:00 p.m. and sunrise. However, for uses that continue after 11:00 p.m., the lights shall be dimmed to a level necessary for security purposes only. The modified level shall be at the discretion of the Zoning Administrator while input may be sought from the Planning Commission.

(c) Light and Glare From Indirect Sources.

(1) 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*.

(2) The design and/or screening of the development shall ensure that glare from *automobile* and commercial or industrial vehicle headlights shall not be directed into any adjacent property, particularly residential property.

(3) Exterior doors shall be located, operated and maintained so as to prevent any glare and light from creating a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land *uses*.

(d) Prohibited Lighting Elements.

(1) The internal illumination of translucent building-mounted canopies/awnings.

(2) Indirect illumination of buildings and signs that utilize halogen bulbs in excess of 120-watts (1800 lumens) or compact fluorescent bulbs in excess of 42 watts (3200 lumens).

(3) The use of laser light sources, searchlights, or any similar high intensity light for outdoor advertisement or entertainment.

(4) Luminous tube and exposed bulb fluorescent lighting.

(e) Exemptions. The following are exempt from the lighting requirements of this Section, except that the Zoning Administrator may take steps to eliminate the impact of the exempted items when deemed necessary to protect the health, safety, and welfare of the public:

(1) Holiday decorations

- (2) Window displays without glare
- (3) Shielded pedestrian walkway lighting
- (4) Residential lighting with no off-site glare

(f) Submittal Requirements. The following information must be included for all site plan submissions and where site plan approval is not required, some or all of the items may be required at the discretion of the Zoning Administrator prior to lighting installation:

- (1) Location of all freestanding, building-mounted, and canopy light fixtures on the site plan and building elevations.
- (2) Photometric grid overlaid on the proposed site plan indicating the overall light intensity throughout the site (in foot-candles).
- (3) Specifications and details for the type of fixture being proposed, including the total lumen output, type of lamp, and method of shielding.
- (4) Any other information deemed necessary by the Zoning Administrator to determine compliance with provisions of this Article.

• **Section 8.06 Use, Storage and Handling of Hazardous Substance; Storage and Disposal of Solid, Liquid, and Sanitary Waste.**

(a) It shall be unlawful for any person, firm, corporation or other legal entity to pollute, impair or destroy the air, water, soils or other natural resources within the City of Howell through the use, storage and handling of hazardous substances and/or waste or the storage and disposal of solid, liquid, gaseous and/or sanitary waste.

(b) Any person, firm, corporation or other legal entity operating a business or conducting an activity which 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 or local authority in connection with a permit and/or license.

(c) 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 Chemicals 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, or stored, and/or in the event of a change in the type of substances to be used, handled, or stored.

(d) All businesses and facilities which use, store, or generate hazardous substances in quantities greater than one hundred (100) kilograms per month (equal to or greater than twenty five (25) gallons or two hundred-twenty (220) pounds) shall comply with the following standards:

(1) Above-Ground Storage, Use and Handling Areas for Hazardous Substances.

A. Secondary containment of hazardous substances and polluting materials shall be provided. Secondary containment shall be sufficiently impervious to contain the substance for the maximum anticipated period of time necessary for the recovery of any released substance.

B. Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers that are protected from weather, leakage, accidental damage and vandalism. Containers shall not be stacked more than two (2) high, shall be orderly, not less than thirty (30) feet from the *lot* line, and shall not obstruct ingress or egress.

C. Secondary containment *structures* such as *out-buildings*, storage rooms, sheds and pole barns shall not have floor drains. Materials shall be kept in an orderly fashion, shall not be stacked within four (4) feet of the ceiling and stored in a manner that shall not obstruct access.

D. Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are stored, handled and used, shall be designed and constructed to prevent discharge or runoff.

(2) Underground Storage Tanks. Existing and new underground storage tanks shall be registered, installed, operated, maintained, and removed in accordance with requirements of the appropriate Federal, State or local authority having jurisdiction and shall not contaminate the sanitary sewer system, storm drains, *surface* water, groundwater, or soils.

(3) Loading and Unloading Areas. Areas used for the loading and unloading of hazardous substances shall be designed and constructed to prevent the harmful release to the environment of hazardous materials that may be spilled, leaked, or vented.

(e) All *site plans* for businesses or facilities which use, store or generate hazardous substances shall be reviewed by the Fire Department, City Engineer and any other appropriate experts as determined necessary by the Planning Commission prior to approval by the Planning Commission.

• **Section 8.07 Fire Hazard.**

The storage and handling of flammable liquids, liquefied petroleum gases and explosives shall comply with all applicable State rules and regulations.

• **Section 8.08 Safety.**

Existing or potential hazards and nuisances, such as *construction* sites, *junk yards*, *demolition* sites, unused *basements*, abandoned wells or cisterns are to be enclosed by suitable fencing or barriers so as not to endanger public health, safety and welfare. Compliance is required with all applicable State rules and regulations.

• **Section 8.09 Open Storage Enclosures.**

The Planning Commission, in its sole discretion, may require the screening of open storage of industrial equipment, vehicles and materials that are visible from any adjacent property and/or public *street*. When considering the requirement for screening, the Planning Commission shall consider the visual effect of open storage on any adjacent residentially zoned or used properties. Screening of all visible portions of open storage shall be in accordance with the standards set forth in Section 5.10.

**ARTICLE 9**

**PLANNED UNIT DEVELOPMENT (PUD)**

• **Section 9.01 Intent.**

Planned unit development (PUD) regulations are intended to provide for various types of land *uses* planned in a manner which shall encourage the *use* of land in accordance with its character and adaptability; conserve natural resources and energy; encourage innovation in land *use* planning; provide enhanced housing, employment, shopping and recreational opportunities; improve traffic and pedestrian circulation; and bring about a greater compatibility of design and *use*.

The provisions of this article provide enabling authority and standards for the submission, review and approval of applications for planned unit developments.

• **Section 9.02 Regulations.**

(a) A planned unit development (PUD) may be applied for in any zoning *district*. The granting of a PUD application shall require a rezoning by way of an amendment to this Zoning Ordinance upon the recommendation of the Planning Commission and approval of the City Council. Therefore, the procedures set forth in Article 13, including a public hearing to be held by the Planning Commission, shall apply.

(b) Any land *use* authorized in this Zoning Ordinance may be included in a PUD, subject to adequate protection of the public health, safety and welfare and the compatibility of various land *uses* both within and outside the development.

(c) The applicant for a PUD must demonstrate all of the following as a condition to being entitled to PUD treatment:

(1) Granting of the PUD will result in one (1) of the following:

A. A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the PUD regulations; or

B. Long-term protection and preservation of natural resources and natural features of a significant quantity and/or quality, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the PUD regulations; or

C. A *nonconforming use* shall, to a material extent, be rendered more conforming, or less offensive, to the zoning *district* in which it is situated.

(2) The proposed type and density of *use* shall not result in an unreasonable increase in the need for or burden upon public services, facilities, roads and utilities.

(3) The proposed development shall be consistent with the public health, safety and welfare of the City.

(4) The proposed development shall not result in an unreasonable negative environmental impact on the subject site or surrounding land.

(5) The proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.

• **Section 9.03 Procedure for Review.**

(a) **Pre-application Conference.** Prior to the submission of an application for planned unit development (PUD) approval, the applicant shall meet with the *Zoning Administrator*, together with any City staff and consultants the Administrator deems appropriate. The applicant shall present at such conference or conferences, at least a sketch plan of the proposed PUD as well as the following information: total number of acres in the project; a statement of the number of residential units, if any; the number and type of nonresidential units and the number of acres to be occupied by each type of *use*; the known

deviations from the Ordinance regulations which are to be sought; the number of acres to be preserved as open or recreational space; and all known natural resources and natural features to be preserved.

(b) Preliminary Plan. Following the pre-application conference, the applicant shall submit to the *Building* Department a preliminary *site plan* of the proposed PUD in accordance with the procedures set forth in Section 3.04 and conforming with this section. The Planning Commission shall review the preliminary *site plan* and shall provide the applicant with written comments, which shall be part of the official minutes of the Planning Commission. Review and comment upon a preliminary plan by the Planning Commission shall not bind the City to approval of a final PUD plan.

The preliminary *site plan* for a PUD shall contain at a minimum the following information:

- (1) Evidence of ownership; location and description of site; dimensions and areas;
- (2) General topography and soil information;
- (3) Scale, north arrow, date of plan;
- (4) Existing zoning of site; existing land use and zoning of adjacent parcels; location of existing *buildings*, drives and streets on the site and within 100 feet of the site;
- (5) Location, type and land area of each proposed land use; *dwelling unit* density (*dwelling units* per acre);
- (6) Location, size and *uses* of open space;
- (7) General description of the organization to be utilized to own and maintain common areas and facilities;
- (8) General landscape concept showing tree masses to be preserved or added, *buffer* areas and similar features;
- (9) General description of proposed water, sanitary and storm drainage systems;
- (10) Existing natural and man-made features to be preserved or removed; location of existing *structures*, streets and drives; location, width and purpose of existing easements;
- (11) General location, function, *surface* width and rights of way of proposed public and private streets;
- (12) General location of proposed parking areas and approximate number of spaces to be provided in each area; and
- (13) Location and area of each development phase.

(c) Final Plan. Within six (6) months following receipt of the Planning Commission comments on the preliminary PUD plan, the applicant shall submit a final PUD plan to the *Building* Department in accordance with the procedures set forth in Section 3.04 and conforming with this section. If a final PUD plan is not submitted by the applicant for approval within six (6) months following receipt of Planning Commission comments, the preliminary PUD plan approval becomes null and void.

The final PUD plan shall constitute an application to amend this Zoning Ordinance, and shall be noticed for public hearing before the Planning Commission, and otherwise acted upon by the Planning Commission and the City Council, as provided by law (see Article 13) The Planning Commission shall, to the extent it deems appropriate, submit detailed recommendations relative to the PUD project, including, without limitation, recommendations with respect to matters on which the City Council must exercise discretion. Final PUD plans shall include the following:

- (1) A *site plan* meeting all requirements of Section 3.04;
- (2) A separate narrative that provides specific details regarding all deviations from this Zoning Ordinance that would otherwise be applicable in the absence of this PUD article;
- (3) A specific schedule of the intended development and *construction* details, including phasing or timing;
- (4) A specific schedule of the general improvements to constitute a part of the development, including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities and visual screening features;
- (5) A specification of the exterior *building* materials and architecture with respect to the *structures* proposed in the project; and
- (6) Signatures of all parties having an interest in the property.

• **Section 9.04 Project Design Standards.**

(a) Residential Design Standards.

(1) Residential *uses* shall be permitted with the following maximum densities, based upon the zoning *district* in which the property is situated immediately prior to classification under this article. Land area under water, public road rights-of-way and private road easements shall not be included in the gross density calculation.

Maximum Density Permitted

<u>District</u>	<u>Dwelling units/Gross Acres</u>
R-2	3.5

R-1	4.0
R-T	8.0
R-M	9.0
O-1	9.0
CBD	9.0
B-1	9.0
B-2	9.0
I-1	9.0
I-2	9.0

(2) Where a planned unit development (PUD) contains both residential and non-residential land uses, residential density shall be calculated on the basis of the area devoted to residential land use only.

(3) Additional density greater than that specified in (a) (1) hereof for residential uses may be allowed in the discretion of the City Council, upon the recommendation of the Planning Commission and based upon a demonstration by the applicant of planning and design excellence resulting in a material benefit to the City, adjacent land uses and/or the ultimate users of the project, including, without limitation, innovative design producing significant energy efficiency, pedestrian or vehicular safety, long-term aesthetic beauty, and protection and preservation of natural resources and features.

(b) Nonresidential Design Standards.

(1) Nonresidential uses may be permitted in combination with other nonresidential uses or as part of a common development with residential uses.

(2) Nonresidential uses, including parking and drives, shall be separated and buffered from residential units.

(c) General Design Standards.

(1) All regulations applicable to setbacks, parking and loading, general provisions and other requirements shall be met in relation to each respective land use in the development based upon the zoning district in which the use is listed as a permitted or specially permitted use. In all cases, the strictest provisions shall apply.

Notwithstanding the immediately preceding paragraph, deviations with respect to such regulations may be granted as part of the overall approval of the PUD, provided there are features or elements designed into the project plan for the purpose of achieving the objectives of this article.

(2) To the maximum extent feasible, the development shall be designed so as to preserve natural resources and natural features.

(3) There shall be a perimeter setback and berming, for the purpose of buffering the development in relation to surrounding properties. Such perimeter setback shall be established with a dimension from the property line of up to one hundred (100) feet in the discretion of the City Council, upon the recommendation of the Planning Commission, taking into consideration the use or uses in and adjacent to the development. The setback distance need not be uniform at all points on the perimeter of the development.

(4) Thoroughfare, drainage and utility design shall meet or exceed the standards otherwise applicable in connection with each of the respective types of uses served.

(5) There shall be underground installation of utilities, including cable, electricity and telephone, as found necessary by the City.

(6) Signage, lighting, landscaping, building architecture and materials, and other features of the project, and shall be designed to achieve an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.

(7) Where nonresidential uses adjoin residentially zoned property, noise reduction and visual screening mechanisms, such as landscape berms and/or decorative walls, shall be employed.

(8) The City Council, upon the recommendation of the Planning Commission, shall resolve all ambiguities as to applicable regulations using the Zoning Ordinance, Master Plan and other City standards or policies as a guide.

• **Section 9.05 Conditions.**

(a) Reasonable conditions may be required with the approval of a planned unit development (PUD), to the extent authorized by law, for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use, protecting the natural environment and natural resources, ensuring compatibility with adjacent land uses, and promoting the use of land in a socially and economically desirable manner.

(b) Conditions imposed shall be designed as follows: to protect natural resources and the public health, safety and



welfare of individuals in the project, those immediately adjacent and the community as a whole; to meet the intent and purpose of this Zoning Ordinance; and to ensure compliance with the standards of this Zoning Ordinance. All conditions imposed shall be made a part of the record of the approved PUD.

• **Section 9.06 Phasing and Commencement of Construction.**

(a) **Phasing.** Where a project is proposed for *construction* in phases, each phase, upon completion, shall be capable of standing on its own in terms of services, facilities and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety and welfare of the users of the planned unit development (PUD) and the residents of the surrounding area. In addition, in developments which include residential and nonresidential *uses*, the relative mix of *uses* and the scheduled completion of *construction* for each phase shall be disclosed and determined to be reasonable in the discretion of the City Council after recommendation from the Planning Commission.

(b) **Commencement and Completion of Construction.** *Construction* shall be commenced within one (1) year following final approval of a PUD. Each phase of the project shall be commenced within one (1) year of the schedule established for the same in the application submitted. If *construction* is not commenced within such time, any approval of a *site plan* on the project shall expire and be null and void. However, an extension for a specified period may be granted by the City Council upon good cause shown if such request is made prior to the expiration of the initial period. Moreover, in the event a *site plan* has expired, the City shall be authorized to rezone the property in any reasonable manner, and, if the property remains classified as PUD, a new application shall be required and shall be reviewed in light of then existing and applicable law and ordinance provisions.

• **Section 9.07 Performance Guarantees.**

In the interest of ensuring compliance with this article and protecting the health, safety and welfare of the residents of the City, the Planning Commission, as a condition of final approval of the *site plan*, shall require the applicant to deposit a performance guarantee as set forth in Section 3.09 for the completion of improvements associated with the proposed *use*.

• **Section 9.08 Effect of Approval.**

When approved, the planned unit development (PUD) amendment, with all conditions imposed, if any, shall constitute the land *use* authorization for the property, and all improvement and *use* shall be in conformity with such amendment.

• **Section 9.09 Modification of an Approval Final Plan.**

(a) Approved final plans for a planned unit development (PUD) may be modified in accordance with the procedures set forth in Section 9.03(c).

(b) Minor changes may be permitted by the Planning Commission, following normal *site plan* review procedures outlined in Section 3.04, subject to its finding that:

(1) Such changes will not adversely or substantially affect the initial basis for granting approval; and

(2) Such minor changes will not adversely or substantially affect the overall PUD in light of intent and purpose of such development as set forth in Section 9.01.

## ARTICLE 10

### OFF-STREET PARKING AND LOADING

• **Section 10.01 Intent.**

The purpose of this article is to ensure the provision of *off-street parking* facilities that are sufficient in number, adequately sized and properly designed to meet the range of parking needs and demands that are associated with land *uses* now in place in the City or with land *uses* allowed by this Ordinance.

• **Section 10.02 General Provisions.**

*Off-street parking* facilities that are sufficient in number, adequately sized and properly designed to meet the range of parking needs and demands that are associated with the land *uses* allowed by this Zoning Ordinance shall be required in all *districts*, subject to the provisions of this article.

(a) **Where Required.** In all zoning *districts*, *off-street parking* facilities for the storage and parking of self-propelled motor vehicles for the *use* of occupants, employees, and patrons of the *buildings* hereafter *erected*, altered, or extended after the effective date of this Ordinance, shall be provided as herein prescribed. Such space shall be maintained and shall not be encroached upon so long as said *main building* or *structure* remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance.

(b) **Existing Off-Street Parking at Effective Date of Ordinance.** *Off-street parking* existing at the effective date of this Ordinance which serve an existing *building* or *use*, shall not be reduced in size to less than that required under the terms of this Ordinance.

(c) **Required Greenbelt and Setbacks.** *Off-street parking*, including *maneuvering lanes*, shall not be located within the required *front setback* and screened in accordance with Section 5.10. *Off-street parking* shall be permitted within the

required *side or rear yard setbacks*, provided a minimum five (5) foot *setback* is maintained between *off-street parking* and the *side and rear lot lines* of all adjoining properties. At the discretion of the Planning Commission, existing *platted lots* of record with equal to or less than sixty-six (66) feet of *frontage* may be exempt from the greenbelt and setback requirements.

(d) Parking Duration. Except when land is used as storage space in connection with the business (including a *repossession lot*), or a repair or service garage, a twenty-four (24) hour time limit for parking in non-residential *off-street parking* areas shall prevail, it being the purpose and intention of the foregoing that the requirement of maintaining vehicle storage or parking space is to provide for the public safety in keeping parked cars off the streets, but such requirement is not designed to or intended to provide, and it shall be unlawful to permit, the storage or prolonged parking on any such parking area in any such *district* wrecked or junked cars, or for creating a *junkyard* or a nuisance in such areas.

(e) Units and Methods of Measurement. For the purpose of determining *off-street parking* requirements, the following units of measurement shall apply:

(1) Floor Area. Where *floor area* is the unit for determining the required number of *off-street parking spaces*, said unit shall mean *floor area*, as defined in Section 2.02.

(2) Employees. For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.

(3) Places of Assembly. In stadiums, sports arenas, *churches* and other places of assembly in which those in attendance occupy benches, pews or other similar seating facilities, seating space required by the *Building Code* adopted by the City shall be counted as one (1) seat. In cases where a place of assembly has both fixed seats and an open assembly area, requirements shall be computed separately for each type and added together.

(4) Fractional Requirements. When units or measurements determining the number of required parking spaces result in a fractional space, any fraction shall require one (1) parking space.

(f) General Restrictions.

(1) All Districts.

A. The sale or repair of motor vehicles not owned by the occupant of the premises shall be prohibited in any *off-street parking* area, lot, or driveway.

B. The outdoor display of products and materials intended for retail sale and rental within *off-street parking* areas shall comply with the standards set forth in Section 6.18.

C. The storage of products, materials or equipment in semi-trailers shall be prohibited in any zoning *district* except the I-1 and I-2 *Districts*. The requirements of Section 5.13 shall apply to all such uses.

(g) Location of Parking.

(1) One and Two-Family Dwellings. *Off-street parking* shall be located on the same *lot* or parcel of the *dwelling* it is intended to serve, shall not be considered a parking *lot* under the provisions of this article, and is subject to the following:

A. *Off-street parking* serving *one* and *two-family dwellings* shall not be permitted in the required *front yard* except on the driveway or within a carport or garage.

B. Driveways and parking spaces serving *dwellings* constructed after the effective date of this Ordinance shall be located a minimum of two (2) feet from a *side or rear lot line*.

C. Single family residential dwellings shall have a maximum of one driveway, unless located on a corner lot.

D. Additional residential driveways and parking spaces may be permitted by the Planning Commission as a Special Land Use. Standards for additional drives within a front yard are as follows:

a. Only one additional driveway (for a maximum of two) may be considered in any front yard.

b. Driveways and parking shall not occupy more than fifty (50) percent of the required front yard and fifty (50) percent of any additional area of the front yard located outside of the required front yard. These requirements shall apply to all yards that abut a public street.

c. The maximum width for an additional circular drive proposed in any front yard shall be 12 feet.

d. The maximum width for any additional non-circular drive proposed in any front yard shall be the width of the door(s) and/or man doors serving the garage or 24 feet, whichever is larger.

(2) Multi-family residential uses within Single-family (R-1 and R-2) residential districts

A. Driveways and parking for multi-family residential homes located in the R-1 or R-2 zoning districts must comply with the one and two-family dwelling standards in (1).

B. Additional driveways and parking spaces may be permitted by the Planning Commission as a Special Land Use. No additional driveways or parking spaces shall be considered in the front yard. A maximum of 50% of the total area of the rear and side yard may be considered for parking spaces or driveways.

(3) Multiple Family Residential within the RM Zoning District. The *off-street parking* facilities for *multiple family dwellings*

shall be located on the same *lot* or parcel as the *dwellings* they are intended to serve, and shall consist of a parking *lot* as set forth in this article. In no event shall any parking space be located within ten (10) feet to any *mainbuilding*.

(4) All Other Uses. *Off-street parking* for all other *uses*, other than those listed in paragraph (g)(1) and (g)(2) hereof, shall be located on the same *lot* or parcel of the *building* or *buildings* they are intended to serve and are subject to the following conditions:

- a. Special land use approval may be granted for *off-street parking* areas located within five hundred (500) feet of the permitted use requiring such *off-street parking*.
- b. Parking is permitted in the *front yard* in the RM, O-1, CBD, B-1, B-2, I-1 and I-2 *Districts* with a minimum ten (10) foot *setback* from the *street* right-of-way provided.
- c. The parking plan layout, points of access and screening shall be approved by the Planning Commission.
- d. Screening shall be provided in accordance with Section 5.10.
- e. *Off-street parking* shall be permitted within the required side or rear yard setbacks.

(5) Restriction of Parking on Private Property. It shall be unlawful for any person, firm, or corporation to park any motor vehicle on any private property without the authorization of the owner or agent of such property.

• **Section 10.03 Off-Street Parking Requirements.**

(a) The amount of required *off-street parking* spaces for new *uses* or *buildings*, additions thereto, and additions to existing *buildings* shall be determined in accordance with the table set forth in Section 10.04, no more or less may be approved except under the flexibility provisions found in Section 10.03(e) below. Parking requirements listed in Section 10.04 shall not include *off-street stacking spaces* for *drive-through* facilities that are listed in Section 10.07.

(b) Similar Uses and Requirements. When a *use* is not specifically mentioned, the requirements of *off-street parking* for a similar *use* shall apply.

(c) Collective Provisions. Nothing in this section shall be construed to prevent collective provisions of *off-street parking facilities* for two (2) or more *buildings* or *uses*, provided such facilities collectively shall not be less than the sum of the requirements for the various individual *uses* computed separately in accordance with Section 10.04 of this article.

