CODE OF ORDINANCES CITY OF MACKINAC ISLAND, MICHIGAN

Adopted September 4, 2002
Effective September 25, 2002

Published in 2002 by Order of the City Council

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of the

CITY OF

MACKINAC ISLAND, MICHIGAN

AT THE TIME OF THIS CODIFICATION

Margaret M. Doud

Mayor

Armand Horn

Manuel Charnes

Ellen Putnam

Michael Hart

Frank Bloswick, Jr.

Jason St. Onge

City Council

_____

Lawrence J. Jones

Chief Administrative Official

_____

Tom H. Evashevski

City Attorney

_____

Tammy L. Frazier

City Clerk

_____

Dorothy A. Dehring

City Treasurer

CURRENT OFFICIALS

of the

CITY OF

MACKINAC ISLAND, MICHIGAN

_____

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Mayor

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Mayor's Assistant

_____

Richard H. Linn

City Treasurer

PREFACE

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

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

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

Chapter and Section Numbering System

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

Page Numbering System

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

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

Indexes

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

Looseleaf Supplements

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

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

Acknowledgments

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

The publisher is most grateful to Mr. Lawrence J. Jones, Chief Administrative Official and Mr. Tom Evashevski, City Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

Copyright

ORDINANCE NO. 998

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

THE CITY OF MACKINAC ISLAND ORDAINS:

Section 1. The Code entitled "Code of Ordinances, City of Mackinac Island, Michigan," published by Municipal Code Corporation, consisting of chapters 1 through 74, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before May 20, 2002, and not included in the Code or recognized and continued in force by reference therein, are repealed.

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

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

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

Section 6. Ordinances adopted after May 20, 2002, that amend or refer to ordinances that have been codified in the Code shall be construed as it they amend or refer to like provisions of the Code.

Date Adopted: September 4, 2002
Date Effective: September 25, 2002

SUPPLEMENT HISTORY TABLE

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

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

Ord. No.	Date Adopted	Include/Omit	Supp. No.
450	6-30-2010	Include	6
451	8-11-2010	Include	6
452	8-11-2010	Omit	6
453	1-12-2011	Include	6
454	3-16-2011	Include	6
455	3-23-2011	Include	6
456	5-18-2011	Omit	6
457	7-13-2011	Include	6

458	7-27-2011	Include	6
459	9-21-2011	Include	6
460	1-25-2012	Omit	6
461	5-28-2012	Omit	6
462	4-18-2012	Omit	6
463	5-30-2012	Include	6
464	5-30-2012	Include	6
465	6-20-2012	Include	6
466	6-27-2012	Omit	6
467	6-27-2012	Omit	6
469	6-27-2012	Include	6
470	7-25-2012	Include	6
471	8- 8-2012	Include	6
472	8- 8-2012	Include	6
473	12- 5-2012	Include	6
474	1- 9-2013	Omit	6
475	1- 9-2013	Omit	6
476	3-20-2013	Omit	6
477	6-12-2013	Include	6
478	7-10-2013	Omit	6

479	10-16-2013	Include	6
480	11-13-2013	Include	6
481	2-17-2014	Omit	6
482	2-17-2014	Omit	6
483	3-19-2014	Omit	6
484	3-31-2014	Omit	6
485	3-31-2014	Omit	6
486	11-24-2014	Included	7
487	11-24-2014	Omitted	7
488	12-17-2014	Omitted	7
489	12-17-2014	Included	7
490	2-18-2015	Included	7
491	2-18-2015	Included	7
492	3-31-2015	Omitted	7
493	4-29-2015	Omitted	7
494	4-29-2015	Included	7
495	6-10-2015	Included	7
496	6-10-2015	Included	7
497	6-10-2015	Included	7
498	6-10-2015	Included	7

499	6-10-2015	Included	7
500	6-10-2015	Included	7
501	6-24-2015	Included	7
502	6-24-2015	Included	7
503	6-24-2015	Included	7
504	6-24-2015	Included	7
505	6-24-2015	Included	7
506	6-24-2015	Included	7
507	6-24-2015	Included	7
508	6-24-2015	Included	7
509	6-24-2015	Included	7
510	6-24-2015	Included	7
511	7- 8-2015	Included	7
512	9- 2-2015	Included	7
513	9-16-2015	Included	7
514	10-14-2015	Included	7
515	10-14-2015	Included	7
516	10-14-2015	Included	7
517	10-14-2015	Included	7
518	10-28-2015	Included	7

519	10-28-2015	Omitted	7
520	10-28-2015	Omitted	7
521	11-11-2015	Omitted	7
522	12-16-2015	Included	7
523	12-16-2015	Included	7
524	1- 6-2016	Included	7
525	1- 6-2016	Included	7
526	1- 6-2016	Included	7
527	3-16-2016	Omitted	8
528	3-30-2016	Omitted	8
529	3-30-2016	Omitted	8
530	4-27-2016	Omitted	8
531	6- 8-2016	Included	8
532	6- 8-2016	Included	8
533	6-22-2016	Included	8
534	6-22-2016	Omitted	8
535	7- 6-2016	Included	8
536	7- 6-2016	Omitted	8
537	7-20-2016	Included	8
538	7-20-2016	Included	8

539	7-20-2016	Included	8
540	9-28-2016	Included	8
541	10-26-2016	Omitted	8
542	11- 9-2016	Included	8
543	3-29-2017	Omitted	8
544	3-29-2017	Omitted	8
545	3-29-2017	Omitted	8
546	4-26-2017	Included	8
547	4-26-2017	Included	8
548	8- 2-2017	Omitted	8
549	8-17-2017	Included	8
550	9-13-2017	Included	8
551	9-13-2017	Included	8
552	9-13-2017	Included	8
553	9-27-2017	Omitted	8
554	1- 3-2018	Omitted	8
555	2-28-2018	Omitted	8
556	3-28-2018	Omitted	8
557	3-28-2018	Omitted	8
558	5-23-2018	Included	8

559	6- 6-2018	Included	8
560	10-10-2018	Included	8
561	11-19-2018	Included	8
562	11-19-2018	Omitted	8
563	12- 5-2018	Included	8
564	1-30-2019	Included	8
565	3-13-2019	Omitted	8
566	3-13-2019	Included	8
567	3-27-2019	Omitted	9
568	3-28-2019	Omitted	9
569	4-10-2019	Omitted	9
570	5- 8-2019	Omitted	9
571	7- 3-2019	Included	9
572	7- 3-2019	Included	9
573	9-11-2019	Included	9
574	11- 8-2019	Omitted	9
575	12-30-2019	Included	9
576	2-24-2020	Included	9
577	2-28-2020	Omitted	9
578	3-13-2020	Omitted	9

579	3-24-2020	Omitted	9
580	4- 8-2020	Omitted	9
581	6- 3-2020	Included	9
582	6- 3-2020	Included	9
583	7-15-2020	Included	9
584	7-15-2020	Included	9
585	8-26-2020	Included	9

PART I - CHARTER[1]

An act to vacate the Township of Holmes and Village of Mackinac in Mackinac County, State of Michigan, and to incorporate the City of Mackinac Island in said Mackinac County.