(d) Parking Exemption. As of the effective date of this Ordinance, *buildings* and *uses* located within the CBD, Central Business *District* shall be exempt from providing *off-street parking*, with the exception of new residential *construction*. Additionally, all existing *off-street parking* areas constructed prior to the effective date of this Ordinance shall remain.

(e) Flexibility in Application. The City recognizes that, due to the specific requirements of any given development, inflexible application of the parking standards set forth in Section 10.04 may result in development with inadequate parking or parking far in excess of that which is needed. The former situation may lead to traffic congestion or unauthorized parking on adjacent streets or neighboring sites. The latter situation may result in excessive paving and storm water runoff and a waste of space that could be left as open space.

The Planning Commission may permit deviations from the requirements of Section 10.04 and may require more or less parking based upon a finding that such deviations are more likely to provide a sufficient number of parking spaces to accommodate the specific characteristics of the *use* in question. The Planning Commission may also grant deviations in the instance where two (2) or more *buildings* or *uses* collectively provide the required *off-street parking*. In the case where collective parking may be permitted, the Planning Commission shall consider the hours of operation of the respective *uses*. The Planning Commission may attach conditions to the approval of a deviation from the requirement of Section 10.04 that bind such approval to the specific *use* in question. Where a deviation results in a reduction of parking, the planning Commission may further impose conditions which ensure that adequate reserve area is set aside for future parking, if needed. Where an area is set aside for reserve parking, it shall be easily developed, not devoted to a use other than open space, and shall be designed to accommodate attendant facilities such as maneuvering lanes and drainage.

Where a deviation results in a reduction of parking, the Planning Commission may require that an adequate *usable* reserve area is set aside for future parking. Where an area is set aside for reserve parking, it shall be easily developed, not devoted to a use other than open space and be designed to accommodate attendant facilities such as *maneuvering lanes* and drainage.

• **Section 10.04 Table of Off-Street Parking Requirements.**

The amount of required *off-street parking space* for new *uses* or *buildings*, additions thereto, and additions to existing *buildings* shall be determined in accordance with the following table:

<b>Use</b>	<b>Number of Parking Spaces Required per Unit of Measure</b>
<b>A. Residential Uses.</b>	
1) <i>One or Two-Family Dwellings</i>	2 Per each <i>dwelling unit</i>
2) <i>Multiple Family Dwellings</i>	2 Per each <i>dwelling</i> , plus

	1 Per each ten (10) <i>dwellingunits</i>
3) <i>Mobile Home Parks</i>	2 Per each trailer site, plus 1 Per each employee
4) <i>Bed and Breakfast Establishments</i>	1 Per each bedroom
B. Institutional Uses.	
1) <i>Churches</i>	1 Per each three (3) seats based upon maximum seating capacity in the main place of assembly therein
2) <i>Private Clubs and Lodges</i>	1 Per each three (3) individual members allowed within the maximum occupancy load as established by fire and/or <i>buildingcodes</i>
3) <i>Hospitals</i>	1 Per each four (4) beds, plus 1 Per staff doctor, plus 1 Per each employee @ peak shift
4) <i>Nursing Homes/Convalescent Centers, Adult Foster Care and Congregate Facilities</i>	1 Per each five (5) beds, plus  1 Per each staff doctor, plus 1 Per each employee @ peak shift
5) <i>Housing for the Elderly Independent Living Facilities</i>	1 Per each <i>dwellingunit</i> , plus 1 Per each employee @ peak shift
Assisted Living Facilities	1 Per each two (2) <i>dwellingunits</i> , plus 1 Per each employee @ peak shift
6) <i>Child Foster Family Group Homes</i>	1 Per each <i>family</i> member, plus  1 Per each two (2) children
7) <i>Adult Foster Care Small Group Homes</i>	1 Per each employee/caregiver
8) <i>Child/Adult Group Day Care Homes</i>	1 Per each employee @ peak shift
9) <i>Child/Adult Day Care Centers</i>	1 Per each employee @ peak shift, plus 1 Per each five (5) persons enrolled
10) High Schools, Trade Schools, Colleges and Universities	1 Per each teacher, plus  1 Per each ten (10) students, plus 1 Per each employee
11) Elementary and Intermediate Schools	1 Per each teacher, plus  1 Per each twenty-five (25) students, plus 1 Per each employee
12) Stadiums, Sports Arenas and Auditoriums	1 Per each four (4) seats based upon maximum seating capacity
13) Publicly Owned <i>Buildings</i>	1 Per each 250 sq. ft. of <i>floorarea</i>
14) Libraries and Museums	1 Per each 200 sq. ft. of <i>floorarea</i> , excluding areas devoted to bookshelves
15) Spouse Abuse/Domestic Violence Shelters	1 Per each bedroom, plus  1 Per each employee
C. General Commercial Uses.	
1) Retail Stores, except as otherwise specified herein	1 Per each 200 sq. ft. of <i>usable floorarea</i>
2) Supermarkets, Drugstores, and other self-serve retail establishments	1 Per each 250 sq. ft. of <i>usable floorarea</i>
3) Convenience Stores	1 Per each 150 sq. ft. of <i>usable floorarea</i>
4) Video Stores	1 Per each 100 sq. ft. of <i>usable floorarea</i>
5) Department Stores	1 Per each 250 sq. ft. of <i>usable floorarea</i>

6) Furniture, Appliances, Hardware, Electronics, and Household Equipment Sales	1 Per each 400 sq. ft. of <i>usable floor area</i> , plus 1 Per each employee
7) Appliance Repair Shops	1 Per each 800 sq. ft. of <i>usable floor area</i> , plus 1 Per each employee
8) <i>Motels and Hotels</i>	1 Per each guest bedroom, plus 1 Per each employee, plus amount required for <i>accessory uses</i> , such as a <i>restaurant</i> or cocktail lounge
9) <i>Drive-in, Drive-through</i> and Fast Food <i>Restaurants</i>	1 Per each 125 sq. ft. of <i>usable floor area</i> , plus 1 Per each employee
10) <i>Sit-Down Restaurants</i>	1 Per each three (3) seats, based upon maximum seating capacity, plus 1 Per each employee
11) <i>Taverns/Bars</i>	1 Per each three (3) persons allowed within the maximum occupancy load as established by fire and/or <i>building codes</i> , plus 1 Per each employee
12) <i>Sidewalk Cafes</i>	1 Per each three (3) seats
13) Garden Stores, <i>Building Material</i> Sales	1 Per each 800 sq. ft. of <i>lot area</i> used for said business provided for herein
14) Movie Theaters	1 Per each four (4) seats based on the maximum seating capacity, plus 1 Per each employee
15) Self Service Laundry	1 Per each two (2) machines
16) Dry Cleaners	1 Per each 250 sq. ft. of <i>usable floor area</i>
17) Reception Halls	1 Per each three (3) individuals allowed within the maximum occupancy load as established by fire and/or <i>building codes</i>
18) Bus Terminal Stations	1 Per each three (3) individuals, allowed within the maximum capacity load as established by the fire and/or <i>building codes</i>
19) Shops of Interior Decorators, Plumbers Electricians, Exterminators and Similar Services and Trades	1 Per each 800 sq. ft. of <i>usable floor area</i>
20) Wholesale Stores/Clubs	1 Per each 200 sq. ft. of <i>usable floor area</i> , plus 1 Per each three (3) employees
21) Funeral Home and Mortuaries	1 Per each 50 sq. ft. of <i>usable floor area</i>
22) Florist Shops	1 Per each 250 sq. ft. of <i>usable floor area</i> , plus 1 Per each employee
D. <i>Automotive Uses.</i>	
1) <i>Automobile Dealerships</i>	1 Per each 200 sq. ft. of <i>showroom floor area</i> , plus 1 Per each employee, plus 1 Per each service stall
2) <i>Automobile Repair Garages</i>	2 Per each service stall, plus 1 Per each employee, plus 1 Per each service vehicle
3) <i>Automobile Filling Stations</i> without a Convenience Store	1 Per each pump unit, plus 2 Per each service stall, plus 1 Per each employee
4) <i>Automobile Filling Stations</i> with a Convenience Store	1 Per each pump unit, plus 2 Per each service stall, plus 1 Per each employee, plus 1 Per each 100 sq. ft. of <i>usable floor area</i> devoted to retail sales and customer service
5) <i>Automobile Washes</i> (self-serve)	1 Per each wash stall, plus 1 Per each vacuum station, plus 1 Per each employee

6) <i>Automobile Washes (Automatic)</i>	1 Per each 200 sq. ft. of <i>usable floor area</i> of customer waiting and service areas, plus 1 Per each vacuum station, plus 1 Per each employee
7) Collision or Bump Shops, and other similar <i>uses</i>	2 Per each stall or service area, plus  1 Per each employee
8) Outdoor Sale of <i>Automobiles</i>	1 Per each 400 square feet of outdoor display area, plus 1 Per each employee
E. Office and Service <i>Uses</i> .	
1) Medical and Dental Offices	1 Per each 150 sq. ft. of <i>usable floor area</i>
2) Executive, Administrative and Professional Offices	1 Per each 200 sq. ft. of <i>usable floor area</i>
3) Banks	1 Per each 200 sq. ft. of <i>usable floor area</i>
4) Barber and Beauty Shops	3 Per each chair
5) Photography Studios	1 Per each 200 square feet of <i>usable floor area</i> , plus 1 Per each employee
6) Pharmacies	1 Per each 100 square feet of <i>usable floor area</i> , plus 1 Per each employee
7) <i>Veterinary Offices and Hospitals</i>	1 Per each 200 sq. ft. of <i>usable floor area</i>
8) Data Processing and Computer Centers	1 Per each 250 sq. ft. of <i>usable floor area</i>
9) Personal Service Establishments	1 Per each 100 sq. ft. of <i>usable floor area</i>
F. Recreational <i>Uses</i> .	
1) Bowling <i>Alleys</i>	4 Per each bowling lane, plus 1 Per each employee, plus Amount required for <i>accessory uses</i> such as a <i>restaurant</i> or <i>tavern</i>
2) Private Tennis, Swim or Golf <i>Clubs</i> , or other similar <i>uses</i>	1 Per each two (2) members, plus  Amount required for <i>accessory uses</i> such as a <i>restaurant</i> or <i>tavern</i>
3) Golf Courses, except Miniature or "Par 3" Courses	5 Per each hole, plus  1 Per each employee, plus Amount required for <i>accessory uses</i> such as a <i>restaurant</i> or <i>tavern</i>
4) Dance Halls, Pool or Billiard Parlors, Roller or Skating Rinks, Exhibition Halls and Assembly Halls without fixed seats	1 Per each three (3) persons allowed within the maximum occupancy load as established by local or County fire, <i>building</i> or health <i>codes</i>
5) Miniature or "Par 3" Golf Courses, Amusement Parks and Carnivals	3 Per each hole, plus  1 Per each employee
6) Music, Dance and Artistic Studios	1 Per each 100 sq. ft. of <i>usable floor area</i>
G. Industrial <i>Uses</i> .	
1) Manufacturing, Research, Design, Processing, Assembly, Testing and Repair Center	1 Per each employee, or  1 Per each 800 sq. ft. of <i>usable floor area</i> (whichever is greater)
2) <i>Self-storage Facilities</i>	1 Per each 150 storage spaces or fraction thereof, with no less than three (3) for office <i>use</i>
3) Warehouses and Storage <i>Buildings</i>	1 Per each employee, or  1 Per each 2,000 sq. ft. of <i>usable floor area</i> (whichever is greater)
4) Contractors Offices	1 Per each employee
5) Wholesale Establishments and Mills	5 Total, plus  1 Per each employee @ peak shift, or 1 Per every 1,700 square feet of <i>usable floor space</i> (whichever is greater)

6) Metal Fabrication and Tool and Die Shops	1 Per each 200 sq. ft. of office floor area, or 1 Per each 800 sq. ft. of <i>usable floorarea</i> (whichever is greater)
7) Newspaper Offices with or without Printing Presses	1 Per each 200 sq. ft. of office floor area, plus 1 Per each employee
8) Industrial <i>Automobile Washes</i>	1 Per each 200 sq. ft. of usable floor area of customer waiting and service areas, plus 1 Per each employee

• **Section 10.05 Handicapped Parking Requirements.**

In addition to the parking required for passenger vehicles as set forth in Section 10.04, *off-street* barrier-free parking facilities shall be designed in accordance with applicable State and/or Federal standards, whichever is more restrictive.

• **Section 10.06 Off-Street Parking Lot Design and Construction.**

The *construction* of any parking *lot* or driveway shall be in accordance with the requirements of the provisions of this article and a certificate of zoning compliance granted before *use* of the property and before a Certificate of Occupancy is issued. Unless incorporated into a *site plan* that is prepared and approved in accordance with Section 3.04, plans for the development of any parking *lot* must be submitted to the *Zoning Administrator*. The plans shall be prepared at a scale to be determined by the *Zoning Administrator* and indicating existing and proposed *grades*, drainage, pipe sizes, parking of all dimensions, type of curbing, drive and aisle dimensions, lighting, adjacent, sidewalks, *landscaping*, surfacing and base materials to be used and the layout of the proposed parking *lot*.

(a) No parking *lot* shall be constructed unless and until a permit therefore is issued by the *Zoning Administrator*. An application for such permit shall be submitted in such form as may be determined by the Administrator and shall be accompanied by two (2) sets of plans for the development and *construction* of the parking *lot* showing that this article will be fully complied with.

(b) All such parking *lots*, driveways, maneuvering lanes, or loading areas shall be constructed with a *paved surface area* as required under this article, shall be *graded* and drained so as to dispose of *surface water* which might accumulate within or upon such area, and shall be completely constructed prior to final occupancy. Drainage for parking lots and driveways shall meet the City's Engineering Design Standards and be designed to preclude drainage of water onto adjoining properties or toward buildings.

(c) All lighting used to illuminate an *off-street parking* area shall be so installed as to be confined within, and directed onto, the parking area only, and shall meet with the standards set forth in Section 8.05.

(d) Parking *lots* shall be landscaped and screened in accordance with the standards set forth in Section 5.10. The standards are intended to minimize noise, glare and other nuisance characteristics as well as to improve the environment of the site and surrounding area. Large parking *lots* shall be broken down into sections as appropriate for the type and size of the development. Sections shall also be separated by landscaped dividing strips, *berms* and similar elements.

(e) Adequate ingress and egress to and from the parking *lot* by means of clearly limited and defined drive or *maneuvering lane*, shall be provided for all vehicles. Such ingress and egress to and from a parking *lot* lying in an area zoned for other than *one-family residential use* shall not be across land zoned for *one-family residential use*. The minimum width of the drive or *maneuvering lane* shall be governed by subsection (g); however, the Planning Commission may approve a narrower drive based upon unique and non-owner created circumstances. Backing directly onto a public or private *street* is prohibited.

(f) Where necessary to prevent encroaching upon pedestrian walkways or damaging required *landscaping*, wheel stops shall be provided. No portion of a parking space and/or maneuvering aisle shall obstruct or encroach upon a public sidewalk.

(g) Plans for the layout of *off-street parking* facilities shall be in accordance with the following minimum regulations:

<i>Parking Pattern</i>	<i>Maneuvering Lane Width</i>		<i>Entrance Drive Width</i>		<i>Parking Space Width</i>	<i>Parking Space Length</i>
	<i>One-way</i>	<i>Two-way</i>	<i>One-Way</i>	<i>Two-way</i>		
0° Parallel	14 ft.	22 ft.	14 ft.	22 ft.	9 ft.	25 ft.
30° - 53°	16 ft.	22 ft.	14 ft.	22 ft.	9 ft.	20 ft.
54° - 74°	20 ft.	24 ft.	14 ft.	22 ft.	9 ft.	20 ft.
75° - 90°	20 ft.	24 ft.	14 ft.	22 ft.	9 ft.	20 ft.

(h) Each entrance and exit to and from an *off-street parking lot* located in an area zoned for other than *one-family residential use* shall be at least twenty-five (25) feet from any adjacent property located in a *one-family residential district*.

(i) Wherever a *wall* extends to an *alley* which is a means of ingress and egress to and from an *off-street parking area*, it is permissible to end the *wall* not more than ten (10) feet from such *alley* line in order to permit a wider means of access to the parking area.

(j) Driveways serving one and two-family dwellings.

(1) Driveways constructed after the effective date of this Ordinance shall be a minimum of ten (10) feet in width and constructed with a *paved surface area* approved by the *Zoning Administrator* and installed within one (1) year of occupancy of the *dwelling*.

(2) Driveways shall be no wider than the width of the door(s) and/or man doors serving the garage or 24 feet, whichever is larger.

(3) Driveways may continue around the side of a garage to provide an additional parking space in the side yard adjacent to the garage, no wider than 10 feet and meeting the setbacks of Section 10.02(g)(1).

(4) Existing gravel driveways that are improved or expanded shall consist of processed road gravel (22A or the equivalent), spread to a depth of six (6) to eight (8) inches and compacted. Said gravel driveways shall be contained through the use of landscape timbers or similar materials to prevent the spread of gravel or expansion of the driveway.

(5) In all cases when an existing driveway is improved or expanded, the driveway approach shall be paved to the sidewalk. In areas where there is the concrete curb and gutter, the approach shall be concrete. Where there is no sidewalk, the driveway approach shall be paved to the property line. However, these provisions may be waived by the *Zoning Administrator* where unusual drainage conditions exist.

(k) Driveway Approaches and Aprons.

(1) Concrete and/or asphalt driveway approaches and driveway aprons serving any *use* within the City that exists prior to any local or major *street reconstruction* shall be replaced during local and major *street reconstruction* at no cost to the property owner. The City Engineering Department shall determine the area of the driveway approach and/or driveway apron area and whether concrete or asphalt is to be used, based upon the project design of the local or major *street reconstruction*.

(2) Gravel driveway approaches and driveway aprons serving any use within the City which exists prior to any local or major *street reconstruction* shall be replaced during local and major *street reconstruction* at no cost to the property owners. The City Engineering Department shall determine the area of the driveway approach/driveway apron area and whether concrete or asphalt is to be used, based upon the project design of the local or major *street reconstruction*.

(3) The approach or apron shall be installed, where there is an existing sidewalk, to the sidewalk, and where there is no sidewalk, the approach shall be installed to the property line, or to a proposed sidewalk, as determined by the City Engineering Department.

(4) The future cost to replace and/or repair the driveway approach or apron after installation by the City shall be the sole responsibility of the owner after expiration of the *construction warranty*.

• Section 10.07 Off-Street Loading Requirements.

On the same premises with every *building or structure*, or part thereof, involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the *lot*, adequate space for standing, loading and unloading in order to avoid undue interference with the public *use* of dedicated rights-of-way. Such space shall be provided as follows:

(a) Loading dock approaches shall be provided with a pavement having an asphalt or concrete base so as to provide a permanent, durable and dustless *surface*.

(b) Such loading and unloading space, unless completely and adequately provided for within *abuilding*, shall be an area ten (10) feet wide by fifty (50) feet long, with a fourteen (14) foot *height* clearance, and shall be provided according to the following schedule:

**Gross Floor Area of Building (sq. ft.) Required Loading and Unloading Spaces**

0-2,000	None
2,000-20,000	One (1) space
20,000 – 100,000	One (1) space plus one (1) space for each 20,000 sq. ft in excess of 20,000 sq. ft
100,000 – 500,000	Five (5) spaces plus one (1) space for each 40,000 sq. ft in excess of 100,000 sq. ft
Over 500,000	Fifteen (15) spaces plus one (1) space for each 80,000 sq. ft in excess of 500,000 sq. ft

(c) Required Greenbelt, Setbacks and Screening.

(1) *Off-street loading areas*, including *maneuvering lanes*, shall not be located within the *front greenbelt* required in



accordance with Section 5.10. However, *off-street loading* shall be permitted within the required side or *rear yard setbacks*, provided a minimum ten (10) foot *setback* is maintained between *off-street loading* and the abutting side and *rear lot lines*.

(2) *Off-street loading* that abuts residentially zoned or used property shall be screened in accordance with Section 5.10.

(d) Double Count. *Off-street loadingspace* areas shall not be construed as, or counted toward, the supplying of area required as *off-street parking spaces*.

• **Section 10.08 Off-Street Stacking Space for Drive-through Facilities.**

(a) Drive-through Facilities. In addition to meeting *off-street parking* requirements, all *uses* that provide *drive-through* facilities for serving customers within their automobiles shall provide adequate *off-street stackingspace* within a defined stacking lane that meets the following requirements:

(1) Each stacking space shall be computed on the basis of ten (10) feet in width and twenty (20) feet in length. Each stacking lane shall be a minimum of twelve (12) feet wide.

(2) Clear identification and delineation between the *drive-through* facility and the parking *lot* shall be provided. *Drive-through* facilities shall be designed in a manner that promotes pedestrian and vehicular safety.

(3) Each *drive-through* facility shall have an escape lane to allow other vehicles to pass those waiting to be served. The Planning Commission may waive the requirement for an escape lane where it can be demonstrated that such a waiver will not result in an adverse effect on public safety or the convenience of the patrons of the facility.

(4) The number of *stackingspaces* per service lane shall be provided for the *uses* listed below. Each stacking space shall be computed on the basis of twenty (20) feet in length. When a *use* is not specifically mentioned, the requirements for *off-street stacking spaces* for a similar use shall apply.

<b>Use</b>	<b>Stackingspaces Per Service Lane</b>
Banks	4
Pharmacy	4
Drycleaners	4
Fast-food Restaurants	6
<i>Car Washes (Self-service)</i>	
Entry	3
Exit	1
<i>Car Washes (Automatic)</i>	
Entry	6
Exit	2

(b) Off-Street Waiting Spaces. *Uses* such as day-cares, schools, *hospitals*, *nursinghomes* and *churches* shall provide a safe and efficient means for passengers to be dropped off and picked up. Such *off-street* waiting spaces shall be clearly delineated so as to ensure the safety of pedestrians and motorists.

• **Section 10.09 Storage and Parking of Recreational Equipment.**

Storage and parking of *recreationalequipment* within all residentially zoned *districts* shall comply with the following:

(a) Storage or parking shall not be permitted on vacant *lots* or parcels, except as approved by the *Zoning Administrator*.

(b) All such vehicles shall remain unoccupied and shall not be connected to sanitary sewer facilities or have a fixed connection to electricity, water or gas, except that the parking and occupancy of a recreational vehicle on private property shall be permitted for a period not to exceed two (2) weeks, and not to exceed four (4) times a year.

(c) Any *recreationalequipment* shall be parked or stored, unless otherwise permitted hereafter, in the following manner:

(1) In an enclosed *building*, such as a garage; or

(2) In the *rearyard*, or the *sideyard*, subject to the following limitations:

A. The *recreationalequipment* shall be parked or stored no closer than three (3) feet from any window or door of any residential *building*; and

B. The *recreationalequipment* shall be parked completely within the boundaries of the *lot* and shall not *block* a public sidewalk where such public sidewalk exists.

(3) Upon an established driveway in the *frontyard*, provided parking or storage in an enclosed *building* is not possible, and there is no parking or storage space available in the *rear yard* or *side yard*, or there is no reasonable access to either

the rear yard or side yard, subject to the following limitations:

A. The *recreational equipment* shall be parked completely within the boundaries of the lot or parcel and shall not block a public sidewalk where such public sidewalk exists.