Footnotes:

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Editor's note— Printed herein is the city Charter, being Michigan Local Acts (1899) No. 437, as amended. The source document for the Charter was a locally printed copy, which copy contained the amendments of 1901, 1913 and 1940. The amendments were included after the 1899 act. In this publication the text of the 1899 act has been altered to reflect the amendments and original amendatory acts deleted. History notes show the source of all amendments. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions for clarity are indicated by brackets.

CHAPTER I. - BOUNDARIES AND INCORPORATION

The People of the State of Michigan enact:

Section 1. - Boundaries and name.

That from and after March twentieth, A. D. nineteen hundred, the township of Holmes and Village of Mackinac in Mackinac County, and State of Michigan, shall be and are hereby vacated, and all the territory now comprising the said Township of Holmes and Village of Mackinac, the same being all of Mackinac Island and Round Island, in said Mackinac County, shall be and the same is hereby constituted and declared thereafter to be a city corporate by the name of the City of Mackinac Island, by which name it shall thereafter be known, and the jurisdiction of said city shall embrace and cover the navigable waters adjacent to said city for the distance of one mile from the shore lines of said islands.

State Law reference— Annexation of submerged lands, MCL 123.581 et seq.; annexation of state owned land by cities under special Charter, MCL 123.981 et seq.; state boundary commission, MCL 123.1001 et seq.

CHAPTER II. - ELECTIONS AND REGISTRATION

Section 1. - Electors.

The inhabitants of said city having the qualifications of electors under the constitution of the state, and no others, shall be electors therein.

Editor's note— Charter ch. II, § 1 is obsolete. See MCL 168.510a.

State Law reference— Qualifications of electors, MCL 168.492.

Section 2. - Board of registration.

The parties hereinafter named as inspectors of elections shall on Saturday next preceding the first city election in the year nineteen hundred sit as a board of registration, subject to all the laws of the State of Michigan regarding the registering of electors at the place hereinafter named for holding the election in said city from nine o'clock in the forenoon to five in the afternoon and make a list of the qualified electors in said city and enter their names in a book to be furnished for the purpose and such book shall be the register of electors for said city and shall be deposited with the city clerk within three days after his election and qualification.

Editor's note— Charter ch. II, § 2 is obsolete. See MCL 168.510a.

Section 3. - First election; inspectors of, may change.

The first election under this act shall be held on the first Monday in April in the year nineteen hundred. The first election under this act shall be held at the town hall in said city and the inspectors of said election shall be the regular election inspectors of the said Township of Holmes at that time as provided by law: Provided however, that the said inspectors of election may in case it shall be found necessary change the place of holding said first election to any other suitable place in said city. In case any of said inspectors shall fail to appear at the time and place appointed for such election, or shall be incompetent to serve, the electors present shall choose one or more of their number to act as such inspectors in lieu of the inspectors failing to appear or being incompetent to serve.

Section 4. - Notice of time and place of registration.

At least five days before the first election in and for the said City of Mackinac Island, the persons mentioned in the previous section shall cause notice to be given by handbills posted in five public places in said city of the time and place of holding such election and of the officers to be elected and of the place where the said inspectors of election will meet on the Saturday next preceding the election to make a registration of the electors of the new city corporation, and that no person unless registered in such registry can be permitted to vote at such election.

Section 5. - Registry book.

Said inspectors shall procure a book of registry, of the form required by law for the registration of the electors in cities and may charge the same to the said city.

Editor's note— Charter ch. II, § 5 is obsolete. See MCL 168.510a.

Section 6. - Inspectors to canvass results; certificate of election evidence.

Immediately after the closing of the polls the inspectors of such election shall, without adjournment publicly canvass the votes received by them according to law, and declare the result, and shall on the same or next day, make a certificate stating the number of votes given for each person for each office, and therefrom determine the persons elected to the respective offices, and notify the same of such election and such certificate of election given by the said inspectors shall constitute evidence of the election of the person therein named. The inspectors of said election shall file a copy of each certificate, given under their hands to the officers elect, with the city clerk, within ten days of the qualification of said officers.

State Law reference— Canvass of returns, MCL 168.323.

Section 7. - Possible division into two voting districts.

The council may by resolution adopted by a three-fourths vote of all the aldermen elect cause said City of Mackinac Island to be divided into two voting districts, the manner of making such division, the creation of election inspectors and boards of registration therein and all matters pertaining to such division and the holding of elections in said districts shall be provided for by the council making such division, except herein otherwise provided, and at the time such new voting district is formed the council shall by resolution determine which district shall be known as voting district number one, and which as voting district number two of said City of Mackinac Island.

State Law reference— Election precincts, MCL 168.654 et seq.

Section 8. - Board of registration.

The mayor, city clerk and supervisor shall constitute the board of registration of said city except as in this act otherwise provided. If any vacancy occur in said board of registration, then the council shall supply the vacancy. If more than one voting district is formed in said city then the council shall before each election appoint three extra members for registration of electors for such election: Provided, that the mayor, city clerk and supervisor shall continue to be members of the boards of registration in said city and shall hold or assist in holding the registration at the voting district or districts, as the council shall designate at the time other members are appointed as above provided.

Editor's note— Charter ch. II, § 8 is obsolete. See MCL 168.510a.

Section 9. - Registration in new district.

When a new voting district shall be formed, the board of registration thereof, at its session next preceding the next election therein, shall make or complete a new register of the electors residing therein, and for that purpose shall remain in session two days, and notice of the formation of such district, and that a new register of the electors will be made at that session, shall be given with the notice required by law to be given of such session of the board.

Editor's note— Charter ch. II, § 9 is obsolete. See MCL 168.510a.

Section 10. - Election and voting district; board of registration, time and place of session; days of registration.

Said city, unless otherwise subdivided, shall be an election and voting district. On the Saturday next preceding a general election, and on the Saturday next preceding the day of the regular city election, and

such other days as shall be appointed by the council not exceeding three days in all, previous to any such election, except for a special election when the previous registration shall be taken, unless otherwise ordered by the council, the board of registration for the city, except as in this act provides, shall be in session at such place as shall be designated, as hereinafter provided, from eight o'clock in the forenoon, until eight o'clock in the afternoon, for the purpose of completing the list of the qualified voters; during which session it shall be the right of each person then actually residing in the city and in the voting districts, and who, at the then next approaching election may be a qualified elector and whose name is not already registered, to have his name entered in the register of such city and voting district.