B. No more than two (2) items of *recreational equipment* shall be permitted to be parked or stored upon any established driveway at any one time. For purposes of this limitation, *recreational equipment* used in conjunction with other *recreational equipment*, such as a boat mounted on a boat trailer, shall be considered as one (1) item of *recreational equipment*.

C. At no time shall any unmounted camper enclosure or any boat not mounted on a boat trailer be permitted to be parked or stored in the front yard or upon any established driveway.

D. Parking of *recreational equipment* in the driveway shall not prevent the off-street parking requirements set forth in Section 10.03 from being met.

(d) Other than in an enclosed building, no person shall park or store more than two (2) items of *recreational equipment* upon any one-family residential lot or parcel in a one-family residential area.

(e) Recreational and camping equipment may be parked anywhere on the owner's premises for loading or unloading purposes for a period of not more than forty-eight (48) hours.

(f) *Recreational equipment* must be kept in good repair and carry a prior or current year's license plate and/or registration.

(g) Where, by reason of exceptional shallowness or shape of a specific lot, field, site or tract of land, or by reason of exceptional topographic conditions or other extraordinary and exceptional situations or conditions of such particular property, a regulation enacted would result in peculiar and exceptional practical difficulties to or undue hardship upon the owner of *recreational equipment*, the Board of Zoning Appeals may permit a variance from the provisions of this article upon application of the owner.

(h) *Recreational equipment* may not be stored or parked overnight on any public highway, street or alley for a period in excess of forty-eight (48) hours.

## ARTICLE 11

### NONCONFORMING USES, STRUCTURES AND LOTS

#### • Section 11.01 Intent.

Certain existing lots, structures and uses of lots and structures were lawful before this Ordinance was adopted, but have become *nonconforming* under the terms of this Ordinance and its amendments. It is the intent of this Ordinance to permit such non-conformities to remain until they are discontinued or removed, but not to encourage their survival or, where discontinuance or removal is not feasible, to gradually upgrade such non-conformities to conforming status. *Nonconforming uses* or structures shall not be enlarged, expanded, or extended, except as provided herein, and shall not be used as grounds for adding other structures and uses of lots and structures which are prohibited. *Nonconforming uses, structures and lots* are declared by this Ordinance to be incompatible with the structures and uses permitted in the various districts.

#### • Section 11.02 Nonconforming Lots.

(a) In any district in which one-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Zoning Ordinance, a one-family dwelling and customary accessory buildings may be erected on any single lot of record on the effective date of the adoption or amendment of this Zoning Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving the area or width, or both, of the lot, conform to the regulations for the district in which such lot is located.

(b) If two (2) or more lots, or combinations of lots and portions of lots, with continuous frontage in single ownership, are of record at the time of passage or amendment of this Zoning Ordinance, and if all or part of the lots does not meet the requirements for lot width and area as established by this Zoning Ordinance, the lands involved shall be considered to be an undividable parcel for the purposes of this Zoning Ordinance, and no portion of such parcel shall be used or sold which does not meet the lot width and area requirements established by this Zoning Ordinance. No division of the parcel shall be made which leaves remaining any lot with a width or area below the requirements of this Zoning Ordinance.

#### • Section 11.03 Nonconforming Uses of Land.

Where, on the effective date of the adoption or amendment of this Zoning Ordinance, a lawful use of land exists that is no longer permissible under the terms of this Zoning Ordinance, as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(a) No such *nonconforming use* of land shall be enlarged or increased or extended to occupy a greater area of land than was occupied upon the effective date of the adoption or amendment of this Zoning Ordinance.

(b) No such *nonconforming use* shall be moved in whole or in part to any other portion of the lot or parcel occupied by

such *use* upon the effective date of the adoption or amendment of this Zoning Ordinance.

(c) If such *nonconforming use* ceases, for any reason, for a period of more than six (6) months, or *anonconforming use* of land which is seasonal in nature is discontinued or does not open for business during a twelve (12) month period, any subsequent *use* of land shall conform to the regulations specified in this Zoning Ordinance for the *district* in which such land is located.

• **Section 11.04 Nonconforming Structures.**

Where a lawful *structure* exists upon the effective date of the adoption or amendment of this Zoning Ordinance that could not be built under this Zoning Ordinance because of restrictions on area, *lot coverage*, *height*, *yards* or other characteristics of the *structure* or its location on the *lot*, such *structure* may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(a) No such *structure* shall be enlarged or altered in a way that increases its nonconformity, but such *structures* may be enlarged or altered in a way that does not increase its nonconformity. An alternation or enlargement of a *structure* that would not increase the nonconformity could include adding a bay window or other architectural features (i.e. dormer), providing it does not increase the *floor area* of the *use*, and changing exterior facade treatments. Consideration of other such changes shall be within the purview of the *Zoning Administrator* in coordination with the *Building Official*. However, an *unenclosed porch* or *portico* may be added to a legally nonconforming structure of greater than fifty (50) years in accordance with the provisions of Section 4.05(d).

(b) Should such *structure* be destroyed, by any means, the same may be reconstructed within one (1) year from the date of destruction, without regard to conformity with this Zoning Ordinance, so long as the same type and style of *structure* are rebuilt in the same location and area of the destroyed *structure*.

(c) Should such *structure* be moved for any reason for any distance, it shall thereafter conform to the regulations of the *district* in which it is located after it is moved.

• **Section 11.05 Nonconforming Uses of Structures and Land.**

If a lawful *use* of a *structure*, or of a *structure* and land in combination, exists upon the effective date of the adoption or amendment of this Zoning Ordinance that would not be permitted in the *district* under this Zoning Ordinance, the lawful *use* may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(a) No existing *structure* devoted to a *use* not permitted by this Zoning Ordinance in the *district* in which it is located, shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the *use* of the *structure* to a *use* permitted in the *district* in which it is located.

(b) A *nonconforming use* may be extended throughout any part of a *building* that was manifestly arranged or designed for such *use* and which existed at the time of the adoption or amendment of this Zoning Ordinance, but no such *use* shall be extended to occupy any land outside such *building*.

(c) If no structural *alterations* are made, a *nonconforming use* of a *structure*, or *structure* and premises, may be changed to another *nonconforming use*, provided that the Board of Zoning Appeals, either by general rule or by making findings in the specific case, finds that the proposed *use* is equally appropriate or more appropriate to the *district* than the existing *nonconforming use*. In permitting such change, the Board may require appropriate conditions and safeguards in accordance with the purpose and intent of this Zoning Ordinance. Where a *nonconforming use* of a *structure*, land, or *structure* and land in combination, is hereafter changed to a more conforming use, it shall thereafter be changed to a less conforming *use*.

(d) A *structure*, or a *structure* and land in combination, in or on which *anonconforming use* is superseded by a permitted *use*, shall thereafter conform to the regulations of the *district* in which such *structure* is located, and the *nonconforming use* may not thereafter be resumed.

(e) Except as to those matters set forth in subsection (g) hereof, *anonconforming use* of a *structure*, or a *structure* and land in combination, which is discontinued or ceases to exist for six (6) consecutive months, shall thereafter be used in conformity with the regulations of the *district* in which it is located. *Structures* occupied by seasonal *uses* shall be exempted from this provision.

(f) Except as to those matters set forth in subsection (g) hereof, where *nonconforming use* status applies to a *structure* and land in combination, removal of the *structure* shall eliminate the *nonconforming* status of the land.

(g) If an existing *structure* is destroyed by any means, said existing *structure* may be reconstructed within one (1) year from the date of destruction without regard to conformity with this Zoning Ordinance, so long as the prior *use* of such *structure* is continued, or a conforming *use* is established.

• **Section 11.06 Repairs and Maintenance.**

(a) For a *building* devoted in whole or in part to *anonconforming use*, work may be done in any period of twelve (12) consecutive months to complete ordinary repairs, or on the repair or replacement of nonbearing *walls*, fixtures, wiring or plumbing to an extent not exceeding fifty (50) percent of the assessed value of the *building*, provided that the cubic content of the *building*, as it existed at the time of passage or amendment of this Zoning Ordinance, is not increased.

(b) Nothing in this Zoning Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition, a

*building*, or part thereof, declared to be unsafe by an official charged with protecting the public safety, upon the order of such official.

• **Section 11.07 Uses Allowed As Special Land Uses, Not Nonconforming Uses.**

Any use for which a special land use is required, as provided in this Zoning Ordinance, shall not be deemed a *nonconforming use* but shall, without further action, be deemed a *conforming use* in such *district*.

• **Section 11.08 Change of Tenancy or Ownership.**

There may be a change of tenancy, ownership or management of existing *nonconforming uses* of land, *structures* and premises, provided that there is no change in the nature or character of such *nonconforming use*.

## ARTICLE 12

### BOARD OF ZONING APPEALS

• **Section 12.01 Authority.**

There is hereby established a Board of Zoning Appeals, the membership, powers, duties of which are prescribed in Act 110 of the Public Acts of the State of Michigan of 2006, as amended. The Board of Zoning Appeals, in addition to the general powers and duties conferred upon it by said Act, in specific cases and subject to appropriate conditions and safeguards, shall interpret and determine the application of the regulations established under this Zoning Ordinance in harmony with their purpose and intent as hereinafter set forth.

• **Section 12.02 Membership.**

(a) The City Council shall appoint a Board of Zoning Appeals consisting of seven (7) members. Two (2) members shall be appointed for a three (3) year term, two (2) members shall be appointed for a two (2) year term, three (3) members shall be appointed for a one (1) year term, each being a resident at-large of the City of Howell for a period of no less than one (1) year prior. After the initial appointment, each member shall hold office for a period of three (3) years or until a successor is appointed. Members may be removed at the pleasure of the City Council. Any vacancy in the Board shall be filled by the City Council for the remainder of the unexpired term. The Board shall annually elect its own Chair, Vice-Chair and Secretary. Compensation of the members of the Board may be fixed by the Council.

(b) In addition to the appointment of the seven (7) regular members of the Board by Council, up to two (2) alternate members may also be appointed for the same term as regular members of the Board of Zoning Appeals. The alternate members may be called on a rotating basis to sit as regular members of the Board of Zoning Appeals in the absence of a regular member. 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 on the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Board of Zoning Appeals.

• **Section 12.03 Meetings.**

(a) All decisions of the Board of Zoning Appeals shall be made at a meeting open to the public. All deliberations of the Board constituting a quorum of its members shall take place at a meeting open to the public, except as provided in compliance with the Open Meetings Act, Act 267 of the Public Acts of 1976, as amended.

(b) A majority of the members of the Board shall constitute a quorum for purposes of transacting the business of the Board and the Open Meetings Act, Act 267 of the Public Acts of 1976, as amended. Each member of the Board shall have one (1) vote.

(c) Regular meetings of the Board shall be called as needed in response to receipt of a Notice of Appeal, so long as the meeting is scheduled within a reasonable time frame following the Notice of Appeal. The meeting can be called by the *Zoning Administrator*, the Chair of the Board of Zoning Appeals, or, in his or her absence, the Vice-Chair. Public notice of the date, time, and place of a public meeting of the Board shall be given in the manner required by Act 267 of the Public Acts of 1976, as amended.

(d) The business of the Board of Zoning Appeals shall be conducted in accordance with its adopted by-laws.

(e) The Chair, or in his or her absence, the Vice-Chair, may administer oaths and compel the attendance of witnesses.

• **Section 12.04 Powers and Duties.**

(a) General. The Board has the power to act on matters as provided in this article and Act 267 of the Public Acts of 1921, as amended. The specific powers of the Board are enumerated in the following subsections.

(b) Voting. The concurring vote of a majority of the members of the Board shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant on a matter upon which the Board is required to pass under this Ordinance, or to effect a variation in an ordinance, except that a concurring vote of two-thirds (2/3) of the members of the Board shall be necessary to grant a variance from uses of land permitted in this Ordinance.

A member shall be disqualified from a vote in which there is a conflict of interest. Failure of a member to disclose a conflict of interest and be disqualified from a vote shall constitute misconduct in office. Additionally, a BZA member who also sits on the Planning Commission is prohibited from participating in a public hearing or voting on the same matter that they voted on with the other body.

(c) Administrative Review. The Board shall hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit decision, or refusal made by the *Zoning Administrator* or other duly authorized enforcing agent in enforcing any provision of this Zoning Ordinance.

(d) Interpretation.

(1) The Board shall hear and decide requests for interpretation of this Zoning Ordinance or the zoning map, taking into consideration the intent and purpose of this Zoning Ordinance and the *Master Plan*.

(2) A record shall be kept by the Board of all decisions for interpretation of this Zoning Ordinance or the zoning map and land uses which are approved under the terms of this Zoning Ordinance. The Board shall request the Planning Commission to review any ordinance amendment it deems necessary.

(e) Variance. Upon an appeal, the Board is authorized to grant a variance from the strict provisions of this Zoning Ordinance, whereby extraordinary or exceptional conditions exist for which the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon, the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Zoning Ordinance. In granting a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this Zoning Ordinance. Further, in granting a variance, the Board shall state the grounds upon which it justifies the granting of a variance as outlined below. When granting any variance, the Board must ensure that the spirit of this Zoning Ordinance is observed, public safety secured, and substantial justice done.

(1) Use Variances. The applicant must present evidence to show that if the Zoning Ordinance is applied strictly, unnecessary hardship to the applicant will result, and that all four (4) of the following requirements are met:

A. That the property could not be reasonably used for the purposes permitted in that zoning district;

B. That the appeal results from unique circumstances peculiar to the property and not from general neighborhood conditions;

C. That the use requested by the variance would not alter the essential character of the area; and

D. That the alleged hardship has not been created by any person presently having an interest in the property.

(2) Non Use Variances. The applicant must present evidence to show that if the Zoning Ordinance is applied strictly, practical difficulties will result to the applicant, including all four (4) of the following:

A. The restrictions of this Zoning Ordinance unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome;

B. The variance would do substantial justice to the applicant as well as to other property owners in the district and a lesser relaxation than that requested would not give substantial relief to the owner of the property and be more consistent with justice to other property owners;

C. The plight of the landowner is due to the unique circumstances of the property.

D. The alleged hardship has not been created by any person presently having an interest in the property.

#### • **Section 12.05 Procedure for Appeal.**

(a) An applicant requesting any action by the Board shall commence such request by filing a notice of appeal on the form supplied by the City, accompanied by such appeal fee as determined by the City Council, and all plans, studies and any other information and data as applicable, all of which shall be made a part of the record.

(b) Every appeal from a determination of the *Zoning Administrator* or other duly authorized enforcing agent shall be made by the applicant within thirty (30) days of the date of the order issuance or refusal to issue a permit.

(c) The Board shall fix a time for a hearing on the appeal, and shall notify the applicant of the time and place of such hearing. Notice of the public hearings shall be sent no less than fifteen (15) days before the hearing to the persons to whom real property is assessed within three hundred (300) feet of the boundary of the property for which the appeal is being sought. Notices will also be sent by mail or personal delivery to the occupants of structures located within three hundred (300) feet of the property in question. The same notice shall be published in a newspaper of general circulation within the City no less than fifteen (15) days before the hearing. If the tenant's name is unknown, the term "occupant" may be used. The notice shall:

(1) Describe the nature of the variance request(s);

(2) Indicate the property that is the subject of the variance request(s);

(3) State when and where the public hearing for the variance request(s) will be held; and

(4) Indicate when and where written comments will be received concerning the variance request(s).

(d) Any person may appear at the public hearing or be represented by an agent or attorney, and present any evidence in support of their appeal. The Board of Zoning Appeals shall have the power to require the attendance of witnesses, administer oaths, compel testimony, and otherwise cause the production of books, papers, files, and other evidence pertaining to matters properly coming before the Board of Zoning Appeals.

(e) The Board shall not decide an appeal until after a public hearing.

(f) The Board may reverse, affirm, vary, or modify, any order, requirement, or determination, as to which it has the power to consider, and shall have all the powers of the officer or body from whom the appeal was taken, and may issue or direct the issuance of a permit.

(g) The Board may impose conditions with any decision. Such conditions imposed shall meet all of the following requirements:

(1) Be designed to protect natural resources, public health, safety, and welfare and the social and economic well being of those who will *use* the land, residents and landowners immediately adjacent to the proposed *landuse* or activity, and the community as a whole.

(2) Be related to the valid exercise of the police power, and purposes, which are affected by the proposed *use* or activity.

(3) Be necessary to meet the intent and purpose of this Zoning Ordinance, be related to the standards established in this Zoning Ordinance for the land *use* or activity under consideration, and be necessary to insure compliance with those standards. Violations of any of these conditions shall be deemed a violation of this Zoning Ordinance, enforceable as such and/or may be grounds for revocation or reversal of such decision.

(h) All decisions of the Board shall be in writing, and so far as it is practicable, in the form of a general statement or resolution reciting the conditions, facts, and findings of the Board. The applicant shall be advised of the decision after the public hearing unless the Board moves for a continuation of such hearing.

(i) Any decision of the Board favorable to the applicant shall remain valid only as long as the information or data relating thereto are found to be correct and the conditions upon which the decision was based are maintained.

(j) The Board may reconsider an earlier decision, if, in the opinion of the Board, circumstances justify taking such action.

(k) No order of the Board of Zoning Appeals permitting the erection or alteration of *abuilding* shall be valid for a period of longer than one (1) 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 such permit.

No order of the Board of Zoning Appeals permitting *ause* of a *building* or premises shall be valid for a period longer than one (1) year, unless such *use* is established within such period. Provided, however, that such order shall continue in force and effect if a *building* permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit.

(l) Any person or persons, or any board or department of the City, having an interest affected by a decision of the Board, shall have the right to appeal to the circuit court on questions of law and fact. Such appeal must be filed in writing within thirty (30) days after the Boards decision has been certified in writing or the Board approves the minutes of its decisions. A request for reconsideration under subsection (j) above shall not toll the time for taking such appeal. In the event a request for reconsideration is granted, the time period for appeal shall commence upon the date of the approval of the minutes of the meeting where the appeal was reconsidered. In any event, only one (1) request for reconsideration on each appeal shall be allowed.

## ARTICLE 13

### AMENDMENTS AND CHANGES TO THE ZONING ORDINANCE

#### • Section 13.01 Procedure.

The City Council may, from time to time, on its own motion, on recommendation of the Planning Commission, or on petition, after public notice, hearing and report by the Planning Commission as provided by law, amend, supplement or change the boundaries or regulations herein or subsequently established herein pursuant to the authority and procedure established in Act 110 of the Public Acts of the State of Michigan of 2006, as amended.

At least one (1) public hearing shall be held by the Planning Commission, and a report made thereon, before the City Council shall adopt any amendment to this Ordinance or the maps adopted hereunder. Not less than fifteen (15) days notice of the time and place of the public hearing shall first be published in a paper of general circulation in the City, and not less than fifteen (15) days notice of the time and place of the public hearing shall first be given by mail to each person to whom real property is assessed within three hundred (300) feet of the boundary of the property for which the appeal is being sought. Notices will also be sent by mail or personal delivery to the occupants of *structures* located within three hundred (300) feet of the property in question. If the tenant's name is not know, the term "occupant" may be used. The notice shall:

(1) Describe the nature of the special *landuse* request;

- (2) Indicate the property that is the subject of the special land use request;
- (3) State when and where the special land use public hearing will be held; and
- (4) Indicate when and where written comments will be received concerning the request.

An affidavit of mailing shall be maintained. A hearing shall be granted to any person interested at the time and place specified on the notice.

A summary of the comments submitted at the public hearing shall be transmitted with the report of the Planning Commission to the City Council. The City Council may hold additional public hearings if it considers it necessary. After receipt of the Planning Commission's report, the City Council may adopt the proposed amendment, with or without amendments, or refer the proposed amendment again to the Planning Commission for further consideration.

Upon presentation of a protest petition meeting the requirements hereinafter set forth, an amendment to the Zoning Ordinance which is the object of the petition shall be passed only by a two-thirds (2/3) vote of the City Council. The protest petition shall be presented to the City Council before final legislative action on the amendment, and shall be signed by one (1) of the following:

- (a) The owners of at least twenty (20) percent of the area of the land included in the proposed change.
- (b) The owners of at least twenty (20) percent of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change. Publicly owned land shall be excluded in calculating this twenty (20) percent land area requirement.

## ARTICLE 14

### REPEAL OF EXISTING ZONING ORDINANCE

#### • Section 14.01. Repeal.

The existing zoning regulations of the City of Howell being the City of Howell Zoning Code are hereby repealed. The adoption of this Ordinance, however, shall not affect or prevent any pending or future prosecution of, or action to abate, any existing violation of the aforementioned Code, as amended, if the use so in violation is in violation of the provisions of this Ordinance.

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## **CHAPTER 1250**

### **Historic District**

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- 1250.04 Historic District Study Committee and the Study Committee report.
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#### **1250.01 TITLE.**

This chapter shall be known as the "Historic District Ordinance of the City of Howell."

(Ord. 874. Passed 5-20-13.)

## 1250.02 STATEMENT OF PURPOSE.

(a) Historic preservation is hereby declared to be a public purpose and the City Council may hereby regulate the construction, addition, alteration, repair, moving, excavation, and demolition of resources in historic districts within the City limits. The purpose of this chapter is to:

- (1) Safeguard the heritage of the City of Howell by preserving districts which reflect elements of its history, architecture, archaeology, engineering or culture.
- (2) Stabilize and improve property values in each district and surrounding areas.
- (3) Foster civic beauty.
- (4) Strengthen the local economy.
- (5) Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the City of Howell and the State of Michigan.

(b) The City may by ordinance establish one or more historic districts. The historic district(s) shall be administered by the Historic District Commission and pursuant to this chapter.

(Ord. 874. Passed 5-20-13.)

## 1250.03 DEFINITIONS.

- (a) "Alteration" means work that changes the detail of a resource but does not change its basic size or shape.
- (b) "Certificate of Appropriateness" means the written approval of a permit application for work that is appropriate and does not adversely affect a resource.
- (c) "Commission" means the Historic District Commission of the City of Howell.
- (d) "Committee" means a Historic District Study Committee appointed by the City Council.
- (e) "Demolition" means the razing or destruction, whether entirely or in part, of a resource and includes, but is not limited to, demolition by neglect.
- (f) "Demolition by neglect" means neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.
- (g) "Denial" means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.
- (h) "Department" means the Department of History, Arts and Libraries.
- (i) "Fire alarm system" means a system designed to detect and annunciate the presence of fire or by-products of fire. Fire alarm system includes smoke alarms.
- (j) "Historic district" means an area, or group of areas, not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.
- (k) "Historic preservation" means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering, or culture.
- (l) "Historic resource" means a publicly or privately owned building, structure, site, object, feature or open space that is significant in the history, architecture, archaeology, engineering, or culture of the City of Howell, State of Michigan, or the United States.
- (m) "Notice to proceed" means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under Section 399.205(6) of Public Act 169 of 1970, as amended.
- (n) "Open space" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or buffer between other resources.
- (o) "Ordinary maintenance" means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for the purposes of this chapter.
- (p) "Proposed historic district" means an area, or group of areas not necessarily having contiguous boundaries, that has delineated boundaries and that is under review by a committee or a standing committee for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.
- (q) "Repair" means to restore a decayed or damaged resource to good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for the purposes of this chapter.
- (r) "Resource" means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a historic district.