(Mich. Local Acts (1901), No. 263, § 1)

Editor's note— Everything but the first sentence of Charter ch. II, § 10 is obsolete. See MCL 168.510a.

Section 11. - Idem.

At least two weeks previous to the commencement of any such session of the board or boards of registration, the council shall fix the place in the city and each voting district of the city where the board of registration will meet, and at least eight days before such session of the board the city clerk shall give notice by handbills posted in ten public places in the city and in each voting district, of the time and place in the city and in each voting district when and where the board of registration for said city or said voting district will meet. Except as in this act otherwise provided, the general laws of this state, relating to the registration of electors in cities shall apply to the registration of electors in said City of Mackinac Island.

Editor's note— Charter ch. II, § 11 is obsolete. See MCL 168.510a.

State Law reference— Registration of electors, MCL 168.491 et seq.

Section 12. - New registration; notice, how given.

The board of registration in said city at its sessions previous to the general election in November, in the year nineteen hundred, shall make a re-registration of the qualified electors of said city, in books of the form provided by law. The same rules shall be observed in such re-registration as are provided by law for the registration of electors in cities; and a like re-registration of the electors of said city shall be made at the session of the board next preceding the general election, in the year nineteen hundred, and every fourth year thereafter. When such new registry shall be made the former registry of electors shall not be used, nor shall any person vote at any election in such city after such re-registration unless his name shall be registered in such new register. Notice that such re-registration is required to be made shall be given with the notice of the meeting or session of the board at which it is to be made: Provided, that if said city is divided into two voting districts then the re-registration shall be made for each district the same as for different wards in a city.

Editor's note— Charter ch. II, § 12 is obsolete. See MCL 168.510a.

CHAPTER III. - OFFICERS

Section 1. - Officers; alderman, term of office.

In said City of Mackinac Island the following city officers, namely, a mayor, city clerk, city assessor, city treasurer, and two justices of the peace, one supervisor, two constables and six aldermen shall be elected by the qualified voters of the whole city. At the first election held under this act two of such

aldermen shall be elected for a term of one year and two for a term of two years and two for the term of three years, and annually thereafter two shall be elected for a term of three years.

Editor's note— The reference in Charter ch. III, § 1 to the justice of the peace is obsolete. See MCL 600.9921. The reference to the supervisor is also obsolete. See MCL 46.401 et seq.

Section 2. - Officers appointed; selection process.

The following officers shall be appointed by the mayor, by and with the consent of the council, namely, a city attorney, a city marshal, and a chief engineer of the fire department. The council may also, from time to time, provide by ordinance for the appointment of, for such term as may be provided in the ordinance, such other officers whose election or appointment is not herein specially provided for, as the council shall deem necessary for the execution of the powers granted by this act. All such appointments shall be made by the mayor, by and with the consent of the council, and their powers and duties shall be prescribed by ordinance, but the mayor shall have no vote in the council on the question of his appointments of above named officers.

Section 3. - Appointments, when made.

Appointments to office, except appointments to fill vacancies, shall be made on the first Monday of May in each year; but appointments which for any cause shall not be made on that day may be made by the mayor and confirmed at any subsequent regular meeting of the council.

Section 4. - First election, justices of the peace to be elected.

At the first election held in said city, two justices of the peace shall be elected; the then existing justices of the peace shall hold their offices until the fourth day of July next after such first election and no longer, and such two justices of the peace shall be elected, one for the term of two years and one for the term of four years from the fourth day of July next thereafter, and the term for which each is elected shall be designated upon the ballots cast for him and biennially thereafter one justice of the peace shall be elected for a term of four years.

Editor's note— Charter ch. III, § 4 is obsolete. See MCL 600.9921.

Section 5. - Officers, term of office.

The mayor, city clerk, city treasurer, city assessor, supervisor and constables shall hold their offices for the term of one year from the second Monday in April of the year when elected, and until their successors are qualified and enter upon the duties of their offices.

Editor's note— The reference in Charter ch. III, § 5 to the supervisor is obsolete. See MCL 46.401 et seq.

Section 6. - Officers appointed, term of office.

All officers appointed by the mayor or council, except officers appointed to fill vacancies in elective offices, shall hold their respective offices until the first Monday of May next after such appointment, and until their successors are qualified and enter upon the duties of their office, unless a different term of office shall be provided in this act, or in the ordinance creating the office. Any officer elected to fill a vacancy shall hold the office during the residue of the term of office in which the vacancy occurred, and any officer appointed to fill a vacancy in any elective office shall hold such office until the next annual city election.

Section 7. - Entering upon duties of office.

Justices of the peace not elected to fill vacancies shall enter upon the duties of their offices on the fourth day of July next after their election. In all other cases officers shall enter upon the duties of their offices on the second Monday of April of each year, unless herein otherwise provided for.

Editor's note— The reference in Charter ch. III, § 7 to the justices of the peace is obsolete. See MCL 600.9921.

QUALIFICATIONS, OATH AND BOND OF OFFICE

Section 8. - Qualifications for office.

No person shall be elected or appointed to any office unless he be an elector of the state, except the city attorney, who shall be an elector of the county, and deputy marshals and special police, who shall be electors of the State of Michigan; no person shall be elected or appointed to any office in the city who has been or is a defaulter to the state, or to any board or officers thereof, or to any school district, county or other municipal corporation of the state. All votes for or any appointment of any such defaulter shall be void.

(Mich. Local Acts (1901) No. 263, § 1; Mich. Local Acts (1913) No. 417, § 1)

Section 9. - Justices of the peace to file oath of office.

Justices of the peace elected in said city shall take and file an oath of office with the County Clerk of Mackinac County within the same time and in the same manner as in cases of justices of the peace elected in townships. All other officers elected or appointed in the city, shall, within ten days after receiving notice of their election or appointment, take and subscribe the oath of office prescribed by the constitution of the state and file the same with the city clerk.

Editor's note— The reference in Charter ch. III, § 9 to justices of the peace is obsolete. See MCL 600.9921.

Section 10. - Bond to be filed.

Every justice of the peace, within the time limited for filing his official oath, shall file with the county clerk, mentioned in the preceding section, the security for the performance of the duties of his office, required by law in the case of justices of the peace elected in townships; except that said official bond or security may be executed in presence of, and be approved by the mayor; and in case he shall enter upon the execution of the duties of his office before having filed his official oath and bond or security and such other bond or security to the city as may be required by law or by any ordinance or resolution of the council, he shall be liable to the same penalties as are provided in cases of justices of the peace elected in townships; and every other officer elected or appointed in the city before entering upon the duties of his office and within time prescribed for filing his official oath, shall file with the city clerk such bond or security as may be required by law or by any ordinance or requirement of the council, and with such sureties as shall be approved by the council for the due performance of the duties of his office, except that the bond or security of the clerk shall be deposited with the city treasurer.

Editor's note— The reference in Charter ch. III, § 10 to justices of the peace is obsolete. See MCL 600.9921.

Section 11. - Sufficiency of bond, how examined.

The council, or the mayor, or other officer whose duty it shall be to judge of the sufficiency of the proposed sureties of any officer or person of whom a bond or any security may be required by this act or by any ordinance or direction of the council, shall inquire into the sufficiency of such sureties, and may examine them under oath as to their property; such oath may be administered by the mayor, or any alderman, or other person authorized to administer oaths. The examination of any such surety shall be reduced to writing and be signed by him, and annexed to and filed with the board or instrument to which it relates.

Section 12. - Council may require further sureties.

The council may also at any time require any officer, whether elected or appointed, to execute and file with the clerk of the city, new official bonds in the same or in such further sums, and with new or such further sureties as said council may deem requisite for the interest of the corporation. Any failure to comply with such requirement shall subject the officer to immediate removal by the council.

VACANCIES IN OFFICE

Section 13. - Resignation made to council.

Resignation of officers shall be made to the council.

Section 14. - Removal from city, office deemed vacated.

If any officer shall cease to be a resident of the city, during his term of office, the office shall thereby be vacated. If any officer shall be a defaulter the office shall thereby be vacated.

Editor's note— Insofar as Charter ch. III, § 14 applies to appointed officers, it is superseded by MCL 15.601 et seq.

Section 15. - Failure to file oath or bond.

If any person elected or appointed to office shall fail to take and file the oath of office, or shall fail to give the bond or security required for the due performance of the duties of his office, within the time herein limited therefor, the council may declare the office vacant unless previous thereto he shall file the oath and give the requisite bond or security.

Section 16. - Vacancies, how filled.

In case any vacancy occurs in the office of mayor or in any other elective office except justice of the peace, constable and school trustee as hereinafter provided the council may fill such vacancy by appointment at any time within twenty days after such vacancy occurs or may within such time call a special election for the purpose of filling such vacancy as they may deem for the best interest of the city. Vacancies in the office of justice of the peace and constable shall be filled at the next annual election or at a special election called for that purpose. Vacancies in any appointive office shall be filled within twenty days after such vacancy occurs by the mayor by and with the consent of the council.

Editor's note— The reference in Charter ch. III, § 16 to the justice of the peace is obsolete. See MCL 600.9921.

Section 17. - Officers not released from liability by resignation.

The resignation or removal of any officer shall not, nor shall the appointment or election of another to the office exonerate such officer or his sureties from any liability incurred by him or them.

Section 18. - Books, papers, etc., to be delivered to successor.

Whenever any officer shall resign or be removed from office or the term for which he shall have been elected or appointed shall expire, he shall on demand deliver over to his successor in office all the books, papers, moneys and effects in his custody as such officer and in any way appertaining to his office; and every person wilfully violating this provision shall be deemed guilty of a misdemeanor and may be proceeded against in the same manner as public officers may be proceeded against for the like offense, under the general laws of this state now or hereafter in force and applicable thereto; and every officer appointed or elected under this act shall be deemed an officer within the meaning and provisions of such general laws of the state.

State Law reference— Punishment for misdemeanor, MCL 750.504.

CHAPTER IV. - ELECTIONS

Section 1. - Date and place.

An annual city election shall be held on the first Monday in April in each year, at such place or places in said city, as the council shall designate.

State Law reference— Election dates, MCL 168.644a et seq.

Section 2. - Special elections.

Special elections may be appointed by resolution of the council, and held in and for the city, at such times and place or places as the council shall designate; the purpose and object of which shall be fully set forth in the resolution appointing such election.

State Law reference— Special elections, MCL 168.631 et seq.

Section 3. - Special election; notice of to be given to inspectors.

Whenever a special election is to be held the council shall cause to be delivered to the inspectors of election a notice, signed by the city clerk, specifying the officer or officers to be chosen and the question or proposition, if any, to be submitted to the vote of the electors, and the day and place at which such election is to be held, and the proceedings and manner of holding the election shall be the same as at the annual elections.

State Law reference— Special elections, MCL 168.631 et seq.

Section 4. - Notice of time and place of election to be posted.

Notice of the time and place or places of holding any election and of the officers to be elected and the questions to be voted upon, shall, except as herein otherwise provided, be given by the city clerk, at least ten days before such election, by posting such notices in five public places in said city, and in case of a special election the notice shall set forth the purpose and object of the election as fully as the same are required to be set forth in the resolution appointing such election.

State Law reference— Notice of elections, MCL 168.647 et seq.

Section 5. - Ballot boxes.

The council shall provide and cause to be kept by the city clerk, for use at all elections, suitable ballot boxes of the kind required by law to be kept and used in townships.

Section 6. - Polls, time of opening.

On the day of elections, held by virtue of this act, the polls shall be opened at the place or places designated by the council, at seven o'clock in the morning or as soon thereafter as may be, and shall be kept open until five o'clock in the afternoon, at which hour they shall be finally closed. The inspectors shall cause proclamation to be made upon opening the polls, and shall also cause proclamation to be made of the closing of the polls, one hour, thirty minutes and fifteen minutes respectively, before the closing thereof.

Editor's note— Charter ch. IV, § 6 is superseded by MCL 168.720.

Section 7. - Board of inspectors.

The two aldermen whose term of office last expires and the justice of the peace whose term of office last expires and one other person elected by the common council shall, except as in this act otherwise provided, constitute the board of inspectors of election. If by reason of the creation of more than one election district therein, or for any reason there shall not be a sufficient number of the officers last named to make a board of four inspectors for said city and for each election district, it shall be the duty of the council, at least one week before the election, to appoint a sufficient number of inspectors, who, with the officers above named, if any, residing in the election district, shall constitute a board of four inspectors for the city or for the district, and if at any election any of the inspectors above provided for shall not be present, or remain in attendance, the electors present may choose, viva voce, such number of electors, as with the inspector or inspectors present shall constitute a board of four in number, and such electors so chosen shall be inspectors at that election, during the continuance thereof. Each inspector of the election shall receive two dollars per day as compensation.