(s) "Smoke alarm" means a single-station or multiple-station alarm responsive to smoke and not connected to a system. As used in this definition, a "single-station alarm" means an assembly incorporating a detector, the control equipment, and the alarm sounding device into a single unit, operated from a power supply either in the unit or obtained at the point of installation. "Multiple-station alarm" means two or more single-station alarms that are capable of interconnection such that actuation of one alarm causes all integrated separate audible alarms to operate.

(t) "Work" means construction, addition, alteration, repair, moving, excavation, or demolition.

(Ord. 874. Passed 5-20-13.)

#### **1250.04 HISTORIC DISTRICT STUDY COMMITTEE AND THE STUDY COMMITTEE REPORT.**

Before establishing a historic district(s), the City Council shall appoint a Historic District Study Committee. A majority of the persons appointed to the Study Committee shall have a clearly demonstrated interest in or knowledge of historic preservation. The Study Committee shall contain representation of at least one member appointed from one or more duly organized local historic preservation organizations. The Study Committee shall do all of the following:

(a) Conduct a photographic inventory of resources within each proposed historic district following procedures established by the State Historic Preservation Office of the Michigan Historical Center.

(b) Conduct basic research of each proposed historic district and historic resources located within that district.

(c) Determine the total number of historic and non-historic resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the Committee shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR part 60, and criteria established or approved by the State Historic Preservation Office of the Michigan Historical Center.

(d) Prepare a preliminary Historic District Study Committee report that addresses at minimum the following:

(1) The charge of the Committee;

(2) The composition of Committee membership;

(3) The historic district(s) studied;

(4) The boundaries of each proposed historic district in writing and on maps;

(5) The history of each proposed historic district;

(6) The significance of each district as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria;

(7) Transmit copies of the preliminary report for review and recommendations to the local planning body, the State Historic Preservation Office of the Michigan Historical Center, the Michigan Historical Commission, and the State Historic Preservation Review Board; and

(8) Make copies of the preliminary report available to the public pursuant to Section 399.203(4) of Public Act 169 of 1970, as amended.

(e) Not less than sixty calendar days after the transmittal of the preliminary report, the Historic District Study Committee shall hold a public hearing in compliance with Public Act 267 of 1976, as amended. Public notice of the time, date and place of the hearing shall be given in the manner required by Public Act 267. Written notice shall be mailed by first class mail not less than fourteen calendar days prior to the hearing to the owners of properties within the proposed historic district, as listed on the most current tax rolls. The report shall be made available to the public in compliance with Public Act 442 of 1976, as amended.

(f) After the date of the public hearing, the Committee and the City Council have not more than one year, unless otherwise authorized by the City Council, to take the following actions:

(1) The Committee shall prepare and submit a final report with its recommendations and the recommendations, if any, of the local planning body to the City Council as to the establishment of a historic district(s). If the recommendation is to establish a historic district(s), the final report shall include a draft of the proposed ordinance(s).

(2) After receiving a final report that recommends the establishment of a historic district(s), the City Council, at its discretion, may introduce and pass or reject an ordinance(s). If the City Council passes an ordinance(s) establishing one or more historic districts, the City shall file a copy of the ordinance(s), including a legal description of the property or properties located within the historic district(s) with the Register of Deeds. The City Council shall not pass an ordinance establishing a contiguous historic district less than sixty days after a majority of the property owners within the proposed historic district, as listed on the tax rolls of the local unit, have approved the establishment of the historic district pursuant to a written petition.

(g) A writing prepared, owned, used, in the possession of, or retained by a committee in the performance of an official function of the Historic District Commission should be made available to the public in compliance with Public Act 442 of 1976, as amended.

(Ord. 874. Passed 5-20-13.)

#### **1250.05 ESTABLISHING, ADDING ONTO, MODIFYING, OR ELIMINATING HISTORIC DISTRICTS.**

(a) The City Council may at any time establish by ordinance additional historic districts, including proposed districts previously considered and rejected, may modify boundaries of an existing historic district, or may eliminate an existing historic district. Before establishing, modifying, or eliminating a historic district, a historic district study committee appointed by the City Council shall follow the procedures as stated in Section 399.203(1-3) of Public Act 169 of 1970, as amended. To conduct these activities, the City Council may retain the initial committee, establish a standing committee, or establish a committee to consider only specific proposed districts and then be dissolved. The committee shall consider any previously written committee reports pertinent to the proposed action.

(b) In considering elimination of a historic district, a committee shall follow the procedures set forth in Section 399.203(1-3) of Public Act 169 of 1970, as amended for the issuance of a preliminary report, holding a public hearing, and issuing a final report but with the intent of showing one or more of the following:

- (1) The historic district has lost those physical characteristics that enabled the establishment of the district.
- (2) The historic district was not significant in the way previously defined.
- (3) The historic district was established pursuant to defective procedures.

(Ord. 874. Passed 5-20-13.)

#### **1250.06 THE HISTORIC DISTRICT COMMISSION.**

(a) The City Council may establish by ordinance a commission to be called a Historic District Commission. The Commission may be established at any time, but not later than the time the first historic district is established. Each member of the Commission shall reside within the City limits. The Commission shall consist of five to seven members. Members shall be appointed by the City Council. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. Members shall be appointed for a term of three years, except the initial appointments of three members for a term of two years and two members for a term of one year. Subsequent appointments shall be for three-year terms. Members shall be eligible for reappointment. In the event of a vacancy on the Commission, interim appointments shall be made by the City Council within sixty calendar days to complete the unexpired term of such position. Two members shall be appointed from a list submitted by duly organized local historic preservation organizations. If such a person is available for appointment, one member shall be an architect who has two years of architectural experience or who is duly registered in the State of Michigan.

(b) The City Council may prescribe powers and duties of the Commission, in addition to those prescribed in this chapter, that foster historic preservation activities, projects, and programs in the local unit.

(Ord. 874. Passed 5-20-13.)

#### **1250.07 HISTORIC DISTRICT COMMISSION MEETINGS, RECORDKEEPING AND RULES OF PROCEDURE.**

(a) The Historic District Commission shall meet at least quarterly or more frequently at the call of the Commission.

(b) The business that the Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, as amended. Public notice of the date, time, and place of the meeting shall be given in the manner required by Public Act 267. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the Commission.

(c) The Commission shall keep a record of its resolutions, proceedings and actions. A writing prepared, owned, used, in the possession of, or retained by the Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information, Public Act 442 of 1976, as amended.

(d) The Commission shall adopt its own rules of procedure and shall adopt design review standards and guidelines to carry out its duties under this act.

(Ord. 874. Passed 5-20-13.)

#### **1250.08 DELEGATION OF MINOR CLASSES OF WORK.**

The Commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to its staff or to another delegated authority. The Commission shall provide to its delegated authority specific written standards for issuing certificates of appropriateness under this subsection. The Commission shall review the certificates of appropriateness issued by the delegate on at least a quarterly basis to determine whether or not the delegated responsibilities should be continued.

(Ord. 874. Passed 5-20-13.)

#### **1250.09 ORDINARY MAINTENANCE.**

Nothing in this chapter shall be construed to prevent ordinary maintenance or repair of a resource within a historic district or to prevent work on any resource under a permit issued by the inspector of buildings or other duly delegated authority before the chapter was enacted.

(Ord. 874. Passed 5-20-13.)

#### **1250.10 REVIEW BY COMMISSION.**

The Commission shall review and act upon only exterior features of a resource and shall not review and act upon interior arrangements unless specifically authorized to do so by the City Council or unless interior work will cause visible change to the exterior of the resource. The Commission shall not disapprove an application due to considerations not prescribed in subsection 399.205(3) of Public Act 169 of 1970, as amended.

(Ord. 874. Passed 5-20-13.)

#### **1250.11 DESIGN REVIEW STANDARDS AND GUIDELINES.**

(a) In reviewing plans, the Commission shall follow the U.S. Secretary of Interior's *Standards for Rehabilitation* and guidelines for rehabilitating historic buildings as set forth in 36 C.F.R. part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the Commission may be followed if they are equivalent in guidance to the Secretary of Interior's Standards and Guidelines and are established or approved by the State Historic Preservation Office of the Michigan Historical Center.

(b) In reviewing plans, the Commission shall also consider all of the following:

(1) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.

(2) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.

(3) The general compatibility of the design, arrangement, texture and materials proposed to be used.

(4) Other factors, such as aesthetic value, that the Commission finds relevant.

(5) Whether the applicant has certified in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm system complying with the requirements of the Stille-DeRossett-Hale Single State Construction Code Act 1972 PA 230, MCL 125.1501 to 125.1531.

(Ord. 874. Passed 5-20-13.)

#### **1250.12 PERMIT APPLICATIONS.**

(a) A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district. The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do that work shall file an application for a permit with the Building Official. Upon receipt of a complete application, the Building Official shall immediately refer the application, along with all required supporting materials that make the application complete, to the Commission. A permit shall not be issued and proposed work shall not proceed until the Commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed as prescribed in this chapter. A commission shall not issue a certificate of appropriateness unless the applicant certifies in the application that the property where work will be undertaken has, or will have before the project completion date, a fire alarm system or a smoke alarm system complying with the requirements of the Stille-DeRossett-Hale Single State Construction Code Act 1972 PA 230, MCL 125.1501 to 125.1531.

(b) The Commission shall file certificates of appropriateness, notices to proceed, and denials of applications for permits with the Building Official. A building permit shall not be issued until the Commission has acted as prescribed by the ordinance.

(c) If an application is for work that will adversely affect the exterior of a resource the Commission considers valuable to the City of Howell, the State of Michigan, or the nation, and the Commission determines that the alteration or loss of that resource will adversely affect the public purpose of the City, State or Nation, the Commission shall attempt to establish with the owner of the resource an economically feasible plan for the preservation of the resource.

(d) The failure of the Commission to act on an application within sixty calendar days after the date a complete application is filed with the Commission, unless an extension is agreed upon in writing by the applicant and the Commission, shall be considered to constitute an approval.

(e) The City may charge a reasonable fee to process a permit application.

(Ord. 874. Passed 5-20-13.)

#### **1250.13 DENIALS.**

If a permit application is denied, the decision shall be binding on the Building Official or other authority. A denial shall be accompanied by a written explanation by the Commission of the reasons for denial and, if appropriate, a notice that an application may be re-submitted for Commission review when the suggested changes have been made. The denial shall also include the notification of the applicant's right to appeal to the State Historic Preservation Review Board and to the circuit court.

(Ord. 874. Passed 5-20-13.)

#### **1250.14 NOTICE TO PROCEED.**

Work within a historic district shall be permitted through the issuance of a notice to proceed by the Commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the Commission to be necessary to substantially improve or correct any of the following conditions:

- (a) The resource constitutes a hazard to the safety of the public or to the structure's occupants.
- (b) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing and environmental clearances.
- (c) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.
- (d) Retaining the resource is not in the interest of the majority of the community.

(Ord. 874. Passed 5-20-13.)

#### **1250.15 APPEAL OF A COMMISSION DECISION.**

(a) The applicant aggrieved by a decision of the Commission concerning a permit application may file an appeal with the State Historic Preservation Review Board. The appeal shall be filed within sixty calendar days after the decision is furnished to the applicant. The appellant may submit all or part of the appellant's evidence and arguments in written form. The State Historic Preservation Review Board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal. A permit applicant, aggrieved by the decision of the State Historic Preservation Review Board may appeal the decision to the circuit court having jurisdiction over the Historic District Commission whose decision was appealed to the State Historic Preservation Review Board.

(b) Any citizen or duly organized historic preservation in the City of Howell as well as resource property owners, jointly or severally aggrieved by a decision of the Historic District Commission may appeal the decision to the circuit court, except that a permit applicant aggrieved by a decision rendered under this chapter may not appeal to the court without first exhausting the right to appeal to the State Historic Preservation Review Board.

(Ord. 874. Passed 5-20-13.)

#### **1250.16 WORK WITHOUT A PERMIT.**

When work has been done upon a resource without a permit, and the Commission finds that the work does not qualify for a certificate of appropriateness, the Commission may require an owner to restore the resource to the condition that the resource was in before the inappropriate work or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply with the restoration or modification requirement within a reasonable time, the Commission may seek an order from the circuit court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply or cannot comply with the order of the court, the Commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the court's order. The costs of the work done shall be charged to the owner and may be levied by the City of Howell as a special assessment against the property. When acting pursuant to an order of the circuit court, the Commission or its agents may enter a property for purposes of this section.

(Ord. 874. Passed 5-20-13.)

#### **1250.17 DEMOLITION BY NEGLECT.**

Upon a finding by the Commission that a historic resource within a historic district or a proposed historic district subject to its review and approval is threatened with demolition by neglect, the Commission may do either of the following:

- (a) Require the owner of the resource to repair all conditions contributing to demolition by neglect.
- (b) If the owner does not make repairs within a reasonable time, the Commission or its agents may enter the property and make such repairs as necessary to prevent demolition by neglect. The costs of the work shall be charged to the owner, and may be levied by the City of Howell as a special assessment against the property. The Commission or its agents may enter the property for purposes of this section upon obtaining an order from the circuit court.

(Ord. 874. Passed 5-20-13.)

#### **1250.18 REVIEW OF WORK IN PROPOSED DISTRICTS.**

Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, engineering, or cultural significance of a proposed historic district, the City Council may, at its discretion, adopt a resolution requiring that all applicants for permits within the proposed historic district be referred to the Historic District Commission as prescribed in

Section 1250.12. The Historic District Commission shall review permit applications with the same powers that would apply if the proposed historic district was an established historic district. The review may continue in the proposed historic district for not more than one year, or until such time as the City Council approves or rejects the establishment of the historic district by ordinance, whichever occurs first.

(Ord. 874. Passed 5-20-13.)

#### **1250.19 EMERGENCY MORATORIUM.**

If the City Council determines that pending work will cause irreparable harm to resources located within an established or proposed historic district, the City Council may by resolution declare an emergency moratorium on all such work for a period not to exceed six months, upon finding that the threat of irreparable harm to resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.

(Ord. 874. Passed 5-20-13.)

#### **1250.20 PENALTIES FOR VIOLATIONS.**

(a) A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act is responsible for a civil infraction violation and may be fined not more than five thousand dollars (\$5,000).

(b) A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, moved, excavated or demolished.

(Ord. 874. Passed 5-20-13.)

#### **1250.21 ACCEPTANCE OF GIFTS OR GRANTS.**

The City Council may accept State or Federal grants for historic preservation purposes; may participate in State and Federal programs that benefit historic preservation, and may accept public or private gifts for historic preservation purposes. The City Council may appoint the Historic District Commission to accept and administer grants, gifts, and program responsibilities.

(Ord. 874. Passed 5-20-13.)

#### **1250.22 ACQUISITION OF HISTORIC RESOURCES.**

If all efforts by the Commission to preserve a resource fail, or if it is determined by the City Council that public ownership is the most suitable, the City Council, if considered to be in the public interest, may acquire the resource using public funds, public or private gifts, grants or proceeds from the issuance of revenue bonds. The acquisition shall be based upon the recommendation of the Commission. The Commission is responsible for maintaining publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds committed for that use by the City Council. Upon recommendation of the Commission, the City may sell resources acquired under this section with protective easements included the property transfer documents, if appropriate.

(Ord. 874. Passed 5-20-13.)

#### **1250.23 DISTRICTS DESIGNATED.**

(a) Howell Opera House Historic District The Howell Opera House Historic District is designated May 20, 2013. The boundaries of the Howell Opera House Historic District are shown on a map on file in the office of the City Clerk. The district is comprised of the following described parcel:

(1) Section 36, Township 3 North, Range 4 East, Howell City, Crane and Brooks Addition beginning at Northwest corner of Lot 55, thence East 45.5 feet, South 60 feet, East 6 inches, South 72 feet, West 46 feet, North 132 feet to begin excepting south 10 feet for alley.

(2) Tax ID# 4717-36-307-010.

(3) Commonly known as 123 W. Grand River Avenue.

(Ord. 874. Passed 5-20-13.)

## **PART FOURTEEN - BUILDING AND HOUSING CODE**

Chap. 1410. State Construction Code.

Chap. 1420. (Repealed)

Chap. 1430. Fire Limits. (Repealed)

Chap. 1440. Flood Plain Management.

Chap. 1450. Fees for Permits, Certificates and Inspections.

Chap. 1460. Residential Rental Properties.

Chap. 1470. Property Maintenance for Rental Properties of the Ordinance of the City of Howell. (Repealed)

Chap. 1480. Property Maintenance.

## CHAPTER 1410

### State Construction Code

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1410.01 Adoption by reference.

1410.02 Purpose.

1410.03 File and distribution copies.

1410.04 Conflicts.

1410.05 Enforcement; Board of Building Code Appeals.

1410.06 Extensions of building permits.

1410.99 Penalty.

#### **CROSS REFERENCES**

Adoption of Codes by reference - see CHTR. Sec.6.5

State Construction Code - see M.C.L. Secs. 125.1501 et seq.

Building sewers and connections - see S.U. & P.S.1042.03, 1042.04

Removal of building materials - see S.U. & P.S.1060.05

Enforcement of Zoning Code by Building Inspector - see P. & Z.Chapter 1240 (Zoning Code)

Building permits and certificates of occupancy - see P. & Z.Chapter 1240 (Zoning Code)

Design and construction standards for one-family dwellings - see P. & Z.Chapter 1240 (Zoning Code)

Review of building permit applications - see B. & H. 1440.05

#### **1410.01 ADOPTION BY REFERENCE.**

Pursuant to Section 6.5 of the City Charter and Sections 8 and 8a of the State Construction Code Act (Act 230 of the Public Acts of 1972 (MCL 125.1501 et seq.)), as amended, the State Construction Code is hereby adopted by reference as if the same were fully set forth herein. The State Construction Code, as hereinafter known, is more specifically set forth in R 408.30401 to 408.30499 of the Michigan Administrative Code adopting by reference the International Building Code, 2009 edition and the International Residential Code, 2009 edition both as published by the International Code Council, Inc. Any and all amendments which are hereinafter made to the State Construction Code, pursuant to Sections 8 and 8a of Act 230 referenced herein, shall amend, by reference, this chapter as of the effective date of the amendment of the State Construction Code.

(Ord. 702. Passed 1-17-2000; Ord. 765. Passed 10-25-04; Ord. 887. Passed 6-23-14.)

#### **1410.02 PURPOSE.**

The purpose of the State Construction Code, as adopted in Section 1410.01, is to prescribe construction and material standards and specifications for all occupancies named in such Code.

(Ord. 765. Passed 10-25-04.)

#### **1410.03 FILE AND DISTRIBUTION COPIES.**

Printed copies of the State Construction Code, as adopted in Section 1410.01, shall be kept in the office of the City Clerk and the office of the City Building Official, and be available for inspection by and distribution to the public at all times.

(Ord. 765. Passed 10-25-04.)

#### **1410.04 CONFLICTS.**

In the event of a conflict between any of the provisions of the State Construction Code, as adopted in Section 1410.01, and a provision of any City ordinance, resolution, rule or regulation, the provisions of the State Code shall prevail.

(Ord. 702. Passed 1-17-2000; Ord. 765. Passed 10-25-04.)

#### **1410.05 ENFORCEMENT; BOARD OF BUILDING CODE APPEALS.**



Pursuant to the provisions of Section 9 of Act 230 of the Public Acts of 1972 (MCL 125.1509), as amended, the Building Official is hereby designated as the enforcing agency to discharge the responsibilities of the City under Act 230 of the Public Acts of 1972, as amended. The City hereby assumes responsibility for the administration and enforcement of such Act throughout its corporate limits.

(Ord. 337. Passed 10-14-74; Ord. 765. Passed 10-25-04; Ord. 887. Passed 6-23-14.)

#### **1410.06 EXTENSIONS OF BUILDING PERMITS.**

Pursuant to the State Construction Code, Section 105.5, building permits shall become invalid after the expiration of 180 days pursuant to the terms and conditions set out in that Section. One or more extensions of time may be authorized by the Building Official for periods not more than 180 days each, subject to the terms of Section 105.5 of the State Construction Code and Section 1450.02 of the Howell City Code.

(Ord. 870. Passed 5-20-13.)

#### **1410.99 PENALTY.**

In addition to any other civil remedy allowed by law, whoever violates any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99.

(Ord. 794. Passed 3-26-07.)

## **CHAPTER 1420**

### **Unsafe Buildings**

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EDITOR'S NOTE: Chapter 1420 was repealed by Ordinance 918, passed October 8, 2018.

## **CHAPTER 1430**

### **Fire Limits**

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EDITOR'S NOTE: Chapter 1430 was repealed by Ordinance 486, passed February 16, 1987.

## **CHAPTER 1440**

### **Flood Plain Management**

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EDITOR'S NOTE: This chapter, previously a codification of Resolution 00-19, passed April 24, 2000, was repealed in its entirety by implication and re-enacted by Resolution 08-22, passed August 25, 2008.

1440.01 Definitions.

1440.02 Adoption by reference.

#### **CROSS REFERENCES**

Flood control in home rule cities - see M.C.L. Secs. 117.4a, 117.4e

Municipal bond issues - see M.C.L. Sec. 135.3

Drains and drainage; flood control projects - see M.C.L. Secs. 280.429, 280.431

Floodplain easements - see M.C.L. Sec. 281.628

#### **1440.01 DEFINITIONS.**

The National Flood Insurance Program (NFIP) requires that floodplain management regulations must be present and enforced in participating communities, and utilize the following definitions, which also apply for the purposes of this chapter:

(a) "Flood" or "flooding" means:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters, the unusual and rapid accumulation or runoff of surface waters from any source, mudflows, and,

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in this chapter.

(b) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the FEMA, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A, M, and/or E.

(c) "Floodplain" means any land area susceptible to being inundated by water from any source (see definition of "flood").

(d) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

(e) "Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.

(f) "Structure" means, for floodplain management purposes, a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home or manufactured unit.

(Res. 08-22. Passed 8-25-08.)

#### **1440.02 ADOPTION BY REFERENCE.**

To maintain eligibility and continued participation in the NFIP:

(a) The City directs its designated enforcing agent for the Construction Code Act to be the City Building Official, who shall administer, apply, and enforce the floodplain management regulations as contained in the State Construction Code, including Appendix G, and to be consistent with those regulations by:

(1) Obtaining, reviewing, and reasonably utilizing flood elevation data available from Federal, State, or other sources pending receipt of data from FEMA to identify the flood hazard area and areas with potential flooding;

(2) Ensuring that all permits necessary for development in floodplain areas have been issued including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality under the floodplain regulatory provisions of Part 31, Floodplain Regulatory Authority, found in Water Resources Protection of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended;

(3) Reviewing all permit applications to determine whether the proposed building sites will be reasonably safe from flooding. Where it is determined that the building will be located in a flood hazard area or special flood hazard area, the Building Official shall implement the following applicable codes according to their terms, which are the floodplain management regulation portions and referenced codes and standards of the current Michigan Residential Code, Michigan Building Code, and Appendix G of the Michigan Building Code, all as adopted by the City under Ordinance No. 765, otherwise known as Chapter 1410 of the Howell City Code;

(4) Reviewing all proposed subdivisions to determine whether such proposals are reasonably safe from flooding and to ensure compliance with all applicable floodplain management regulations;

(5) Assisting in the delineation of flood hazard areas, providing information concerning uses and occupancy of the floodplain or flood-related erosion areas, maintaining floodproofing and lowest floor construction records, cooperating with other officials, agencies and persons for flood plain management;

(6) Advising FEMA of any changes in City boundaries, including appropriate maps; and

(7) Maintaining records of new structures and substantially improved structures concerning any certificates of floodproofing, lowest floor elevation, basements, and elevations to which structures have been floodproofed.