Editor's note— The reference in Charter ch. IV, § 7 to the justice of the peace is obsolete. See MCL 600.9921.

State Law reference— Election inspectors, MCL 168.672.

Section 8. - Chairman and clerks of election, appointment.

The inspectors of election in said city or voting district shall choose one of their number chairman of the board, and shall designate one of their number to act as clerk of the election, and another of their number to act as second clerk, and each person chosen or appointed an inspector of election shall take the constitutional oath of office, which oath either of the inspectors may administer.

Section 9. - Inspectors of election duties.

The inspectors of election, as specified in the last two sections, shall also be inspectors of state, county and district elections in said city and in their respective voting districts.

Section 10. - Conduct of elections.

All elections held under the provisions of this act, shall be conducted, as nearly as may be, in the manner provided by law for holding general elections in the state, except as herein otherwise provided; and the inspectors of such elections shall have the same powers and authority for the preservation of order, and for enforcing obedience to their lawful commands during the time of holding the election and the canvass of the votes, as are conferred by law upon inspectors of general elections held in this state.

State Law reference— Board of election inspectors to maintain peace and order, MCL 168.678.

Section 11. - Constitution of election commission.

The council shall, at least ten days previous to any election, appoint a board of three election commissioners, not more than two of whom shall belong to the same political party, who shall be the board of election commissioners for such city for such election, and they shall perform such duties relative to the preparation and printing of ballots as are required by law of the boards of election commissioners of counties.

Section 12. - Ballots, how furnished.

The electors shall vote by ballot. Such ballot shall be prepared and furnished by the board of election commissioners as provided by the general election laws of the state, and shall contain the names of all officers to be voted for, and all questions or propositions submitted to be voted upon, and all matters touching the form and contents of the ballot and the casting and canvassing of the same, and all other matters, touching elections shall be governed by the general election laws of the state, when not inconsistent with the provisions of this act.

State Law reference— Ballots, MCL 168.323, 168.684 et seq.

Section 13. - Council to determine result of election; certificate where filed.

The council shall convene on Thursday next succeeding each election, at their usual place of meeting, and determine the result of the election upon each question and proposition voted upon, and what persons are duly elected at the said election to the several offices respectively; and, thereupon, the city clerk shall make duplicate certificates, under the corporate seal of the city, of such determination, showing the result of the election upon any question or proposition voted upon, and what persons are declared elected to the several offices respectively; one of which certificates he shall file in the office of the county clerk, in County of Mackinac and the other shall be filed in the office of the city clerk.

Section 14. - Who deemed elected; procedure in case of tie.

The person receiving the greatest number of votes for any office in the city shall be deemed to have been duly elected to such office; and if there shall be no choice for any office by reason of two or more candidates having received an equal number of votes, the council shall, at the meeting mentioned in the preceding section, determine by lot between such persons which shall be considered elected to such office.

State Law reference— Determination of winner by lot, MCL 168.852.

Section 15. - City clerk to notify persons elected.

It shall be the duty of the city clerk, within five days after the meeting and determination of the council, as provided in section thirteen, to notify each person elected, in writing, of his election; and he shall also, within five days after the appointment of any person to any office, in like manner notify such person of such appointment.

Section 16. - Clerk to furnish list of persons not filing bond to council.

Within one week after the expiration of the time in which any official bond or oath of office is required to be filed, the city clerk shall report, in writing, to the council, the names of the persons elected or appointed to any office, who shall have neglected to file such oath and requisite bond or security for the performance of the duties of the office.

Section 17. - Expenses of election, means of payment.

The expenses of any election to be held as provided by this act shall be paid by the city in the same manner as other contingent expenses of the city.

CHAPTER V. - DUTIES AND COMPENSATION OF OFFICERS—MAYOR

Section 1. - Duties and powers.

The mayor shall be the chief executive officer of the city. He shall preside at the meetings of the council and shall from time to time give the council information concerning the affairs of the corporation, and recommend such measures as he may deem expedient. It shall be his duty to exercise supervision over the several departments of the city government, see that the laws relating to the city and the ordinances and regulations of the council are enforced, and in addition to all other duties, he shall represent said city on the board of supervisors of the county, and shall have all the rights, privileges and powers of the several members of said board of supervisors.

(Mich. Local Acts (1913) No. 417, § 1)

Section 2. - Conservator of the peace.

The mayor shall be a conservator of the peace, and may exercise within the city the powers conferred upon sheriffs to suppress disorder; and shall have authority to command the assistance of all able bodied citizens to aid in the enforcement of the ordinances of the council, and to suppress riot and disorderly conduct.

Editor's note— A note in the copy of the Charter furnished to the publisher indicates that Charter ch. V, § 2 has been amended. No amendment has been furnished to the publisher.

Section 3. - Power of mayor to remove certain officers.

The mayor may suspend any officer appointed by him at any time for neglect of duty, misconduct or other sufficient cause: provided, that a written complaint under oath shall be preferred against said officer and filed with the city clerk. Said complaint shall be reasonably certain as to time, place and the offense, or offenses, charged therein, and a copy thereof served personally on such person or left with a person of suitable age at the last known place of residence of such suspended person, within three days after such suspension. The said officer shall have the privilege of filing answer to said complaint within five days after service of copy of said complaint as above provided. The council shall hear such complaint and defense thereto, if any, at the next regular meeting thereof; provided, said regular meeting shall occur within a time not less than ten and not more than fifteen days after the date of the filing of said complaint, otherwise a special meeting shall be called for the purpose of such hearing, and within the time herein limited. Should no complaint be filed within the time herein provided, or be not sustained at the hearing thereof, said officer may resume the duties of his office as if said suspension had never been made. He shall at all times have authority to examine and inspect the books, records and papers of any agent, employee or officer of the corporation, and shall perform generally all such duties as are or may be prescribed by the ordinance of the city.

Editor's note— A note in the copy of the Charter furnished to the publisher indicates that Charter ch. V, § 3 has been amended. No amendment has been furnished to the publisher.

Section 4. - President pro tem.

In the absence or disability of the mayor, or in case of any vacancy in his office, the president pro tempore of the council shall perform the duties of mayor during such absence, disability or vacancy.

ALDERMEN

Section 5. - Conservator of the peace.

The aldermen of the city shall be members of the council, and attend the meetings thereof, and act upon committees, when thereupon appointed by the mayor or council. They shall be conservators of the peace, and as such they shall aid in maintaining quiet and good order in the city, and in securing the faithful performance of duty by all officers of the city.

CITY CLERK

Section 6. - Duties and powers.