(b) The City assures the Federal Insurance Administrator (Administrator) that it intends to review, on an on-going basis, all amended and revised FHBM's and Flood Insurance Rate Maps (FIRMs) and related supporting data and revisions thereof and revisions of 44 CFR, Part 60, Criteria for Land Management and Use, and to make such revisions in its floodplain management regulations as may be necessary to continue to participate in the program.

(c) The City further assures the Administrator that it will adopt the current effective FEMA Flood Insurance Study (FIS), FHSMs, and/or the FIRMs by reference within its Floodplain Management Map Adoption Ordinance or similarly binding ordinance documentation.

(Res. 08-22. Passed 8-25-08.)

## Fees for Permits, Certificates and Inspections

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- 1450.01 Collection.
- 1450.02 Building permit fees.
- 1450.03 Sign permit fees.
- 1450.04 Demolition permit fees.
- 1450.05 Mobile home set-up permit fees.
- 1450.06 Land divisions and combinations.
- 1450.07 Plat review fees.
- 1450.08 Fees for petition for zoning amendment.
- 1450.09 Site plan review fees; charges and escrows.
- 1450.10 Appeal fee to Zoning Board of Appeals.
- 1450.11 Special use application fees.
- 1450.12 Fees for planned unit developments.
- 1450.13 Fees for site condominium projects.
- 1450.14 Miscellaneous fees.
- 1450.99 Penalty.

### 1450.01 COLLECTION.

Fees for inspections or for the issuance of permits or certificates of occupancy, or copies thereof, required or issued under the Howell City Zoning Code, shall be collected by the Building Inspector in advance of issuance thereof.

(Ord. 723. Passed 11-19-01; Ord. 752. Passed 1-12-04; Ord. 905. Passed 7-25-16.)

### 1450.02 BUILDING PERMIT FEES.

The following building permit fees shall apply for those items listed in this subsection. Other fees listed throughout this section may apply, as well, depending upon the project:

(a) Residential and non-residential building permit fees - new construction. Residential and non-residential building permit fees for new construction shall be based on the International Code Council's (ICC) Permit Fee Schedule, as amended, utilizing the ICC gross area modifier and type of construction factor contained therein. Appeals of a revised cost estimate shall be made to the City Manager.

(b) Residential and non-residential building permit fees-renovations/additions. Residential and non-residential building permit fees for renovations and/or additions shall be determined by taking the actual cost of the renovation and/or addition and multiplying the same by the ICC permit fee multiplier, adjusted by using a three year construction cost average. The minimum permit fee shall be \$100.

(c) Residential and non-residential plan review fees. Plans submitted to the Building Inspector shall be accompanied by a plan review fee as set forth below:

(1) Plan review fees for residential renovations shall be determined as follows:

- A. For projects with a construction value under thirty thousand dollars (\$30,000.00), there shall be no plan review fee.
- B. For projects with a construction value above thirty thousand dollars (\$30,000.00), there shall be a fee of one hundred dollars (\$100.00).

(2) Plan review fees for new residential construction and for new non-residential construction and/or renovations shall be determined as follows:

- A. For construction values up to thirty thousand dollars (\$30,000), a fee of one hundred dollars (\$100.00);
- B. For construction values between thirty thousand dollars (\$30,000) and up to five hundred thousand dollars (\$500,000), the fee shall be determined by taking the value and multiplying it by .0015;
- C. For construction values over five hundred thousand dollars (\$500,000), the fee shall be determined by taking the value and multiplying it by .0010.

(d) Soil erosion control permits or waivers. A soil erosion control permit or waiver must be obtained from the Livingston County Drain Commissioner, after applying for a building permit.

(e) Nonstructural alterations. Permits shall not be required for nonstructural alterations costing five hundred dollars

(\$500.00) or less pursuant to the Howell City Zoning Code.

(f) Plumbing, mechanical and electrical permits and fees. Permits for plumbing, mechanical and electrical work must be obtained from, and fees, if any, paid to, the Livingston County Building Department.

(g) Building permits issued by the Building Official may be issued by said official upon the filing of a refundable performance bond as set forth herein. The bond shall be returned in full so long as the work as set out in the building permit is completed while the permit remains valid. The bond will be forfeited in full if the work set out in the permit is not completed while the permit is valid. The bond amounts are hereby set out as follows:

- (1) A performance bond in the amount of one thousand dollars (\$1,000.00) cash for a new single family dwelling;
- (2) A performance bond in the amount of two hundred and fifty dollars (\$250.00) cash for a construction project costing more than one thousand dollars (\$1,000) but less than four thousand nine hundred ninety-nine dollars (\$4,999);
- (3) A performance bond in the amount of seven hundred and fifty dollars (\$750.00) cash for a construction project costing more than five thousand dollars (\$5,000) but less than fourteen thousand nine hundred ninety-nine dollars (\$14,999);
- (4) A performance bond in the amount of five percent (5%) of the total project cost for a construction project costing more than fifteen thousand dollars (\$15,000) up to a maximum bond of \$5,000.
- (5) Performance bonds shall not be required in the following circumstances:
  - i. Any project that has gone through site plan review and has provided the required review escrow required under Section 1450.09.
  - ii. Any sign permit issued under Section 1450.03.
  - iii. Any permit that is issued for interior renovations only to existing commercial structures.

(Ord. 723. Passed 11-19-01; Ord. 871. Passed 5-20-13; Ord. 905. Passed 7-25-16; Ord. 918, Passed 10-8-18.)

#### **1450.03 SIGN PERMIT FEES.**

All property owners shall obtain a sign permit from the Building Inspector prior to the installation, display, erection, relocation or alteration of any sign, as required by the Howell City Zoning Code. A one hundred dollar (\$100.00) fee shall be charged for all sign permits.

(Ord. 723. Passed 11-19-01; Ord. 905. Passed 7-25-16.)

#### **1450.04 DEMOLITION PERMIT FEES.**

All property owners shall obtain a demolition permit from the Building Inspector prior to the demolition of any building. It shall be the property owner's responsibility to provide verification that all utilities to the building have been shut off and disconnected prior to the start of demolition. The demolition permit fees are as follows:

Residential dwellings/single family/duplex      \$100.00

Industrial/commercial buildings      150.00

(Ord. 723. Passed 11-19-01; Ord. 905. Passed 7-25-16.)

#### **1450.05 MOBILE HOME SET-UP PERMIT FEES.**

All owners of mobile home sites shall obtain a permit from the Building Inspector prior to the installation and complete set-up of a mobile home in a mobile home park. A seventy-five dollar (\$75.00) fee shall be charged for all mobile home set-up permits.

(Ord. 723. Passed 11-19-01; Ord. 905. Passed 7-25-16.)

#### **1450.06 LAND DIVISIONS AND COMBINATIONS.**

All applications for land division under Chapter 1216 or combination of parcels shall be accompanied by a fee of one hundred dollars (\$100.00) per each new parcel created.

(Ord. 723. Passed 11-19-01; Ord. 905. Passed 7-25-16.)

#### **1450.07 PLAT REVIEW FEES.**

(a) The schedule of fees for the review of plans and plats shall be established by resolution of Council in accordance with Section 256(1) of Act 288 of the Public Acts of 1967, as amended. A proprietor submitting a plan or plat for approval shall be required to deposit the established fees with the City Clerk, and until the fee is paid the plan or plat shall not be considered of reviewed. Fees shall be established for the following:

- (1) Tentative approval of preliminary plats. The proprietor shall pay the established City filing fee plus the established fee per lot when a preliminary plat is submitted for tentative approval pursuant to the Zoning Code.

(2) Final approval of preliminary plats. The proprietor shall pay the established City filing fee plus the established fee per lot when a preliminary plat is submitted for final approval pursuant to the Zoning Code.

(3) Approval of final plats. The proprietor shall pay the established fees for the following when a final plat is submitted for approval pursuant to the Zoning Code:

A. City filing and review fee. The established City filing and review fee, plus the established fee per lot, shall be paid as provided in paragraphs (a)(2) and (b)(2) hereof.

B. Recording fee. An established recording fee shall be paid, which the City Clerk shall forward to the Livingston County Plat Board upon Council approval of the final plat.

C. Inspection charges. All charges for the City inspection of public improvements shall be paid by the proprietor prior to final plat approval.

(b) Amounts. The following fees for review of plats and inspections of improvements may, by resolution, be amended from time to time by Council:

(1) Preliminary plat. The Planning Commission shall require, pursuant to paragraph (a)(1) hereof, a fee for each subdivision plat submitted for preliminary approval of five hundred dollars (\$500.00), plus:

A. Ten dollars (\$10.00) per lot for the first through the fiftieth lots;

B. Twenty dollars (\$20.00) per lot for the fifty-first through the one hundredth lots; and

C. Thirty dollars (\$30.00) per lot for each lot in excess of 100.

(2) Final plat. The Planning Commission shall require, pursuant to paragraph (a)(2) hereof, a fee for each subdivision plat submitted for final approval of two hundred dollars (\$200.00), plus one-quarter percent of the total cost estimate for completion of all required public improvements.

(3) Recording final plat. The proprietor shall pay to the City a recording fee of twenty dollars (\$20.00) which shall be forwarded with the final plat to the County Plat Board.

(Ord. 723. Passed 11-19-01; Ord. 905. Passed 7-25-16.)

#### **1450.08 FEES FOR PETITION FOR ZONING AMENDMENT.**

All petitions for zoning amendment of the Howell City Zoning Code shall be accompanied by a fee of seven hundred and fifty dollars (\$750.00).

(Ord. 723. Passed 11-19-01; Ord. 905. Passed 7-25-16.)

#### **1450.09 SITE PLAN REVIEW FEES; CHARGES AND ESCROWS.**

Required site plan fees, charges and escrows shall be as follows:

(a) Site plan application fee (nonrefundable). A seventy-five dollar (\$75.00) application fee shall be charged for all projects requiring site plan review pursuant to the Howell City Zoning Code. Said fee shall be paid prior to staff site plan review.

(b) Internal staff site plan review (nonrefundable). For all development plans requiring site plan review, there shall be charged a nonrefundable fee to cover the cost for City staff review of the site plan. The internal staff site plan review fee shall be one-half of one percent of the total development cost\* (building cost(s) plus site improvement cost(s)), with a minimum fee of one hundred dollars (\$100.00) and a maximum fee of two thousand dollars (\$2,000). Said fee shall be paid prior to staff site plan review.

(c) Site plan consultant review escrow deposit. For all development plans requiring site plan review, there shall be a chase escrow account established to cover site plan review costs by the City's consulting planner and/or consulting engineer, as well as any other reasonable expenses deemed necessary by the City Manager. The escrow amount shall equal one percent of the total project development cost\* (building cost(s) plus site improvement cost(s)), with a minimum deposit of one thousand dollars (\$1,000) and a maximum deposit of seven thousand dollars (\$7,000). Such deposit shall be made prior to site plan review. If such deposit is not sufficient to cover the costs of the site plan review and/or other reasonable expenses deemed necessary and appropriate by the City Manager, then the developer may either deposit additional funds, the amount of which shall be determined by the City Manager, in such amount for the completion of the site plan review and/or these other investigations, or withdraw the project, thereby forfeiting the entire deposit previously submitted to the City. Any escrow amount remaining after completion of the site plan review process will be refunded to the developer, or, at the developer's option, can become part of the construction escrow.

(d) Performance guarantee. Any and all performance guarantees shall be governed by the provisions of the Howell City Zoning Code.

(e) Construction escrow. For all construction projects for which a site plan has been required and approved, there shall be a cash escrow account established to cover consulting costs during construction by the City's consulting planner and/or consulting engineer, as well as any other reasonable expenses deemed necessary by the City Manager. The escrow amount shall equal one percent of the performance guarantee amount. Said escrow amount shall not be less than one

thousand dollars (\$1,000) or more than five thousand dollars (\$5,000). Such deposit shall be made prior to the issuance of a building permit. If such deposit is not sufficient to cover consulting costs during construction and/or other reasonable costs deemed necessary by the City Manager, then the developer shall deposit additional funds, the amount of which shall be determined by the City Manager, in such account to permit completion of the consultant's work and/or to cover other reasonable expenses. A certificate of occupancy shall not be issued until the developer reimburses the City for all costs incurred on the project. Any escrow amount remaining after completion of the project and the issuance of a certificate of occupancy will be refunded to the developer.

(f) Site improvement construction permit fee. For all construction projects for which a site plan fee has been required and approved, there shall be issued by the Building Inspector a site improvement construction permit. The nonrefundable fee charged for the permit is to cover the cost for staff assistance, oversight and inspection during the construction of site improvements. The permit fee shall be based on the site improvement costs and shall be determined as follows: for each one thousand dollars (\$1,000) or fraction thereof, three dollars (\$3.00) per thousand dollars (\$1,000).

(g) Total project development cost.

(1) At the time of submittal of the site plan documents, the developer shall submit an itemized cost estimate for the proposed project. The cost estimate shall cover all site improvement costs, including, but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping and widening strips. In addition, a separate building cost estimate shall be provided for all buildings that are to be constructed as part of the initial development. If a project is to be done in phases, then site plan fees will be charged for each phase as it is accomplished. The cost(s) estimated for building construction will be reviewed by the Building Inspector using the International Code Council's Permit Fee Schedule. Site improvement cost estimates will be reviewed by the City Engineer.

(2) The City Engineer shall estimate the anticipated cost for the City to construct the site improvements should the developer fail to complete the work. These cost estimates will then be compared with the developer's cost estimates. Based on the review of the developer's cost estimates by the Building Inspector and the City Engineer, the cost estimates may be revised. The final cost estimates, as approved by the City Building Inspector and the City Engineer, will be used for determining all project fees, deposits, escrows, etc. Developer appeals of a revised cost estimate shall be made first to the City Manager and then to the Commission. For site plan review to proceed, the developer shall pay all required fees in full as determined by the Building Inspector and City Engineer prior to staff site plan review. If the fees are reduced as a result of the developer's appeal, a refund of the difference shall be made to the developer.

(Ord. 723. Passed 11-19-01; Ord. 905. Passed 7-25-16.)

#### **1450.10 APPEAL FEE TO ZONING BOARD OF APPEALS.**

All appeals to the Zoning Board of Appeals pursuant to the Howell Zoning Code shall be accompanied by a fee of two hundred and fifty dollars (\$250.00).

(Ord. 723. Passed 11-19-01; Ord. 905. Passed 7-25-16.)

#### **1450.11 SPECIAL USE APPLICATION FEES.'**

All special use applications made to the Planning Commission pursuant to the Howell Zoning Code shall be accompanied by a fee of five hundred dollars (\$500.00).

(Ord. 723. Passed 11-19-01; Ord. 905. Passed 7-25-16.)

#### **1450.12 FEES FOR PLANNED UNIT DEVELOPMENTS.**

All planned unit development applications made to the Planning Commission or to the City Council pursuant to the Zoning Code shall be accompanied by a fee in the manner set forth in Sections 1450.08 and 1450.09 hereof.

(Ord. 723. Passed 11-19-01; Ord. 905. Passed 7-25-16.)

#### **1450.13 FEES FOR SITE CONDOMINIUM PROJECTS.**

All site condominium project applications made to the Planning Commission or to the City Council pursuant to the Howell Zoning Code shall be accompanied by a fee in the manner set forth in Sections 1450.08 and 1450.09 hereof.

(Ord. 723. Passed 11-19-01; Ord. 905. Passed 7-25-16.)

#### **1450.14 MISCELLANEOUS FEES.**

All property owners shall obtain a permit from the Building Inspector prior to the installation of any of the following, together with a fee for the issuance of the permit, as follows:

(a) Applications for deck installation shall be accompanied by a fee of one hundred dollars (\$100.00);

(b) Applications for all pool installations shall be one hundred dollars (\$100.00);

(c) Applications for re-roofing of any residential or commercial building shall be accompanied by a fee of one hundred dollars (\$100.00);

(d) Applications for sidewalk cafes shall be accompanied by a fee of twenty-five dollars (\$25.00);

(e) A seventy-five dollar (\$75.00) re-inspection fee shall be charged for all inspections over the required inspections and for any failed inspections after the first failed inspection for a given project; and

(f) All work performed prior to the issuance of a permit as set forth herein shall be accompanied by a fee equal to the cost of the required permit, in addition to the original cost of the permit.

(Ord. 723. Passed 11-19-01; Ord. 905. Passed 7-25-16.)

#### **1450.99 PENALTY.**

Whoever violates any provision of this Chapter by either not securing or paying a fee as set forth herein is responsible for a municipal civil infraction and shall be subject to the civil fines as set forth in Section 202.99 of the Howell City Code.

(Ord. 752. Passed 1-12-04; Ord. 905. Passed 7-25-16.)

## **CHAPTER 1460**

### **Residential Rental Properties**

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1460.01 Purpose.

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1460.19 Displaying invalid certificate of registration.

1460.20 Applicability of regulation to existing businesses.

1460.99 Penalty.

#### **CROSS REFERENCE**

Anti-Discrimination, see ADM. Ch. 209

#### **1460.01 PURPOSE.**

The purposes of this chapter are to establish certain responsibilities and duties of landlords and tenants essential to make such dwellings safe, sanitary and fit for human habitation, provide for registration with the Community Development Department, to require a certificate of registration issued by the Community Development Department, to provide a rental inspection program, and to designate penalties for violations of this chapter. Further, the purposes of this chapter are:

(a) To ensure that all rental units (as defined herein) are being maintained in conformance with all applicable building and safety codes, rules and regulations for the protection of the public health and safety of the residents of the rental units and

the community;

(b) To proactively identify blighted and deteriorated rental housing stock and to ensure the rehabilitation or elimination of rental properties that do not meet minimum building and housing code standards, exterior maintenance standards, and site maintenance standards all in an attempt to create and maintain a healthy, safe and crime and nuisance free environment to further preserve and enhance the quality of life for the residents of the City living in rental units, as well as the community as a whole;

(c) To regulate residential rental unit businesses through the issuance of a certificate of registration to protect the public health, safety and welfare, to achieve the goals of this chapter; and

(d) To assist the City with information to provide more adequate police, fire and emergency protection; more equal and equitable real and personal property taxation; better efficiency and economy in furnishing public utility services; and more comprehensive and informed planning and zoning for uses of land and structures within the City.

(Ord. 792. Passed 1-8-07; Ord. 932. Passed 3-9-20.)

#### **1460.02 DEFINITIONS.**

As used in this chapter:

(a) "Building Code" means Chapter 1410, as amended, of the Howell City Code.

(b) "Building Official" means the City employee or his/her designee responsible for conducting inspections under the building code, rental inspection guidelines, and property maintenance code for residential rental structures and units.

(c) "Certificate of registration" means the document issued by the Building Official required for every dwelling within the City covered in this chapter that certifies compliance with this chapter.

(d) "Community Development Department" means the City department responsible for enforcement of this chapter.

(e) "Dwelling" means any house, room, apartment, boarding house/rooming house, or structure which is wholly or partly used or intended to be used for living, sleeping, cooking and eating. Hotels, motels, bed and breakfasts, country inns, and resorts, as defined in the City of Howell Code of Ordinances, Article Six, Chapter 1240, Zoning, shall not be included as a dwelling for purpose of this chapter and shall be exempt from registration requirements.

(f) "Fee" means a fee determined from time to time by City Council resolution.

(g) "Inspection guidelines" shall be the City of Howell Rental Inspection Guidelines.

(h) "Lease" means any written or oral agreement that sets forth conditions concerning the use and occupancy of residential rental structures or residential rental units between an owner and tenant.

(i) "Manager" means a person, partnership, firm or corporation that actively operates or manages a residential rental property for an owner.

(j) "Multi-family (rental) dwelling complex" means a rental complex with ten or more units on a residential rental property under one ownership and one identified complex name. The rental complex may carry separate tax parcel identification numbers or separate mailing addresses but must be on one contiguous parcel(s) of land in one identified area.

(k) "Owner" means any person, agent, firm partnership, association, corporation, or company or organization of any kind having a legal or equitable interest in a residential rental structure or a residential rental unit.

(l) "Residential rental property" means the property upon which a residential rental structure is located, which may carry separate tax parcel identification numbers or separate mailing addresses but are on one contiguous parcel(s) of land in one identified area.

(m) "Residential rental structure" means any building that contains one or more residential rental units regardless of whether or not one of the units is occupied by the owner. Transitional housing facilities and special accommodation uses are considered residential rental structures for purposes of this chapter.

(n) "Residential rental unit" means any apartment, room, rooming house, boarding house, dwelling, or portion thereof or any condominium unit for which a person or group of persons pays rent directly or indirectly to the owner thereof for the purpose of a person to reside therein. This definition includes one- and two-family dwellings, multiple and multi-family dwellings, apartment units, flats, rooming house rooms, boarding houses, transitional housing facilities, and special accommodation uses. This definition does not include hotels and motels licensed and inspected by the State, bed and breakfast establishments, country-inn establishments, or any other facility licensed and inspected by the State.

(o) "Responsible local agent" means an individual person, a real estate holding company, corporation, partnership, or other legal entity who represents the owner. The responsible local agent must have a place of business or residence in this State within 30 miles of the Howell City limits. The responsible local agent shall be designated by the owner as responsible for operating such premises in compliance with all the provisions of the City codes and ordinances. The owner may act as the responsible local agent provided that the owner resides or has a place of business in the State and within 30 miles of the City limits.

(p) "Tenants" means occupants, lessees, and/or persons residing in a residential rental structure, residential rental unit,



transitional housing facility, or special accommodation use.

(q) "Transitional housing facility" means a structure being offered to others for purposes of occupancy through rental or lease agreements, or by other mutually acceptable agreements leading to occupancy, or the occupancy of dwelling units in any form to two or more individuals who do not meet the qualifications of a "family" as defined in the City of Howell Code of Ordinances, Article Six, Chapter 1240, Zoning, Section 2.02. "Transitional housing facility" does not include: (1) a "family" or "domestic unit" under Title Six, Chapter 1240, Zoning, Section 2.02 and Section 5.14 of the City Code, whether licensed by the State, county or otherwise; (2) any facility owned and operated directly by the Federal Bureau of Prisons; or (3) an adult foster care home of six persons or less, licensed under the Michigan Adult Foster Care Licensing Facilities Act, MCL 400.701 et seq.

(Ord. 792. Passed 1-8-07; Ord. 819. Passed 5-4-09; Ord. 860. Passed 10-22-12; Ord. 932. Passed 3-9-20.)

#### **1460.03 CERTIFICATE OF REGISTRATION REQUIRED.**

(a) No person shall engage, or be engaged, in the operation, rental or leasing of a residential rental structure without first obtaining a certificate of registration from the City in the manner provided herein.

(b) The owner of any residential rental structure or residential rental unit shall register each such structure and unit contained within the structure with the City.

(c) In the event the residential rental structure is a building containing more than one dwelling unit, only one license is required for each residential rental structure even though multiple dwelling units occupied by multiple individuals may be contained within the building.

(d) The grant of a certificate of registration for one residential rental structure shall not relieve the person from the necessity of securing individual certificates of registration for each structure that he/she/it owns.

(Ord. 792. Passed 1-8-07; Ord. 932. Passed 3-9-20.)

#### **1460.04 RESPONSIBLE LOCAL AGENT.**

(a) If the owner of a residential rental structure resides more than 30 miles from the City of Howell, the owner shall designate a person as the responsible local agent.