The city clerk shall keep the corporate seal and all the documents, official bonds, papers, files, and records of the city, not by this act or the ordinances of the city entrusted to some other officer; he shall be clerk of the council; shall attend its meetings, record all its proceedings, ordinances and resolutions, and shall countersign and register all licenses granted; he shall, when required, make and certify under the seal of the city copies of the papers and records filed and kept in his office; and such copies shall be evidence in all places of the matters therein contained, to the same extent as the original would be; he shall possess and exercise the powers of a township clerk, so far as the same are required to be performed within the city; and he shall have authority to administer oaths and affirmations.

Section 7. - Duties relative to claims against city.

The clerk shall be general accountant of the city; and all claims against the corporation shall be filed with him for adjustment, and, after examination thereof, he shall report the same, with all accompanying vouchers and counter claims of the city, and the true balance as found by him, to the council, for allowance, and when allowed shall draw his warrant upon the treasurer for the payment thereof, designating thereon the fund from which payment is to be made, and take proper receipts therefor, but no warrant shall be drawn upon any fund after the same has been exhausted. When any tax or money shall be levied, raised, or apportioned, the clerk shall report the amount thereof to the city treasurer, stating the objects and funds for which it is levied, raised or appropriated, and the amounts thereof to be credited to each fund.

Section 8. - Further duties.

The clerk shall exercise a general supervision over all officers charged in any manner with the receipt, collection and disbursement of the city revenues, and over all the property and assets of the city; he shall have charge of all books, vouchers and documents relating to the accounts, contracts, debts and revenues of the corporation; he shall countersign and register all bonds issued, and keep a list of all property and effects belonging to the city, and of all its debts and liabilities; he shall keep a complete set of books, exhibiting the financial condition of the corporation and all its departments, funds, resources and liabilities, with a proper classification thereof and showing the purposes for which each fund was raised; he shall also keep an account with the treasurer in which he shall charge him with all moneys received for each of the several funds of the city, and credit him with all the warrants drawn thereon, keeping a separate account with each fund; when any fund has been exhausted the clerk shall immediately advise the council thereof.

Section 9. - Clerks to keep complete set of books.

The clerk shall report to the council, whenever required, a detailed statement of the receipts, expenditures, and financial condition of the city, of the debts to be paid, and moneys required to meet the estimated expenses of the corporation, and shall perform such other duties pertaining to his office as the council may require.

Section 10. - Clerk may appoint deputy.

The clerk may, subject to the approval of the council, appoint a deputy who shall possess all the powers and authority of the city clerk, and may exercise all the duties thereof, subject to the control of such clerk, and such deputy shall be paid for his services by the clerk, unless otherwise provided by the council. The clerk shall be responsible for all the acts and defaults of such deputy, and he may remove such deputy at his pleasure.

CITY TREASURER

Section 11. - Duties; deputy.

The treasurer shall have the custody of all moneys, bonds, mortgages, notes, leases and evidences of value belonging to the city. He shall receive all moneys belonging to, and receivable by the corporation, and keep an account of all receipts and expenditures thereof. He shall pay no money out of the treasury, except in pursuance of and by authority of law, and upon warrants signed by the clerk and countersigned by the mayor, which shall specify the purpose for which the amounts thereof are to be paid. He shall keep an account of and be charged with all taxes and moneys appropriated, raised, or received for each fund of the corporation, and shall keep a separate account of each fund, and shall credit thereto all moneys raised, paid in, or appropriated therefor, and shall pay every warrant out of the particular fund constituted or raised for the purpose for which the warrant was issued and having the name of such fund endorsed thereon by the clerk. The treasurer may also, subject to the approval of the council, appoint a deputy, who shall possess all the powers and authority of the treasurer, subject to the control of the treasurer; and the treasurer and his bondsmen shall be liable for the acts and defaults of such deputy. Such deputy shall be paid for his services by the treasurer, unless otherwise provided by the council, and such deputy may be removed at the will of the treasurer. The city treasurer shall be the collector of state and county taxes within the city, and all other taxes and assessments levied within the city; he shall perform all such duties in relation to the collection of taxes as the council may prescribe, and as provided by this act, and in addition to all other duties, he shall represent said city on the board of supervisors of the county, and shall have all the rights, privileges and powers of the several members of said board of supervisors.

(Mich. Local Acts (1913) No. 417, § 1)

Section 12. - Monthly report.

The treasurer shall render to the clerk on the first Monday of every month, and oftener if required, a report of the amounts received and credited by him to each fund, and on what account received, and the amounts paid out by him from each fund during the preceding month, and the amount of money remaining in each fund on the day of his report, and the council may at any time when they shall deem it advisable cause such report to be verified by a personal examination of the books, warrants, vouchers and city moneys in the possession of the treasurer. He shall also exhibit to the council annually, on the first Monday in March, and as often and for such period as the council shall require, a full and detailed account of the receipts and disbursements of the treasury since the date of his last annual report, classifying them therein by the funds to which such receipts are credited and out of which such disbursements are made, and the balances remaining in each fund; which account shall be filed in the office of the clerk and shall be published in one or more of the newspapers of the city.

Section 13. - Treasurer shall exhibit receipts and vouchers to council.

The said treasurer shall take receipts and vouchers for all moneys paid from the treasury, showing the amount and fund from which payment was made, and he shall exhibit to the council such receipts or vouchers on the first Monday of March in each year, or as often as the council shall require, as provided in the next preceding section.

Section 14. - Treasurer to be custodian of public school money.

The city treasurer shall be the treasurer of the school district designated in this act as the "public schools of the City of Mackinac Island," and shall have the custody of the funds belonging to and receivable by such district from all sources, for schools, library, and schoolhouse purposes. He shall receive from the county treasurer, for the use of such district, all school and library moneys coming to his hands to which the district shall be entitled; and for that purpose such school district shall be considered under the laws relating to the distribution of primary school and library moneys, the same as a township. Said city treasurer shall keep an account of all the school and library moneys of the district in such manner as the board of education may require, and account therefor to said board whenever they shall direct. He shall pay out no moneys of the district except upon such warrants or vouchers as the board of education shall prescribe. Before entering upon the duties of his office, either as city treasurer or as treasurer of the public schools, the said treasurer shall give bond to the public schools of the city in such sum and with such sureties as the board of education shall direct, for the due performance of the duties of his office as treasurer of such district, and shall renew such bond from time to time with further sureties as said board may require.

Editor's note— Insofar as Charter ch. V, § 14 relates to the treasurer being treasurer of the school district, it is superseded by MCL 380.416.

Section 15. - Moneys belonging to city and public schools kept separate.

The city treasurer shall keep all moneys in his hands, belonging to the city and to the public schools, separate and distinct from his own moneys; and he is hereby prohibited from using, either directly or indirectly, the corporation moneys, warrants, or evidences of debt, or any of the school or library funds in his custody or keeping, for his own use or benefit or that of any other person; any violation of this section shall subject him to immediate removal from office by the council, and the council is hereby authorized to declare the office vacant and to appoint his successor for the remainder of his term.

Editor's note— Insofar as Charter ch. V, § 15 relates to the treasurer being treasurer of the school district, it is superseded by MCL 380.416.

CITY MARSHAL

Section 16. - Powers and duties.

The marshal shall be the chief of the police of the city, he shall also be harbor master and street commissioner. As police officer he shall be subject to the direction of the mayor. It shall be his duty to see that all the ordinances and regulations of the council made for the preservation of quiet, good order and for the safety and protection of the inhabitants of the city are promptly enforced. As peace officer he shall be vested with all the powers conferred upon sheriffs for the preservation of quiet and good order. He shall serve and execute all process directed or delivered to him and such process may be served anywhere within the state.

Section 17. - Marshal may command aid of citizens.

He [The marshal] shall suppress all riots, disturbances, and breaches of the peace, and for that purpose may command the aid of the citizens in the performance of such duty. It shall be his duty to arrest all disorderly persons in the corporation. He shall arrest upon view, and with or without process, any person found in the act of committing any offense against the laws of the state or the ordinances of the city amounting to a breach of the peace, and forthwith take such person before the proper magistrate or court for examination or trial, and may also without process arrest and imprison persons found drunk in the streets.

Section 18. - Monthly report.

The marshal shall report in writing and on oath to the council at their first meeting in each month all arrests made by him, and the cause thereof, and all persons discharged from arrest during the month; also, the number remaining in confinement for breaches of the ordinances of the city, and the amount of all fines and fees collected by him. All moneys collected or received by the marshal, except fees for his personal services, unless otherwise directed by this act, shall be paid into the city treasury during the same month when received, and the treasurer's receipt therefor shall be filed with the clerk.

Section 19. - Fees.

The marshal may collect and receive the same fees for services performed by him as are allowed to constables for like services; but in no case shall such fees be charged to, or be paid by the city.

CITY ATTORNEY

Section 20. - Advisor and solicitor.

The attorney, in addition to the other duties prescribed in this act, shall be the legal adviser of the council, and of all officers of the city, and shall act as the attorney and solicitor for the corporation in all legal proceedings in which the corporation is interested, and he shall prosecute all offenses against the ordinances of the city.

STREET COMMISSIONER

Section 21. - Powers and duties.

It shall be the duty of the city marshal as street commissioner, to perform or cause to be performed, all such labor, repairs, and improvements upon the highways, streets, sidewalks, alleys, bridges, reservoirs, drains, culverts, sewers, public grounds and parks within the city as the council shall direct to be done by or under his supervision; and to oversee and do whatever may be required of him in relation thereto by the council.

Section 22. - Monthly report.

He [The city marshal as street commissioner] shall make a report to the council, in writing and on oath, once in each month, giving an exact statement of all labor performed by him or under his supervision, and the charges therefor, the amount of material used, and the expense thereof, and the street or place where such material was used, or labor performed; and further showing the items and purpose of all expenses incurred since his last preceding report and no payment for labor or services performed, or for expenses incurred by him shall be made until reported on oath, as aforesaid: Provided, that nothing in this act shall prevent the council from bestowing the powers and duties of street commissioner upon the marshal when it shall be deemed advisable.

CONSTABLES

Section 23. - Powers and authority.

The constables of the city shall have the like powers and authority in matters of civil and criminal nature, and in relation to the service of all manner of criminal process, as are conferred by law upon constables in townships, and shall receive the like fees for their services. They shall have power also to serve all process issued for breaches of ordinances of the city.

Section 24. - Duties; penalty for neglect; bond.

The constables of the city shall obey all lawful orders of the mayor, aldermen and any justice of the peace exercising jurisdiction in causes for breaches of the ordinances of the city; and shall discharge all duties required of them by any ordinance, resolution or regulation of the council, and for any neglect or refusal to perform any such duty required of him, every constable shall be subject to a penalty of not less than five dollars nor more than fifty dollars. Every constable, before entering upon the duties of his office,

shall give such bonds for the performance of the duties of his office, as may be required and approved by the council, and file the same with the city clerk.

Editor's note— The reference in Charter ch. V, § 24 to the justice of the peace is obsolete. See MCL 600.9921.

SUPERVISORS

Section 25. - Powers and duties.

The supervisors of said city shall have the like powers and perform the like duties in all respects as supervisors elected in townships, except as herein otherwise provided, he shall represent said city in the board of supervisors of the county and shall have all rights, privileges and powers of the several members of such board of supervisors.

Editor's note— The provisions of Charter ch. V, § 25 are obsolete. See MCL 46.401 et seq.

Section 26. - Select and return lists of grand and petit jurors.

The supervisors of said city shall select and return lists of grand and petit jurors to the clerk of the county, in the same manner and within the same time as the like duty is required to be performed by township officers.

Editor's note— The provisions of Charter ch. V, § 26 are obsolete. See MCL 46.401 et seq.

JUSTICES OF THE PEACE

Section 27. - Duties and powers.

Justices of the peace elected in said city shall have, and exercise therein and within the county, the same jurisdiction and powers in all civil and criminal matters, causes, suits and proceedings, and shall perform the same duties in all respects so far as occasion may require, as are or may be conferred upon or required of justices of the peace by the general laws of the state. They shall have authority to hear, try and determine all suits and prosecutions for the recovery or enforcing of fines, penalties, and forfeitures imposed by the ordinances of the city, and to punish offenders for violations of such ordinances, as in the ordinances prescribed and directed, subject only to the limitations prescribed in section seventeen of chapter eight of this act.

Editor's note— The provisions of Charter ch. V, § 27 are obsolete. See MCL 600.9921.

Section 28. - Proceedings under general law.

The proceedings in all suits and actions before said justices, and in the exercise of the powers and duties conferred upon and required of them, shall, except as otherwise provided in this act, be according to and governed by the general laws applicable to justice courts and to the proceedings before such courts.

Editor's note— The provisions of Charter ch. V, § 28 are obsolete. See MCL 600.9921.

Section 29. - Docket.

Every justice of the peace shall enter in the docket kept by him the title of all suits and prosecutions commenced or prosecuted before him for violations of the ordinances of the city and all the proceedings and the judgment rendered in every such cause and the items of all costs taxed or allowed therein; and also the amounts and date of payment of all fines, penalties and forfeitures, moneys and costs received by him on account of any such suit or proceedings. Such docket shall be submitted by the justice at all reasonable times to the examination of any person desiring to examine the same and shall be produced by the justice to the council whenever required.