(b) The responsible local agent shall live within 30 miles of the City and shall be responsible for operating and providing access to the residential rental structure or residential rental unit.

(c) All official notices of the City may be issued to the responsible local agent, and any notice so issued shall be deemed to have been issued upon the owner.

(Ord. 792. Passed 1-8-07; Ord. 932. Passed 3-9-20.)

#### **1460.05 REGISTRATION FOR RESIDENTIAL RENTAL STRUCTURES AND RESIDENTIAL RENTAL UNITS.**

All owners or responsible local agents shall comply with the following:

(a) All residential rental structures and residential rental units shall be registered with the City and the owner shall pay a fee assessed at the time of registration and at the time of renewal.

(b) All newly constructed residential rental structures and residential rental units shall be registered prior to the issuance of a certificate of occupancy by the City and shall not be charged an initial registration fee.

(c) A residential rental structure, or residential rental unit which is sold, transferred, or conveyed shall be re-registered by the new owner within 30 days of the date of the deed, land contract, or other instrument of conveyance. No fee will be assessed within this time period. If a property is not registered within the 30 day period then a registration fee will be assessed.

(Ord. 792. Passed 1-8-07; Ord. 819. Passed 5-4-09; Ord. 932. Passed 3-9-20.)

#### **1460.06 CERTIFICATE OF REGISTRATION FORMS AND FEE.**

(a) Application for registration shall be made on a form supplied by the City and filed with the Community Development Department, which shall include at least the following information:

(1) The address of the residential rental property or residential rental unit being licensed.

(2) The names, addresses and telephone numbers of all owners of the residential rental structure or residential rental unit.

(3) The number of residential rental structures at each site and the address of and number of residential rental units in the residential rental structure.

(4) An authorization appointing a responsible local agent signed by both the owner and the responsible local agent, if the owner lives more than 30 miles from the City of Howell.

(5) The name, local address and telephone number of the responsible local agent, if the owner lives more than 30 miles

from the City of Howell.

(6) Water affidavit or release of responsibility for water service payment naming the person responsible for payment of water and sanitary sewer service for the residential rental structure or residential rental unit.

(b) The owner shall provide the following items along with the registration application:

(1) A site plan or survey, drawn to scale, showing the details of the property, including all structures and parking areas on the site.

(2) A complete floor plan of the property, drawn to scale, showing all rooms and areas in the structure.

(3) Photographs of all sides of the building and of the parking areas on the property.

(c) A registration fee, as established by City Council resolution, shall be assessed for each residential rental unit.

(d) No post office box will be accepted as a legal address. A post office box, however, may be accepted as a mailing address upon written request of the owner. The owner shall be responsible for notifying the City of any change of address of either the owner or the responsible local agent.

(e) Once approved, and following required inspections, the Building Official shall issue to the owner a certificate of registration.

(Ord. 792. Passed 1-8-07; Ord. 819. Passed 5-4-09; Ord. 932. Passed 3-9-20.)

#### **1460.07 CERTIFICATE OF REGISTRATION TERM AND RENEWAL.**

A certificate of registration is required prior to the use or occupancy of any residential rental structure or residential rental unit, except as otherwise provided in this chapter. Registration shall be renewed on a biennial basis. The registration year shall begin on June 1 and shall terminate at midnight on two years following issuance. Owners shall apply for renewals no later than 60 days prior to the registration expiration date. The term of registration shall be valid as long as ownership remains unchanged.

(Ord. 792. Passed 1-8-07; Ord. 819. Passed 5-7-09; Ord. 932. Passed 3-9-20.)

#### **1460.08 TRANSFER OF OWNERSHIP.**

It shall be unlawful for the owner of any residential rental structure or residential rental unit, who has received a notice of violation of any code or ordinance of the City, including zoning violations, building code violations, violations of rental inspection guidelines, or nuisance code violations, to transfer, convey, lease or sell, including by land contract, ownership and/or interest in any way to another, unless such owner shall have first furnished to the grantee, vendee, or transferee a copy of any notice of violation and shall have furnished to the Community Development Department a signed and notarized statement from the grantee, vendee, or transferee acknowledging the receipt of such notice of violation and acknowledging legal responsibility for correction of the violation.

(Ord. 792. Passed 1-8-07; Ord. 932. Passed 3-9-20.)

#### **1460.09 INSPECTIONS.**

(a) The Building Official shall inspect residential rental structures and residential rental units pursuant to any of the following circumstances:

(1) Upon receipt of a new rental registration application for a property that was not previously registered.

(2) Upon receipt of any rental registration renewal request for any property that has been previously registered.

(3) Upon receipt of a complaint from an owner or tenant that the premises are in violation of the Property Maintenance Ordinance of the City of Howell.

(4) Upon receipt of a report or a referral from the Howell City Police Department, Howell City Department of Public Services, other law enforcement agencies, public agencies or departments, or any individual indicating that the premises may be in violation of this chapter. The request shall be based on the personal knowledge of the person making the report.

(5) If an exterior survey of the premises gives the building inspector probable cause to believe that the premises are in violation of this chapter.

(6) Upon receipt of information that the residential rental unit is not registered with the City as required by this chapter.

(b) The owner or responsible local agent shall be sent notice within two business days regarding the need to schedule an inspection. If the owner or agent does not respond to the notice, the following will take place:

(1) The Building Official shall notify the owner of a residential rental structure or residential rental unit of the date and time such structure is to be inspected. Such notice may be personally delivered or may be sent by first class mail.

(2) Upon receipt of the notice, the owner must either:

A. Appear at the date and time scheduled for the inspection; or

B. Object within ten days of the mailing or delivery of notice, and:

1. Schedule an alternative date for the appointment within ten days from the date identified in the initial notice; or
2. Direct the Building Official to contact the tenant of the rental unit directly to schedule the inspection and provide the tenant's name and phone number.

(3) If an owner of a residential rental structure or residential rental unit requests in writing that the Building Official schedule an appointment with the tenant, the Building Official shall notify the tenant of the date and time the unit is to be scheduled for inspection. Such notice may be personally delivered or may be sent by first class mail. Upon receipt of the notice, the tenant must either:

A. Appear at the date and time scheduled for the inspection; or

B. Object within ten days and schedule an alternative date and time for the appointment within ten days from the date identified in the original notice.

(4) If an owner or tenant subsequently learns he or she will not be present for a scheduled appointment, the individual must provide the Building Official with at least 24 hours advance notice and must schedule a second inspection date within five days from the scheduled appointment. Failure to appear for a scheduled appointment without providing notice shall be a violation of this chapter and a municipal civil infraction. Failure to appear for a scheduled second inspection date shall be a violation of this chapter and a municipal civil infraction.

(c) During any inspection, the Building Official shall note any violation of this chapter or other sections of this Code and give notice of the violations to the owner or responsible local agent. The Building Official shall direct the owner or responsible local agent to correct violations within the time set forth in the notice. A reasonable time for correcting violations shall be determined by the Building Official in light of the nature of the violations and all relevant circumstances but shall not exceed 60 days. Upon request of the owner or responsible local agent, the Building Official may extend the time for correcting violations if the Building Official deems such action appropriate under all relevant circumstances, but not to exceed an additional 60 days.

(d) Upon resolution of any violations noted during an inspection, the owner or responsible local agent shall contact the Building Official to schedule a reinspection of the residential rental structure or residential rental unit to ensure compliance with the Property Maintenance Code. Such reinspection shall be scheduled prior to the expiration of the timeframe established by the Building Official for the repairs to be made.

(Ord. 792. Passed 1-8-07; Ord. 872. Passed 5-20-13; Ord. 932. Passed 3-9-20.)

#### **1460.10 NOTICES AND ORDERS.**

(a) Except as set forth herein, whenever the Building Official determines that there has been a violation of any section of this chapter, he shall give notice of such alleged violation and order for correction of the violation as provided in this section. This section shall not apply to the enforcement of violations of Section 1460.09 (Inspections) or Section 1460.12 (Harassment) set forth in this chapter. Such notice will:

- (1) Be in writing.
- (2) Include a statement of the conditions that constitute violations of this chapter.
- (3) State the date of the inspection, the name of the inspector, the address of the dwelling and the date set for reinspection.
- (4) Specify a time limit for the performance of any act it requires.
- (5) Notify the owner, responsible local agent, and the tenant, as the case may require, of the right to appeal from the notice or order to the City Council.
- (6) Be served upon the owner, responsible local agent, and the tenant as the case may require. Such notice shall be deemed to be properly served if a copy thereof is (i) served personally, or (ii) sent by first class mail to the last known address. Notice given to the responsible local agent is deemed as notice given to the owner.

(b) If a violation of this chapter, as stated in the original notice of violation, continues, the Building Official shall send a final notice of violation and may issue an order to vacate to the owner, responsible local agent, and tenant. Such notice shall be sent by regular, first class mail to the last known address of the owner or responsible local agent and the tenant and will:

- (1) Specify the date of the inspection.
- (2) Specify the address where the violation was found.
- (3) Include the name, telephone number, and signature of the inspector.
- (4) Include a description of each violation observed by the inspector.
- (5) State that each violation is a separate municipal civil infraction.
- (6) Order the premises to be vacated within a time to be set by the inspector, the length of which shall be determined by the extent of the danger to the tenants, but in no case shall it exceed 30 days, or alternatively:

A. Order correction of all violations within a time period not to exceed 30 days.

B. State that a reinspection will be made to determine whether all violations have been corrected by the specified date. A reinspection fee as adopted by resolution by the City Council will be required to be paid prior to a reinspection. The owner or responsible local agent shall be responsible for contacting the Community Development Department for scheduling the reinspection within ten days of the date on the notice;

C. State that failure to comply with the notice may result in a notice of civil infraction pursuant to Chapters 202 and 208 of the Howell City Code; or

D. Declare the structure an unsafe building under the provisions of Chapter 1480;

E. Employ any other additional or optional corrective or enforcement measure as provided for under this chapter or allowed by law.

(c) If the licensee fails to take corrective action by the date specified in the final notice of violation from the Building Official under subsection (b) above, the certificate of registration shall be revoked. Upon suspension or revocation of any certificate of registration, the Building Official shall not issue a new certificate of registration to the owner or for the premises without prior approval of the City Council.

(Ord. 792. Passed 1-8-07; Ord. 932. Passed 3-9-20.)

#### **1460.11 INSPECTION GUIDELINES.**

The inspection guidelines required by this chapter shall be governed by those guidelines set forth in Chapter 1480 of the Howell City Code.

(Ord. 932. Passed 3-9-20.)

#### **1460.12 HARASSMENT.**

(a) Any tenant or other person who shall maliciously or vexatiously cause an inspection to be made for the purpose of harassing any individual, owner or responsible local agent, corporation, or governmental agency when no violation is present shall be responsible for a municipal civil infraction.

(b) Building Officials are duly authorized to inspect properties in conjunction with this chapter. Building Officials shall not be harassed, stalked, threatened, hindered, assaulted, or otherwise interfered with in the performance of their duties. Notwithstanding any other section in this chapter, a violation of this subsection shall be a municipal civil infraction.

(c) Any owner or responsible party who harasses or threatens a tenant with loss of occupancy as a result of filing a valid complaint shall be responsible for a municipal civil infraction.

(Ord. 792. Passed 1-8-07; Ord. 932. Passed 3-9-20.)

#### **1460.13 APPEAL PROCESS.**

(a) If the owner or responsible local agent disagrees with the opinion of the Building Official as to either the existence of an alleged violation or the period of time that will be reasonably required to correct the alleged violation as set forth in the final notice of violation and order to repair given pursuant to this chapter, the owner or responsible local agent may appeal to the City Council. In addition, the owner or responsible local agent may appeal any suspension or revocation under Section 1460.10(c) of a certificate of registration to the City Council. Any tenant of a dwelling shall have standing to appeal any notice or order to vacate the dwelling.

(b) Any owner, local responsible agent, or tenant requesting such an appeal shall file a written request therefor to the Community Development Department within ten days after the date of receipt of the notice of violation or within the time frame for taking any action indicated on a notice or order, whichever time is shorter. The appeal shall be made in writing and mailed or hand delivered to the Community Development Department.

(c) As soon as practical, the City Council shall fix a time, date and place for a hearing and provide notice of the same to the owner or responsible local agent ten days before the scheduled hearing.

(d) The City Council shall hear evidence and testimony by City departments and other concerned individuals regarding the appeal. The owner or local responsible agent, and/or their representatives, shall be allowed to present evidence and testimony at the hearing on the issues that are the subject of the appeal. After the hearing, the City Council can revoke the certificate of registration, deny the suspension or revocation of the certificate, or suspend the registration for a specific period to require the registrant to take corrective actions as set out in a resolution of City Council before the certificate of registration will be restored. In addition, the City Council may affirm or reverse, in whole or in part, the final notice and order of correction issued by the Building Official. The decision of the City Council shall be final and shall be binding on the owner, responsible local agent, tenant, and the City.

(e) If the owner or responsible local agent fails to take corrective action by the date specified by resolution of City Council, the certificate of registration shall be revoked.

(f) The owner may appeal the final decision of the City Council to the Livingston County Circuit Court.

(Ord. 792. Passed 1-8-07; Ord. 932. Passed 3-9-20.)

#### **1460.14 REVOCATION OF CERTIFICATE OF OCCUPANCY.**

If the owner or responsible local agent does not correct a violation of any section of this chapter, the Building Official shall revoke any existing certificate of occupancy(s). Any structure not in compliance with this chapter is deemed a nuisance per se.

(Ord 792. Passed 1-8-07; Ord. 932. Passed 3-9-20.)

#### **1460.15 UNSAFE BUILDINGS.**

The Building Official may declare a residential rental structure or residential rental unit, or transitional housing facility to be an unsafe building and unfit for human occupancy or entry (i.e., red tagged) based upon those criteria found in Chapter 1480 of the Howell City Code.

(Ord. 792. Passed 1-8-07; Ord. 918. Passed 10-8-18; Ord. 932. Passed 3-9-20.)

#### **1460.16 AUTHORITY OF THE BUILDING OFFICIAL.**

(a) This chapter shall not impair or diminish the authority of the Building Official to employ any alternative action or corrective measure provided for under any housing or building codes as adopted or recognized by the City, where applicable.

(b) This chapter shall not be construed so as to limit the application and enforcement of the City zoning ordinance, the blight and nuisance ordinance, or housing and building codes adopted by the City as to the maintenance of residential dwellings or the health, safety, welfare of tenants residing in residential dwellings, where applicable.

(Ord. 792. Passed 1-8-07; Ord. 932. Passed 3-9-20.)

#### **1460.17 REGISTRATION FEES.**

The registration fee required by this chapter shall be paid at the Treasurer's Office before the granting of the certificate of registration. Registration fees shall be set by resolution of the City Council. In the event the residential rental structure contains more than one dwelling unit, even though only one certificate of registration is required for each individual building, a fee shall be paid for each individual dwelling unit contained within each building to cover the costs associated with the inspection of each individual dwelling unit.

(Ord. 932. Passed 3-9-20.)

#### **1460.18 EXHIBITION OF CERTIFICATE OF REGISTRATION.**

The certificate of registration shall always be exhibited in a conspicuous place on the premises. Every registrant shall produce his/her/its certificate for examination when requested to do so by a City police officer or by any person representing the City.

(Ord. 932. Passed 3-9-20.)

#### **1460.19 DISPLAYING INVALID CERTIFICATE OF REGISTRATION.**

No person shall display any expired certificate of registration or any certificate or registration for which a duplicate has been issued.

(Ord. 932. Passed 3-9-20.)

#### **1460.20 APPLICABILITY OF REGULATIONS TO EXISTING BUSINESSES.**

The provisions of this chapter shall be applicable to all residential rental structures and residential rental units, whether the structure was registered and/or licensed before or after the effective date of this chapter. However, those structures existing prior to the date of adoption of this chapter will have a one-year grace period from the date of adoption within which to apply for a certificate of registration and comply with all the conditions and requirements of this chapter set forth herein.

(Ord. 932. Passed 3-9-20.)

#### **1460.99 PENALTY.**

(a) Violation of a provision of this chapter is a municipal civil infraction pursuant to Section 202.99 of the Howell City Code. In addition, a violation of this chapter is hereby declared to be a nuisance per se and the City specifically reserves the right to proceed in any court of competent jurisdiction to obtain an injunction, restraining order or other appropriate remedy to compel compliance with this chapter. Every day on which any violation of this chapter continues constitutes a separate offense and shall be subject to penalties and sanctions as a separate offence.

(b) All fees for the renewal of any certificate of registration which are not paid at the time they are due shall be paid as "late fees" with an additional 25% of the registration fee required for such certificates of registration for the first 15 days that such registration fee remains unpaid, and after 15 days, the initial registration fee with an additional 50% of such fee.

(c) Unless specifically authorized by this chapter, any attempt by a registrant to transfer his/her/its certificate of

registration to another or to use the same improperly shall result in the automatic revocation of such certificate of registration.

(Ord. 792. Passed 1-8-07; Ord. 932. Passed 3-9-20.)

## **CHAPTER 1470**

### **Property Maintenance for Rental**

#### **Properties Ordinance of the City of Howell**

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EDITOR'S NOTE: Chapter 1470 was repealed by Ordinance 918, passed October 8, 2018.

## **CHAPTER 1480**

### **Property Maintenance**

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- 1480.01 Intent.
- 1480.02 Adoption of Code by reference.
- 1480.03 Grading and drainage.
- 1480.04 Defacement of property.
- 1480.05 Building materials left outside.
- 1480.06 Laborers and materials.
- 1480.07 Hearings and appeals.
- 1480.08 Violations; repair or removal by city; recovery of costs..
- 1480.99 Penalty.

#### **1480.01 INTENT.**

This chapter shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of any and all structures, units and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

(Ord. 873. Passed 5-20-13.)

#### **1480.02 DEFINITIONS.**

Pursuant to Section 6.5 of the Howell City Charter, the International Property Maintenance Code, 2015 edition, as published by the International Code Council, for the purpose of regulating existing buildings and structures and premises in the City of Howell, as in this chapter modified, is hereby adopted by reference as if fully set forth herein, save and except such portions as may be hereinafter be amended or deleted by the City of Howell or the International Code Council, said amendments being effective as of the date of the amendment. A complete printed copy of the International Property Maintenance Code, as adopted and the amendments herein, shall be kept on file in the office of the City Clerk and the Community Development Office, where it shall be available for inspection by and distribution to the public during regular business hours.

(Ord. 918. Passed 10-8-18.)

#### **1480.03 GRADING AND DRAINAGE.**

No property owner shall change the grade or drainage pattern so as to cause water to flow upon neighboring properties. Detention and retention structures as required under the Howell City Zoning Code are exempt from this provision.

(Ord. 873. Passed 5-20-13; Ord. 918. Passed 10-8-18.)

#### **1480.04 DEFACEMENT OF PROPERTY.**

No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to

restore said surface to an approved state of maintenance and repair according to the Building Official.

(Ord. 873. Passed 5-20-13; Ord. 918. Passed 10-8-18.)

#### **1480.05 BUILDING MATERIALS LEFT OUTSIDE.**

No property owner shall store, accumulate, or permit the storage or accumulation of any building materials on property owned, leased, rented or occupied by him or her for any period longer than reasonably necessary for the immediate use of such materials, but in no event longer than the length of an active building permit on the premises.

(Ord. 873. Passed 5-20-13; Ord. 918. Passed 10-8-18.)

#### **1480.06 LABORERS AND MATERIALS.**

For the purpose of this chapter, the Code Official, with the approval of Council, may employ such laborers and materials as may be necessary to implement this chapter.

(Ord. 918. Passed 10-8-18.)

#### **1480.07 HEARINGS AND APPEALS.**

Notwithstanding those requirements set out in Section 111, Means of Appeal, of the International Property Maintenance Code such requirements shall not apply to property maintenance violations issued under this Chapter. In the place of Section 111 shall be the following for purposes of appeals:

Any person interested, who may be aggrieved by an order or notice of the code official made pursuant to this chapter, may, within twenty days from the date of service of such order or notice, appeal to the Howell City Council by filing, with the code official from whom the appeal is taken and with the City Clerk, a notice of appeal, in writing, specifying the grounds thereof. The code official shall forthwith transmit to Council all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the code official from whom the appeal is taken certifies to Council, after the notice of the appeal has been filed with him or her, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life, health and property. In such a case, proceedings shall not be stayed otherwise than by a restraining order granted by Council or by a court of record. Any person, whether or not a previous party of the appeal, owner, agent or occupant interested, who may feel aggrieved by an order or notice of the code official shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the Howell City Clerk.

(Ord. 918. Passed 10-8-18.)

#### **1480.08 VIOLATIONS; REPAIR OR REMOVAL BY CITY; RECOVERY OF COSTS.**

(a) No owner of an unsafe building or structure, to whom an order or notice to repair or remove such building or structure is given, shall fail to commence or to complete such repair or removal within the time limit prescribed by such notice.

(b) If the owner fails to commence or complete such work within such time limit, the Code Official may cause such work to be commenced and/or completed by the City, the cost and expense thereof, with a penalty of ten percent, to be collected from the owner of such structure in the manner provided by law. The recovery of such cost and expense, together with the penalty, may be in addition to the penalty provided for in Section 1480.99.

(Ord. 918. Passed 10-8-18.)

#### **1480.99 PENALTY.**

(a) Any owner of a structure, unit or premises who fails to comply with any of the requirements of this chapter shall be responsible for a municipal civil infraction pursuant to Section 202.99 of the Howell City Code.

(b) The City may also seek any and all remedies available to it by law, including bringing an action for an injunction or other process against a person to restrain, prevent or abate any violation of this chapter.

(Ord. 873. Passed 5-20-13.)

## **PART SIXTEEN - FIRE PREVENTION CODE**

Chap. 1610. International Fire Code.

Chap. 1612. Fire Code Administration and Enforcement.

Chap. 1613. Open Burning and Outdoor Burning.

Chap. 1614. Fireworks.

Chap. 1620. Fire Lanes.

Chap. 1630. Life Safety Code.

## CHAPTER 1610

### International Fire Code

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- 1610.01 Adoption by reference.
- 1610.02 Purpose.
- 1610.025 Code Official; Board of Fire Code Appeals.
- 1610.03 File and distribution copies.
- 1610.04 Conflicts.
- 1610.99 Penalty.

#### **CROSS REFERENCES**

- Fires and fire protection generally - see M.C.L. Secs. 29.1 et seq., 41.181, 125.401 et seq., 750.240 et seq.
- Fire Department - see ADM. Ch. 238
- Smoke control - see GEN. OFF. 622.01; P. & Z. Chapter 1240 (Zoning Code)
- Fireworks - see GEN. OFF. 662.01(b)(14)
- Fire alarm systems - see S.U. & P.S. Ch. 1066
- Flammable materials and explosives - see P. & Z. Chapter 1240 (Zoning Code)

#### **1610.01 ADOPTION BY REFERENCE.**

Pursuant to Section 6.5 of the Howell City Charter, the International Fire Code, 2018 edition, including Appendices A, B, C, D, E, F, G, H, I, J and N, as published by the International Code Council, are hereby adopted by reference as if the same were fully set forth herein, save and except such portions as may be hereinafter amended or deleted, and the same shall hereafter be known as the Fire Prevention Code for the City of Howell.

(Ord. 701. Passed 1-17-2000; Ord. 759. Passed 7-26-04; Ord. 892. Passed 5-4-15; Ord. 925. Passed 7-22-19.)

#### **1610.02 PURPOSE.**

The purpose of Chapter 1610 is to adopt the International Fire Code, 2018 Edition, as an enforceable regulation 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.

(Ord. 542. Passed 3-25-91; Ord. 759. Passed 7-26-04; Ord. 925. Passed 7-22-19.)

#### **1610.025 CODE OFFICIAL; BOARD OF FIRE CODE APPEALS.**

(a) All references made in the Fire Prevention Code to the code official shall be a reference to the Howell Area Fire Authority Chief, or his or her designee, and the Howell Area Fire Authority Chief is hereby given authority and charged with the administration and enforcement of this Code.

(b) The Board of Zoning Appeals, formed pursuant to Chapter 1240, Article 12 of the Zoning Ordinance, is hereby constituted as the Board of Fire Code Appeals and shall decide all appeals pursuant to the Code, notwithstanding anything contained in this Fire Prevention Code to the contrary.

(Ord. 542. Passed 3-25-91; Ord. 759. Passed 7-26-04.)

#### **1610.03 FILE AND DISTRIBUTION COPIES.**

Printed copies of the Fire Prevention Code, as adopted in Section 1610.01, shall be kept in the office of the City Clerk, available for inspection by and distribution to the public at all times.

(Ord. 542. Passed 3-25-91; Ord. 759. Passed 7-26-04.)

#### **1610.04 CONFLICTS.**

In the event of a conflict between any of the provisions of the Fire Prevention Code, as adopted in Section 1610.01, and a provision of any local ordinance, resolution, rule or regulation, the stricter standard shall prevail. However, in the event of a conflict between any of the provisions of the Fire Prevention Code, as adopted in Section 1610.01, and Chapter 1630 of this Code, the less restrictive standard shall prevail. In the event of a conflict between the Fire Prevention Code and a provision of any State of Michigan code adopted by reference by the City, the provision of the State code shall prevail.



(Ord. 542. Passed 3-25-91; Ord. 759. Passed 7-26-04.)

## **1610.99 PENALTY.**

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

# **CHAPTER 1612**

## **Fire Code Administration and Enforcement**

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- 1612.01 Referenced codes and standards.
- 1612.02 Enforcement responsibilities.
- 1612.03 Unlawful boarding or tampering with Authority/Department equipment.
- 1612.04 Damage/injury to Authority/Department equipment and/or personnel.
- 1612.05 General and required operational permits.
- 1612.06 Hazardous material references.
- 1612.07 Installation of fire suppression and permit fees; installation of fire alarm/detection systems and permit fees.
- 1612.08 Permit issuance; additional fees; cancellation fees.
- 1612.09 Board of appeals.
- 1612.10 Violations; penalties; municipal civil infractions; collection of charges.
- 1612.11 Definitions.
- 1612.12 Open burning regulation.
- 1612.13 Miscellaneous provisions.
- 1612.14 Flammable and combustible liquids and materials; aerosol products; business operations, storage, dispensing and identification.
- 1612.15 Explosive materials, fireworks and rocketry; requirements and prohibitions.
- 1612.16 Storage tank regulations for flammable and combustible liquids; aboveground and underground tanks; permits.

### **CROSS REFERENCES**

Fire code adopted - see F. P.Ch. 1610

Fires and fire protection generally - see M.C.L. Secs. 29.1 et seq., 41.181, 125.401 et seq., 750.240 et seq.

Fire Department - see ADM. Ch. 238

### **1612.01 REFERENCED CODES AND STANDARDS.**

The codes and standards referenced in this code shall be those that are listed in Chapter 80 of Chapter 1610.01 and such codes and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between the provisions of this code and the referenced standards, the provisions, which establish the higher standard for the promotion of the safety and welfare of the public and the protection of the public, or as otherwise determined by the State of Michigan law, shall apply.

(Ord. 763. Passed 9-27-04; Ord. 893. Passed 5-4-15.)

### **1612.02 ENFORCEMENT RESPONSIBILITIES.**

On behalf of and under the auspices of the City, the Howell Area Fire Authority, through the Howell Area Fire Department, shall be responsible for fire prevention, inspection activities and code enforcement of buildings and occupancies as related to the risk of fire or explosion within the City. The function of the Authority and Department shall be the implementation, administration and enforcement of the provisions of this code and the codes and standards referenced in Chapter 80 of Chapter 1610.01.

(Ord. 763. Passed 9-27-04; Ord. 893. Passed 5-4-15.)

### **1612.03 UNLAWFUL BOARDING OR TAMPERING WITH AUTHORITY/DEPARTMENT EQUIPMENT.**

A person shall not, without proper authorization from the fire official in charge of said fire authority/department emergency equipment, cling to, attach to, climb upon or into, board, or swing upon any fire authority/department emergency vehicle, whether the same is in motion or at rest, operate any emergency warning equipment, or to manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps, or any equipment or protective clothing on, or a part of, any fire department emergency vehicle.

(Ord. 763. Passed 9-27-04.)

#### **1612.04 DAMAGE/INJURY TO AUTHORITY/DEPARTMENT EQUIPMENT AND/OR PERSONNEL.**

It shall be unlawful for any person to damage or deface, or attempt or conspire to damage or deface, any fire department emergency vehicle or equipment at any time; or to injure, or attempt or conspire to injure, fire authority/department personnel while performing authority/departmental duties.

(Ord. 763. Passed 9-27-04.)

#### **1612.05 GENERAL AND REQUIRED OPERATIONAL PERMITS.**

Permits shall be in accordance with Section 1610.01, otherwise being section 105 of the International Fire Code of the Fire Prevention Code. Where reference is made to this section for permits elsewhere in this code and there are no provisions for issuing said permits by the department of fire prevention, the code official is authorized to waive the particular permit requirement. The code official is authorized to issue operational permits for the operations set forth herein and in Chapter 1610 of the Code. Where there are no provisions for issuing said permits, the code official is authorized to waive the particular permit requirement.

(Ord. 763. Passed 9-27-04.)

#### **1612.06 HAZARDOUS MATERIAL REFERENCES.**

The following subsections of the International Fire Code as adopted pursuant to Section 1610.01 of the Howell City Code are hereby amended as follows:

*Section 105.6.20 Hazardous Materials.* An operational permit is required to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed in Table 105.6.20. An operational permit, once issued, shall remain valid until revoked or until the occupancy for which the permit was issued shall change ownership. Upon any change of ownership, a new operational permit for the occupancy shall be required to store, transport or site, dispense, use or handle hazardous materials in excess of the amounts listed in Table 105.6.20. Notwithstanding the fact that no additional permit need be issued, nor any further fee charged, for a change in the operation or manner of storage, transportation, dispensing, use or handling of the permitted hazardous substance, nor for any change in the type of hazardous substance being so used, any such change from the conditions of the original permit shall create a duty on the permit holder to advise the fire marshal or his designee of such changes forthwith. Failure to comply with this notification mandate may be cause for revocation of an operational permit where the circumstances surrounding such permit have been changed without notice to the fire marshal.

*Exception:* (1) Nothing in this subsection shall apply to a farm or farm operation as defined in Section 202 of this Code and Michigan Compiled Laws Section 286.472, that being the Michigan Right to Farm Act, Act 93 of the Public Acts of 1981, as amended.

(2) Nothing in this subsection shall apply to one or two family dwelling occupancies.

*Section 105.6.20.1 Required amounts for reporting.* Reportable quantities shall be considered the maximum amount of hazardous material on site at any given time. This amount is required to be reported to the fire department as indicated in Table 105.6.20.

*Section 105.6.20.2 Permit Fees.* The following fees shall be applied to the maximum quantity of each form of hazardous materials:

<u>Quantity &amp; Form</u>	<u>Fee</u>
0 - 1,000 lbs.; 0 - 100 cu. ft.; 0 - 330 gal.	\$100.00
1,001 - 20,000 lbs; 101- 6,000 cu. ft.; 331 - 990 gal.	\$250.00
20,001 + lbs.; 6,001 + cu. ft.; 991 + gal.	\$500.00

(Ord. 763. Passed 9-27-04; Ord. 893. Passed 5-4-15.)

#### **1612.07 INSTALLATION OF FIRE SUPPRESSION AND PERMIT FEES; INSTALLATION OF FIRE ALARM/DETECTION SYSTEMS AND PERMIT FEES.**

The following subsections of the International Fire Code as adopted pursuant to Section 1610.01 of the Howell City Code are hereby amended as follows:

*Section 105.7.1.1 Installations.* Before any fire suppression system or component is installed, enlarged, extended or modified, a permit shall be obtained from the code official. This shall include any device or relay connected to or controlled

by the fire suppression system. A qualified installer who is properly licensed and/or certified to perform such work as determined by the code official must perform all work. Construction documents shall be reviewed by the code official prior to the issuance of the permit. Upon issuance of the permit, the permit must be posted at the job site in plain view.

*Section 105.7.1.2 Permit fees.* Permit fees cover initial plan review and two inspections.

*Sprinkler Systems:*

<u>Riser(s) &amp; Sprinkler Heads</u>	<u>Fee</u>
1 - 20 heads	\$80.00
21 - 50 heads	\$90.00
51 - 100 heads	\$100.00
101-200 heads	\$120.00
201 - 300 heads	\$140.00
301 - 400 heads	\$160.00
401 - 500 heads	\$180.00
501 - 1000 heads	\$200.00
> 1001 heads	\$0.50 per head

*Standpipes:* \$45.00 per standpipe.

*Fire pump:* \$50.00

*Dry or wet chemical fire suppression systems:* \$90.00 per system. Each additional system in the same building reviewed at the same time is \$45.00. Alterations, additions, or modifications to each existing system are \$35.00.

*Total flooding agent extinguishing systems:* \$90.00 plus appropriate detection system fee.

*Plan Reviews:* The code official might require an outside third party. This review will be charged at the current fire safety consultants or plan reviewer's rates. These fees shall be paid prior to issuance of the permit.

*Section 105.7.7.1 Installations.* Before any fire alarm or detection system or component is installed, enlarged, extended or modified, a permit shall be obtained from the code official. This shall include auxiliary devices such as magnetic locks, electronic locks, or any device or relay connected to or controlled by the fire alarm or detection system. A qualified installer who is properly licensed and/or certified to perform such work as determined by the code official must perform all work. Construction documents shall be reviewed by the code official prior to the issuance of the permit. Upon issuance of the permit, the permit must be posted at the job site in plain view.

*Section 105.7.7.2 Permit fees.* Permit fees cover initial plan review and two inspections.

<u>Device</u>	<u>Fee</u>
Control Panel	\$20.00
First initiating or auxiliary	
Control devices (smoke detector,	
Heat detector, control switch, etc.)	\$10.00
Each additional initiating or aux control	
Device	\$0.50 per device
First audio/visual indicating or	
Communications device (horn, strobe,	
Bell, etc.)	\$10.00
Each additional audio/visual indicating	
or communications device	\$0.50 per device

*Plan Reviews:* The code official might require an outside third party. This review will be charged at the current fire safety consultants or plan reviewer's rates. These fees shall be paid prior to issuance of the permit.

(Ord. 763. Passed 9-27-04; Ord. 893. Passed 5-4-15; Ord. 926. Passed 7-22-19.)

#### **1612.08 PERMIT ISSUANCE; ADDITIONAL FEES; CANCELLATION FEES.**

The following subsections of the International Fire Code as adopted pursuant to Section 1610.01 of the Howell City Code are hereby amended as follows:

*Section 105.7.26 Permit issuance.* A permit granted hereunder shall not be transferable nor shall any such permit be extended beyond the time set forth therein unless approved by the fire official. When work is started without a permit, the permit fee shall be doubled.

*Section 106.6 Additional fees.* The following fees may be charged for a re-inspection and shall apply to each inspector performing the re-inspection. These fees shall be paid in full prior to the re-inspection being performed.

1. \$30.00 per re-inspection during normal working hours.
2. \$75.00 per re-inspection during non-working hours.

*Section 106.7 Cancellation fees.* Handling cost of permits canceled after being issued is 35% of the permit fee or \$10.00, whichever is greater.

(Ord. 763. Passed 9-27-04; Ord. 893. Passed 5-4-15; Ord. 926. Passed 7-22-19.)

#### **1612.09 BOARD OF APPEALS.**

The following subsections of the International Fire Code as adopted pursuant to Section 1610.01 of the Howell City Code are hereby amended as follows:

*Section 109.4 Board of appeals members.* The board of appeals shall consist of the following:

Two (2) members of the Howell Area Fire Authority board. Three (3) certified fire inspectors from a jurisdiction outside the Howell Area Fire Authority.

No member of the appeals board shall have a conflict of interest with the issue being addressed.

(Ord. 763. Passed 9-27-04; Ord. 926. Passed 7-22-19.)

#### **1612.10 VIOLATIONS; PENALTIES; MUNICIPAL CIVIL INFRACTIONS; COLLECTION OF CHARGES.**

The following subsections of the International Fire Code as adopted pursuant to Section 1610.01 of the Howell City Code are hereby amended as follows:

*Section 109.5 Prohibited parking; exception; bus-loading zone; violation as civil infraction.* The code official may issue a civil infraction against a person who parks a vehicle in such a manner as to conflict, obscure, prevent or obstruct access to fire hydrants, fire stations, accidents, emergency exits for egress from a building, within 500 feet of a fire blocking designated fire lanes or any other violation under Ordinance No. 745 or Ordinance 746 of the Howell City Code as it relates to fire safety violations.

*Section 110.4 Violation penalties.* Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair, or do work in violation of the approved construction documents or directive of the code official, or of a permit or certificate used under provisions of this code, shall be responsible for a municipal civil infraction. The sanction for a violation which is a municipal civil infraction shall be a civil fine in an amount as set forth in section 202.99 of the Howell City Code, plus any costs, damages, expenses and other sanctions, as authorized by the Revised Judicature Act, MCL 600.101, *et seq.*, that being Act No 236 of the Public Acts of 1961, as amended, and other applicable laws.

*Section 110.5 Fee Schedule.* For any violation of the parking requirements listed in Section 109.54 of this Code, the fine for such an offense shall be as set forth in Chapter 430.05 of the Howell City Code.

*Section 110.5.1 Towing and Storage Costs.* In addition to the above violation penalties, a person who violates this section shall be responsible for all vehicle towing and storage costs incurred if the Fire Chief and/or his/her designees, as defined in Section 109.5 (2) herein, determines that the vehicle parked in violation of section 109.5 must be towed to insure public safety and/or fire department access to a building or emergency scene.

*Section 110.6 Application and allocation for fees, fines.* Payment for any permit fees shall be paid to the Howell Area Fire Authority. Payment for civil infraction or municipal civil infraction fines and costs shall be paid to the City.

*Section 110.6.1 Issuing of tickets for violations.* The Fire Chief and/or his/her designees, who shall be the Deputy Fire Chief, Assistant Fire Chiefs, Fire Marshal, and fire inspectors assigned to the Fire Marshal's Division shall be authorized to issue tickets for violation of any code within this Chapter.

*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 issued a municipal civil infraction violation notice pursuant to Chapter 202 of the Howell City Code.

*Section 112.5 Collection of charges.* The Howell Area Fire Authority may proceed in a court of appropriate jurisdiction to

collect any monies remaining unpaid for services provided as a mature debt of the Howell Area Fire Authority and shall have any and all other remedies provided by law for the collection of all charges.

*Section 114.1 False alarms; inspections; orders to correct.*

(1) A fire, sprinkler, or water alarm system experiencing more than two false alarms within a thirty-day (30) period or four false alarms within the calendar year is deemed defective. Upon written notice to the owner or lessee of the alarm system by the Fire Chief and/or his/her designee, the owner or lessee shall have the system inspected by an alarm system contractor who shall, within fifteen days, file a written report to the fire chief and/or his/her designee of the result of his/her inspection, the probable cause of the false alarms and his/her recommendation for eliminating false alarms.

(2) Upon receipt of the report, the fire chief and/or his/her designee shall forward the same to the owner or lessee, ordering corrections, based upon recommendations contained in the report.

(3) The owner or lessee shall have three working days from the receipt of the order to make such corrections. Thereafter, to defray the cost of responding to false alarms, the owner or lessee of an alarm system shall pay to the fire authority the amount of the response as per the cost recovery fees for each false alarm received and responded to by the fire department during the calendar year in which the order to correct the system was issued. The amount due to the fire authority shall be paid forthwith upon demand by the fire department and if not so paid, the fire authority and/or designee shall have the right, along with all of the other rights it may have, to impose a lien on the real and personal property of the owner or lessee and such lien shall be enforced in the same manner as are delinquent taxes.

*Section 114.2 Misrepresented False Alarms.* It shall be unlawful for any person to summon, in any way, the fire department unless a valid reason for its response is present. The fire chief and/or his/her designee shall have the authority to issue fines as per the cost recovery ordinance to any person causing a false alarm, if the person causing a false alarm is a minor the fines shall be the responsibly of the minors legal supervisor.

(Ord. 763. Passed 9-27-04; Ord. 893. Passed 5-4-15; Ord. 926. Passed 7-22-19.)

#### **1612.11 DEFINITIONS.**

The following subsections of the International Fire Code as adopted pursuant to Section 1610.01 of the Howell City Code are hereby amended as follows:

*Section 202 General Definitions.* The following definitions shall be in addition to the definitions noted in the International Fire Code, 2018 edition.

*"Code Official"* The fire chief, fire marshal, fire inspector, code enforcement officer, or other designated authority charged by the applicable governing body with the duties of administration and enforcement of the code, or duly authorized representative. The term "fire official" may be used interchangeably with "code official" in this code.

*"False Alarm"* Means the activation of an alarm of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner or lessee of an alarm system or his/her employee or agent. "False alarm" does not include the alarm caused by severe weather or other violent conditions beyond the control of the owner or lessee of an alarm system or his/her employee or agent.

*"Farm"* Means the land, plants, animals, buildings, structures, including ponds used for agricultural or aqua cultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products. MCL 286.472(a).

*"Farm Operations"* Means the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products. MCL 286.472(b).

*"Fire Watch"* A temporary measure intended to ensure continuous and systematic surveillance of a building or portion thereof by one or more qualified individuals for the purposes of identifying and controlled fire hazards, detecting early signs of unwanted fire, raising an alarm of fire and notifying the fire department by method(s) approved or recommended by the code official.

*"Misrepresented False Alarm"* The willful and knowing initiation or transmission of a signal, message or other notification of event of fire or the emergency when no danger exists.

*"Water Capacity"* The amount of water, in either pounds or gallons, at 60 deg. F (15.6 deg. C) required to fill a container full of water.

(Ord. 763. Passed 9-27-04; Ord. 893. Passed 5-4-15; Ord. 926. Passed 7-22-19.)

#### **1612.12 OPEN BURNING REGULATION.**

The following subsections of the International Fire Code as adopted pursuant to Section 1610.01 of the Howell City Code are hereby amended as follows:

*Section 307.1.2 Local Burning Ordinances Preserved.* Nothing in this Code shall be construed as prohibiting the City from regulating matters of open burning pursuant to Chapter 1613 of the Howell City Code. In the event of a conflict between this Code and Chapter 1613, Chapter 1613 shall be deemed to supersede this Code and control, for so long as it remains in

force. Notwithstanding Chapter 1613, however, the Fire Chief, Fire Marshal, or fire code official shall retain the authorization under Section 307.7 of this code to ban all open burning if conditions warrant.

*Section 307.6 Fire department training.* Open burning is allowed for the purpose of training fire fighters in fire fighting practice, or for the purpose of training the public, including workers or employees, or for the purpose of demonstration by the fire official or other trained fire personnel, when such burning is done in accordance with accepted practice.

*Section 307.7 Banning open burning.* The Fire Chief, Fire Marshal, or fire code official shall be authorized to issue a ban on all open burning if conditions are too hazardous in the opinion of the fire code official to allow the open burning, open flame, etc.

(Ord. 763. Passed 9-27-04; Ord. 816. Passed 10-13-08; Ord. 893. Passed 5-4-15.)

### **1612.13 MISCELLANEOUS PROVISIONS.**

The following subsections of the International Fire Code as adopted pursuant to Section 1610.01 of the Howell City Code are hereby amended as follows:

*Section 312.2.1 Maintenance.* It shall be the property owner's responsibility to provide and maintain this protection.

*Section 507.5.4.1. Removal of obstructions.* If upon the expiration of the time mentioned in a notice of violation, obstructions or encroachments to fire hydrant, or to other fire protection equipment, are not removed, the code official shall proceed to remove or have removed the same. The expense incurred shall be a debt to the local governing body from the responsible person and shall be collected as any other debt to the Howell Area Fire Authority.

*Section 903.3.5.3 Required pressure margin.* Due to unforeseeable and changing conditions within the water supply, the code official is authorized to require a pressure margin of up to 20 lbs. over the minimum design criteria for installed automatic fire sprinkler systems. Where this margin cannot be achieved, approved means shall be taken to provide this margin.

*Section 912.2 Location.* With respect to hydrants, driveways, buildings and landscaping, fire department connections shall be so located that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. The location of fire department connections shall be within 100 feet of a hydrant and shall be approved by the code official.

*Section 918.1 General.* Precautions shall be taken in all rooms and areas containing fire sprinkler equipment such as piping, valve(s), and fire pump(s), to prevent freezing of said equipment during times of extremely cold temperatures.

(Ord. 763. Passed 9-27-04; Ord. 893. Passed 5-4-15; Ord. 926. Passed 7-22-19.)

### **1612.14 FLAMMABLE AND COMBUSTIBLE LIQUIDS AND MATERIALS; AEROSOL PRODUCTS; BUSINESS OPERATIONS, STORAGE, DISPENSING AND IDENTIFICATION.**

The following subsections of the International Fire Code as adopted pursuant to Section 1610.01 of the Howell City Code are hereby amended as follows:

*Section 2301.1 Scope.* Automotive motor fuel-dispensing facilities, marine motor fuel- dispensing facilities, fleet vehicle motor fuel- dispensing facilities, aircraft motor-vehicle fuel-dispensing facilities and repair garages shall be in accordance with this chapter and the International Fuel Gas Code, International Building Code, International Mechanical Code, and the Michigan Storage and Handling of Flammable and Combustible Liquids Rules, as amended, or their equivalent. Such operations shall include both public accessible and private operations.

*Section 2306.1 General.* Storage of flammable and combustible liquids shall be in accordance with Chapter 57 and Sections 2306.2 through 2306.3, and the Michigan Storage and Handling of Flammable and Combustible Liquids Rules, as amended, or its equivalent.

*Section 2306.7.8 Gravity and pressure dispensing.* Flammable or combustible liquids shall not be dispensed by gravity from tanks, drums, barrels, or similar containers. Flammable or combustible liquids shall not be dispensed by a device operating through pressure within a storage tank, drum or container. Approved pumps taking suction from the top of the container shall be utilized.

Exception: (1) Tanks, drums, barrels, or similar containers used in farms or farm operations as defined within this code.

(2) Tanks, drums, barrels or similar containers used at one or two family residential dwellings.

(Ord. 763. Passed 9-27-04; Ord. 893. Passed 5-4-15; Ord. 926. Passed 7-22-19.)

### **1612.15 EXPLOSIVE MATERIALS, FIREWORKS AND ROCKETRY; REQUIREMENTS AND PROHIBITIONS.**

The following subsections of the International Fire Code as adopted pursuant to Section 1610.01 of the Howell City Code are hereby amended as follows:

*Section 5601.1.1 Explosive materials standards.* In addition to the requirements of this chapter, NFPA 495 shall govern the manufacture, transportation, storage, sale handling and use of explosive materials, and the Michigan Explosive Law 1970 PA 202, as amended, or its equivalent.

*Section 5601.1.3 Fireworks.* The possession, manufacture, storage, sale, handling and use of fireworks are prohibited unless in compliance with the Michigan Fireworks Safety Act, being Act 256 of 2011, as amended by Act 65 of 2013, and as hereinafter amended, or its equivalent, and Chapter 1614 of the Howell City Code, as amended.

*Section 5601.1.4 Rocketry.* The storage, handling and use of model and high-power rockets shall comply with the requirements of NFPA 1122, NFPA 1125, and NFPA 1127, and the Michigan Model Rocket Law 1965 PA 333, as amended, or its equivalent.

*Section 5608.1 General.* The display of fireworks, including proximate audience displays and pyrotechnic special effects in motion picture, television, theatrical, and group entertainment productions, shall comply with this chapter and NFPA 1123 or NFPA 1126. Approved public displays shall be handled by an approved competent operator, and the fireworks shall be arranged, located, discharged and fired in a manner that will not be a hazard to property or endanger any person.

(Ord. 763. Passed 9-27-04; Ord. 857. Passed 7-9-12; Ord. 878. Passed 8-26-13; Ord. 893. Passed 5-4-15.)

## **1612.16 STORAGE TANK REGULATIONS FOR FLAMMABLE AND COMBUSTIBLE LIQUIDS; ABOVEGROUND AND UNDERGROUND TANKS; PERMITS.**

The following subsections of the International Fire Code as adopted pursuant to Section 1610.01 of the Howell City Code are hereby amended as follows:

*Section 5701.3 Referenced documents.* The applicable requirements of Chapter 50, other chapters of this code, the International Building Code, and the International Mechanical Code pertaining to flammable liquids, and the Michigan Storage and Handling of Flammable and Combustible Liquids Rules, as amended, or their equivalent shall apply.

*Section 5701.4 Permits.* Permits shall be required as set forth in Section 105.6 and 105.7, and the Michigan Fire Prevention Code 1941 PA 207, as amended, or its equivalent.

*Section 5704.2.9 Aboveground tanks.* Above-ground storage of flammable and combustible liquids in tanks shall comply with Section 5704.2 and Sections 5704.2.9.1 through 5704.2.9.7.9, and the Michigan Above-ground Storage Tanks Rules, or their equivalent.

Exception: (1) Above-ground storage tanks used in farms or farm operations as defined within this code.

(2) Above-ground storage tanks used at one or two family residential dwellings where the water capacity of said tank is less than 1,100 gallons.

*Section 5704.2.11 Underground tanks.* Underground storage of flammable and combustible liquids in tanks shall comply with section 5704.2 and Sections 5704.2.11.1 through 5704.2.11.4.2, and the Michigan Underground Storage Tank Rules, or their equivalent.

*Section 6101.2 Permits.* Permits shall be required as set forth in sections 105.6 and 105.7 and the Michigan Fire Prevention Code 1941 PA 207, as amended, or its equivalent.

Distributors shall not fill LP-gas container for which a permit is required unless a permit for installation has been issued for that location by the *fire code official*.

(Ord. 763. Passed 9-27-04; Ord. 893. Passed 5-4-15; Ord. 926. Passed 7-22-19.)

## **CHAPTER 1613**

### **Open Burning and Outdoor Burning**

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1613.01 Purpose.

1613.02 Applicability.

1613.03 Definitions.

1613.04 Prohibition on outdoor burning and open burning.

1613.05 Open burning of refuse.

1613.06 Open burning of trees, logs, brush, stumps, leaves, grass clippings and other vegetative matter.

1613.07 Outdoor wood-fired and corn-fired boilers.

1613.08 Campfire.

1613.09 Patio wood-burning units.

1613.10 Liability.

1613.11 Right of entry and inspection.

1613.12 Severability.

1613.13 Violation, enforcement and penalties.

#### **1613.01 PURPOSE.**

This chapter is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of citizens of the City by regulating the air pollution and fire hazards of open burning and outdoor burning.

(Ord. 816. Passed 10-13-08.)

#### **1613.02 APPLICABILITY.**

This chapter applies to all outdoor burning and open burning within the City.

(a) This chapter does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.

(b) This chapter 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.

(c) This chapter does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

(Ord. 816. Passed 10-13-08.)

#### **1613.03 DEFINITIONS.**

(a) "Campfire" means an outdoor fire that is on or in the ground intended for recreation or cooking.

(b) "City" means the City of Howell.

(c) "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.

(d) "Construction and demolition waste" means building 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.

(e) "Fire Official" means the Fire Chief or his/her designee of the Howell Area Fire Department.

(f) "Howell Area Fire Department" is a division of the Howell Area Fire Authority.

(g) "Outdoor burning and/or 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 chimney. This includes burning in a barrel.

(h) "Outdoor corn-fired boiler" means a corn-fired boiler, stove, or furnace that is not located within a building intended for habitation by humans or domestic animals.

(i) "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.

(j) "Patio wood-burning unit" means a chimenea, patio warmer, or other portable wood-burning device that sits off the ground, measuring thirty-six inches (36") in diameter or less or thirty-six inches by thirty-six inches (36" x 36") and which is used for outdoor recreation and/or heating.

(k) "Refuse" means any waste material except trees, logs, brush, stumps, leaves, grass, clippings, and other vegetative matter.

(Ord. 816. Passed 10-13-08.)

#### **1613.04 PROHIBITION ON OUTDOOR BURNING AND OPEN BURNING.**

Open burning and outdoor burning are prohibited in the City. This prohibition may be waived by the City Council upon a showing by the person requesting waiver that such burning will be in a manner that is safe, efficient, with minimal smoke and flame danger to the surrounding area where the open burning will occur. The City Council shall request a recommendation from the Howell Area Fire Department, or any other City department affected by the request, and consider such recommendations regarding the waiver request.

(Ord. 816. Passed 10-13-08; Ord. 850. Passed 2-27-12.)

#### **1613.05 OPEN BURNING OF REFUSE.**



Open burning of refuse is prohibited.

(Ord. 816. Passed 10-13-08.)

#### **1613.06 OPEN BURNING OF TREES, LOGS, BRUSH, STUMPS, LEAVES, GRASS CLIPPINGS AND OTHER VEGETATIVE MATTER.**

Open burning of trees, logs, brush, stumps, leaves, grass clippings and other vegetative matter is prohibited.

(Ord. 816. Passed 10-13-08.)

#### **1613.07 OUTDOOR WOOD-FIRED AND CORN-FIRED BOILERS.**

No person shall install, use, or maintain an outdoor wood-fired or corn-fired boiler in the City.

(Ord. 816. Passed 10-13-08.)

#### **1613.08 CAMPFIRE.**

Campfire is prohibited.

(Ord. 816. Passed 10-13-08.)

#### **1613.09 PATIO WOOD-BURNING UNITS.**

A patio wood-burning unit may be installed and used in the City, only in accordance with all of the following provisions.

(a) The patio wood-burning unit shall not be used to burn refuse.

(b) The patio wood-burning unit shall burn only clean wood.

(c) The patio wood-burning unit shall be located at least ten feet from any combustible materials, combustible wall or partition, exterior window opening, exit access or exit.

(d) The patio wood-burning unit shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age until the fire is extinguished. The person shall have readily available for use such fire extinguishing equipment as may be necessary for total control of the fire.

(e) The patio wood-burning unit shall not cause a nuisance to neighbors.

(Ord. 816. Passed 10-13-08.)

#### **1613.10 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, said charges payable to the City or the Howell Area Fire Department.

(Ord. 816. Passed 10-13-08.)

#### **1613.11 RIGHT OF ENTRY AND INSPECTION.**

The Fire Official or any authorized officer, agent, employee or representative of the City who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this chapter.

(Ord. 816. Passed 10-13-08.)

#### **1613.12 SEVERABILITY.**

Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

(Ord. 816. Passed 10-13-08.)

#### **1613.13 VIOLATION, ENFORCEMENT AND PENALTIES.**

Whoever violates any of the provisions of this chapter is responsible for a municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99. Along with those officials who may issue civil infraction violations under Chapter 208 of the Howell City Code, the Fire Chief, or his/her designee, of the Howell Area Fire Authority, through the Howell Area Fire Department, is also empowered to issue civil infractions for violations of this chapter.

(Ord. 816. Passed 10-13-08.)

## **CHAPTER 1614**

## Fireworks

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1614.01 Definitions.

1614.02 Prohibition on use of consumer fireworks.

1614.03 Prohibition on use of consumer fireworks by minors without adult supervision.

1614.04 Enforcement.

1614.99 Violations, fines and penalties.

### 1614.01 DEFINITIONS.

(a) "Consumer fireworks" means fireworks devices that are designed to produce visible efforts 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.

(b) "Display fireworks" means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.

(c) "Firework or fireworks" means any composition or device, except for a starting pistol, a flare gun, or a flare, designated for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

(d) "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.

(e) "Novelties" means that term as defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

(1) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cup.

(2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in paragraph (1) above are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.

(3) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

(4) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity of each box are printed on the box, and toy smoke devices.

(f) *Person* means an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.

(Ord. 857. Passed 7-9-12; Ord. 927. Passed 7-22-19.)

### 1614.02 PROHIBITION ON USE OF CONSUMER FIREWORKS.

(a) No person shall ignite, discharge or use consumer fireworks within the City, except that this prohibition shall not preclude any person from the ignition, discharge and use of consumer fireworks on the following days after 11:00 a.m.:

(1) December 31 until 1:00 a.m. on January 1.

(2) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.

(3) June 29 until July 4 until 11:45 p.m. on each of those days.

(4) July 5, if that date is a Friday or Saturday, until 11:45 p.m.

(5) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

(b) No person shall ignite, discharge or use consumer fireworks within the City on public property, school property, church property, or the property of another person without that organization's or person's expressed permission to use those fireworks on those premises.

(Ord. 857. Passed 7-9-12; Ord. 878. Passed 8-26-13; Ord. 927. Passed 7-22-19; Ord. 934. Passed 6-22-20.)

### 1614.03 PROHIBITION ON USE OF CONSUMER FIREWORKS BY MINORS WITHOUT ADULT SUPERVISION.

No person under the age of eighteen shall ignite, discharge or use consumer fireworks within the City without adult supervision.

(Ord. 858. Passed 8-13-12.)

#### **1614.04 ENFORCEMENT.**

The Fire Chief, his designees and sworn law enforcement officers are authorized to enforce the provisions of this chapter.

(Ord. 857. Passed 7-9-12; Ord. 858. Passed 8-13-12.)

#### **1614.99 VIOLATIONS, FINES AND PENALTIES.**

Any violation of this chapter by any person, firm, or corporation shall be a municipal civil infraction subject to a civil fine of one thousand dollars (\$1,000) for each violation. The City of Howell Police Department, as the law enforcement agency responsible for enforcing this chapter, shall receive five hundred dollars (\$500.00) of the fine collected.

(Ord. 857. Passed 7-9-12; Ord. 878. Passed 8-26-13; Ord. 927. Passed 7-22-19.)

## **CHAPTER 1620 Fire Lanes**

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1620.01 Establishment.

1620.02 Location; dimensions and design; maintenance.

1620.03 Signs.

1620.04 Obstructions; removal and impounding.

1620.05 Records.

1620.06 Appeals.

1620.99 Penalty.

#### **CROSS REFERENCES**

Fires and fire protection generally - see M.C.L. Secs. 29.1 et seq., 41.181, 125.401 et seq., 750.240 et seq.

Fire Department - see ADM. Ch. 238

Parking Violations Bureau - see TRAF. Ch. 430

Smoke control - see GEN. OFF. 622.01; P. & Z. Chapter 1240 (Zoning Code)

Fire alarm systems - see S.U. & P.S. Ch. 1066

Flammable materials and explosives - see P. & Z. Chapter 1240 (Zoning Code)

#### **1620.01 ESTABLISHMENT.**

(a) The Fire Chief of the City or his or her designee shall be responsible for establishing fire lanes on both public and private property. The following criteria shall be used in determining the necessity of fire lanes:

- (1) The lack of access to the building from public streets; and
- (2) The lack of traffic lanes to and around areas capable of handling fire vehicles.

(b) Fire lanes shall be established by the Fire Chief or his or her designee, as deemed necessary, at the following locations. This list shall not be deemed to be all-inclusive, but is only a guide to establishment, where fire lanes are necessary.

- (1) Schools, colleges, universities and their dormitories;
- (2) Places of public assemblage;
- (3) Hospitals, nursing homes and homes for the aged;
- (4) Government utilized buildings;
- (5) Child and adult foster care facilities larger than 3,000 square feet;
- (6) Bulk plants for storage of hazardous materials;
- (7) Apartments and condominiums possessing three units or more;
- (8) Shopping centers; and
- (9) Hotels and motels.

(c) Fire lanes shall be established whenever the Fire Chief or his or her designee deems them to be necessary for the

safety of occupants and property on the aforementioned areas, or, when petitioned by a landowner, they may be established in accordance with the above criteria. The Fire Chief or his or her designee shall notify the landowner of any property whereon fire lanes are established, by mailing notice of the same to the address of the owner by certified mail. This section shall apply to existing facilities, to remodeling and modification of existing facilities and to new construction. Site plans of such facilities shall include proposed lanes, and final approval will be based on the adequacy of such lanes.

(Ord. 395. Passed 2-25-80.)

#### **1620.02 LOCATION; DIMENSIONS AND DESIGN; MAINTENANCE.**

Fire lanes shall be provided for all buildings which are set back more than 150 feet from a public way or which exceed thirty feet in height and are more than fifty feet from a public way.

Fire lanes shall be at least twenty feet in width, with the road edge closest to the building at least ten feet from the building. Any dead-end road more than 300 feet long shall be provided with a turn-around at the closed end at least ninety feet in diameter.

The proper maintenance of fire lanes on private property shall be the responsibility of the landowner.

(Ord. 395. Passed 2-25-80.)

#### **1620.03 SIGNS.**

All fire lanes shall be conspicuously posted with uniform fire lane signs, as prescribed by the Fire Chief or his or her designee, erected not more than 100 feet apart in all designated lanes. The erection and maintenance of such signs shall be the responsibility of the property owner. No owner who is notified that a fire lane must be established on his or her property shall fail, within thirty days thereof, to erect uniform fire lane signs. When approved fire lane signs are not erected within thirty days of notification, Council shall direct such signs to be erected and the cost thereof assessed against the property. Such remedy shall be in addition to the penalty provided in Section 1620.99.

(Ord. 395. Passed 2-25-80.)

#### **1620.04 OBSTRUCTIONS; REMOVAL AND IMPOUNDING.**

(a) No person shall stop, stand or park a vehicle or trailer, whether occupied or not, or leave any other obstruction, in a designated fire lane, whether on public or private property, except when necessary to avoid conflict with other traffic or in compliance with law or the direction of a police officer or traffic control device.

(b) Police officers having jurisdiction in the locality of such fire lane are hereby authorized to remove or cause to be removed any vehicle, trailer or other object from the fire lane to a commercial garage or other designated location, when the same is illegally left unattended in violation of this section, provided that such fire lane is indicated by signs so placed as to be clearly discernible to any person. A vehicle, trailer or other object may be held until the towing and storage charges have been paid in full.

(c) If a vehicle, trailer or other object is located within a fire lane at the time the Fire Department is responding to an alarm for any reason which necessitates use of the fire lane, any member of a Police Department or Fire Department having jurisdiction in the locality may remove the same or cause the same to be removed by any reasonable means possible without liability.

(Ord. 395. Passed 2-25-80.)

#### **1620.05 RECORDS.**

The Fire Chief of the City or his or her designee shall keep an accurate, current record of all fire lanes established within his or her jurisdiction.

(Ord. 395. Passed 2-25-80.)

#### **1620.06 APPEALS.**

If any landowner is aggrieved by a decision as to the establishment of a fire lane, he or she shall, within thirty days of the date of mailing of the fire lane establishment notice or of denial of a petition to establish a fire lane, file with the Fire Department a written exception to such decision, together with the reasons for the exception. Within thirty days of receipt of such exception, the Department, after consideration of the reasons for such exceptions, shall affirm, modify or rescind the original decision. If the owner feels further aggrieved, he or she may appeal within thirty days of such determination. Council, after consideration of the reasons for such exceptions, shall affirm, modify or rescind the original decision. (Ord. 395. Passed 2-25-80.)

#### **1620.99 PENALTY.**

Whoever violates any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99.

## CHAPTER 1630

### Life Safety Code

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- 1630.01 Purpose and intent.
- 1630.02 Application.
- 1630.03 Definitions.
- 1630.04 Mixed occupancies generally.
- 1630.05 Mixed occupancies - mercantile, business and residential.
- 1630.06 Portable fire extinguishers in mercantile occupancies.
- 1630.07 Necessity of fire alarms.
- 1630.08 Conflicts.
- 1630.09 Enforcement; Board of Fire Code Appeals.
- 1630.99 Penalty.

#### **CROSS REFERENCES**

- Fires and fire protection generally - see M.C.L. Secs. 29.1 et seq., 41.181, 125.401 et seq., 750.240 et seq.
- Fire Department - see ADM. Ch. 238
- Smoke control - see GEN. OFF.622.01; P. & Z. Chapter 1240 (Zoning Code)
- Fireworks - see GEN. OFF.662.01(b)(14)
- Fire alarm systems - see S.U. & P.S.Ch. 1066
- Flammable materials and explosives - see P. & Z.Chapter 1240 (Zoning Code)
- Adoption of BOCA Fire Prevention Code - see F.P.Ch. 1610

#### **1630.01 PURPOSE AND INTENT.**

The purpose of this chapter is to establish minimum requirements that will provide a reasonable degree of safety from fire in buildings and structures. This chapter endeavors to avoid requirements that might involve unreasonable hardships or unnecessary inconvenience or interference with the normal use and occupancy of a building, but insists upon compliance with a minimum standard for fire safety consistent with the public interest.

(Ord. 539. Passed 3-25-91.)

#### **1630.02 APPLICATION.**

This chapter shall apply to both new construction and existing buildings containing business occupancies, mercantile occupancies and residential occupancies. A limited but reasonable time shall be allowed for compliance with any part of this chapter for existing buildings, commensurate with the magnitude of expenditure, disruption of services, and degree of hazard.

(Ord. 539. Passed 3-25-91.)

#### **1630.03 DEFINITIONS.**

(a) "Automatic fire warning system" means a device or system of devices which automatically detect heat, smoke, or other products of combustion, with alarms which produce an audible signal for the purpose of notifying the occupants of the presence of fire so they may evacuate the premises.

(b) "Automatic sprinkler system" means an integrated sprinkler system of underground and/or overhead piping designed in accordance with fire protection engineering standards. The system above ground shall be a network of specially sized or hydraulically designed piping installed in a building, structure, or area, generally overhead, in which the automatic sprinklers are connected in a systematic pattern. The system shall be activated by heat from fire and shall discharge water over the fire area.

(c) "Building" means any structure used or intended for supporting or sheltering any use or occupancy, as defined in this chapter. "Building" shall be construed as if followed by the words "or portions thereof."

(d) "Business occupancies" means those used for the transaction of business (other than that covered under mercantile), for the keeping of accounts, records and similar purposes.

(e) "Fire alarm" means an audible alarm contained in an appliance which shall be of such character and so distributed as

to be effectively heard about the ambient sound level occurring under normal conditions of occupancy and that are so distinctive from audible signals used for other purposes in the same building.

(f) "Mercantile occupancies" means those occupancies in which stores, markets, and other rooms, buildings, or structures are used for the display and sale of merchandise.

(g) "Portable fire extinguisher" means a portable device containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire.

(h) "Residential occupancies" means those occupancies in which buildings contain one or more living units, with independent sleeping accommodations for normal residential purposes, independent cooking, and bathroom facilities.

(i) "Smoke alarm" means a device which automatically detects heat, smoke, or other products of combustion, which actuates an audible signal upon detection.

(Ord. 539. Passed 3-25-91.)

#### **1630.04 MIXED OCCUPANCIES GENERALLY.**

Where two or more classes of occupancy occur in the same building or structure, and are so intermingled that separate safeguards are impractical, means of egress facilities, construction, protection, and other safeguards shall comply with the most restrictive life safety requirements of the occupancies involved.

(Ord. 539. Passed 3-25-91.)

#### **1630.05 MIXED OCCUPANCIES - MERCANTILE, BUSINESS AND RESIDENTIAL.**

No residential occupancy shall be located above a mercantile or business occupancy unless the residential occupancy and exit stair therefrom are separated from the mercantile or business occupancy by construction having a fire resistance rating of at least one hour, or where the mercantile or business occupancy is protected throughout by an approved automatic sprinkler system as defined above, or by an automatic fire detection system that must be capable of sounding an alarm in the occupancies as required herein.

(Ord. 539. Passed 3-25-91.)

#### **1630.06 PORTABLE FIRE EXTINGUISHERS IN MERCANTILE OCCUPANCIES.**

Portable fire extinguishers approved by the Fire Chief shall be provided in all mercantile occupancies, and employees shall be trained and instructed in the proper use of said fire extinguishers.

(Ord. 539. Passed 3-25-91.)

#### **1630.07 NECESSITY OF FIRE ALARMS.**

For every building or structure of such size, arrangement or occupancy that a fire itself may not provide adequate occupant warning, a fire alarm facility shall be provided where necessary to warn occupants of the existence of fire. Fire alarms will alert occupants to initiate escape and facilitate the orderly conduct of fire exit drills. All sounding devices shall be heard over ambient noise levels and be recognized as a fire alarm signal.

(Ord. 539. Passed 3-25-91.)

#### **1630.08 CONFLICTS.**

In the event of a conflict between any of the provisions of the BOCA Fire Prevention Code, being Chapter 1610 of these Codified Ordinances, and this chapter, the less restrictive standard shall prevail. In the event of a conflict between this chapter and a provision of any State code, the provision of the State code shall prevail.

(Ord. 539. Passed 3-25-91.)

#### **1630.09 ENFORCEMENT; BOARD OF FIRE CODE APPEALS.**

(a) The Howell City Fire Chief, or his or her designee, is hereby given authority and charged with the administration and enforcement of this chapter.

(b) The Board of Zoning Appeals, formed pursuant to the Zoning Code, is hereby constituted as the Board of Fire Code Appeals and shall decide all appeals made under this chapter, said appeal to be taken within twenty days after receipt of notice of a decision by the Howell City Fire Chief.

(Ord. 539. Passed 3-25-91.)

#### **1630.99 PENALTY.**

Whoever violates any of the provisions of this chapter is responsible for a Municipal civil infraction and shall be subject to the civil fines set forth in Section 202.99.

## CHAPTER 1641

### Regulated Flood Prone Hazard Areas.

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1641.01 Designation of regulated flood prone hazard areas.

#### **1641.01 DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS.**

The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled Livingston County, Michigan (All Jurisdictions) and dated September 17, 2008, and the Flood Insurance Rate Map(s) (FIRMs) panel numbers of 26093C as follows: 0189D, 193D, 0302D, 0304D, 0306D, and 0308D and dated September 17, 2008 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. 815. Passed 9-8-08.)