Editor's note— The provisions of Charter ch. V, § 29 are obsolete. See MCL 600.9921.

Section 30. - Fines, etc., collected by justice.

All fines, penalties and forfeitures collected or received by any justice of the peace for, or on account of, violations of the penal laws of the state shall be paid to the county treasurer, and all fines, penalties, forfeitures and moneys collected or received by such justice for or on account of violations of any ordinances of the city shall be paid over by such justice to the city treasurer on or before the first day of the month next after the collection or receipt thereof; and the justice shall take the receipt of the treasurer therefor and file the same with the city clerk.

Editor's note— The provisions of Charter ch. V, § 30 are obsolete. See MCL 600.9921.

Section 31. - Monthly report.

Every such justice shall report on oath to the treasurer at the time of making the payments provided for in the next preceding section the name of every person against whom a prosecution has been commenced or judgment rendered for any of the fines, penalties or forfeitures mentioned in the preceding section and the amount of all moneys received by him on account thereof or on account of any such suit or prosecution.

Editor's note— The provisions of Charter ch. V, § 31 are obsolete. See MCL 600.9921.

Section 32. - Fines and expenses.

All fines recovered for the violations of the penal laws of the state when collected and paid into the treasury shall be disposed of as provided by law. The expenses of prosecutions before justices of the peace of the city for violations of said criminal laws and in punishing the offenders, shall be paid by the county in which the city is located.

Editor's note— The provisions of Charter ch. V, § 32 are obsolete. See MCL 600.9921.

Section 33. - Justice to give bond.

Each justice of the peace in addition to any other security required by law to be given for the performance of his official duties, shall, before entering upon the duties of his office, give a bond to the city, in a penalty of one thousand dollars, with sufficient sureties to be approved by the mayor, which approval shall be endorsed upon the bond, conditioned for the faithful performance of the duties of justice of the peace within and for the city.

Editor's note— The provisions of Charter ch. V, § 33 are obsolete. See MCL 600.9921.

Section 34. - Penalty for neglect of duties.

Any justice of the peace who shall be guilty of misconduct in office, or who shall wilfully neglect or refuse to perform or discharge any of the duties of his office required by this act or any of the ordinances of the city shall be deemed guilty of a misdemeanor, and punishable accordingly.

Editor's note— The provisions of Charter ch. V, § 34 are obsolete. See MCL 600.9921.

Section 35. - Accountability for certain property.

Every justice of the peace of the city shall account on oath to the council, for all such moneys, goods, wares and property, seized or stolen property, as shall remain unclaimed in his office; and shall make such disposition thereof as shall be prescribed by law.

Editor's note— The provisions of Charter ch. V, § 35 are obsolete. See MCL 600.9921.

Section 36. - Duties and liabilities of offers subject to council.

In addition to the rights, powers, duties and liabilities of officers prescribed in this act, all officers, whether elected or appointed, shall have such other rights, powers, duties and liabilities, subject to and consistent with this act, as the council shall deem expedient, and prescribe by ordinance or resolution.

COMPENSATION OF OFFICERS

Section 37. - Officer's eligibility to receive compensation.

The mayor and aldermen shall serve without pay. The city marshal, clerk, treasurer, city assessor, city attorney, and engineer of the fire department shall each receive such annual salary as the council shall determine by ordinance. Justices of the peace, constables and officers serving process and making arrests, may, when engaged in causes and proceedings for violations of the ordinances of the city, charge and receive such fees as are allowed to those officers for like services by the general laws of the state. All other officers elected or appointed in the city shall, except as herein otherwise provided, receive such compensation as the council shall determine.

Editor's note— The reference in Charter ch. V, § 37 to the justice of the peace is obsolete. See MCL 600.9921.

Section 38. - Increase compensation prohibited during term of office.

The salary or rate of compensation of any officer elected or appointed by authority of this act shall not be increased or diminished during his term of office; and no person who shall have resigned or vacated any office shall be eligible to the same office during the term for which he was elected or appointed when during the same time the salary or rate of compensation has been increased.

CHAPTER VI. - THE CITY COUNCIL

Section 1. - Vesting in legislative authority.

The legislative authority of said city shall be vested in a council consisting of the mayor, six aldermen elected at large in the city and the city clerk.

Section 2. - Mayor to be president of, and preside over council.

The mayor shall be president of the council and preside at the meetings thereof, but shall have no vote therein, except in case of a tie, when he shall have the casting vote.

Section 3. - President pro tempore.

On the first Monday in May in each year, the council shall appoint one of their number president pro tempore of the council, who, in the absence of the president, shall preside at the meetings thereof, and exercise the powers and duties of president. He shall have a vote upon all questions, but he shall have no casting vote in case of a tie. In the absence of the president and president pro tem the council shall appoint one of their number to preside and for the time being he shall exercise the powers and duties of the president.

Section 4. - Clerk of the council.

The city clerk shall be clerk of the council, but shall have no vote therein. He shall keep a full record of all the proceedings of the council, and perform such other duties relating to his office as the council may direct. In the absence of the clerk or his deputy the council shall appoint one of their number to perform the duties of clerk for the time being.

Section 5. - Aldermen to attend sessions of council.

Each alderman shall be required to attend all sessions of the council, and serve upon committees when appointed thereon. No alderman shall vote on any question in which he shall have a direct personal interest, but on all other questions he shall vote unless excused therefrom by a vote of two-thirds of the aldermen elect.

Section 6. - Duties and powers.

The council shall be judge of the election returns and qualifications of its own members. It shall hold regular stated meetings for the transaction of business at such times and places within the city as it shall prescribe, not less than one of which shall be held in each month. The mayor or any three members of the council may call special meetings thereof, notice of which, in writing shall be given to each alderman, or be left at his place of residence at least six hours before the meeting.

Section 7. - Meetings, public; majority of, shall make quorum.

All meetings and sessions of the council shall be public. A majority of the aldermen shall make a quorum for the transaction of business; a less number may adjourn from time to time and all pending business and business noticed or set down for hearing at such meeting shall be taken up and heard at such adjourned meeting without further notice, and the members present may compel the attendance of absent members in such manner as shall be prescribed by rules or ordinance. But no office shall be created or abolished, nor any tax or assessment be imposed, street, alley or public ground be vacated, real estate or any interest therein purchased, leased, sold or disposed of, or private property be taken for public use, unless by a concurring yea and nay vote of two-thirds of all the aldermen elect; nor shall any vote of the council be reconsidered or rescinded at a special meeting, unless there be present as many aldermen as were present when such vote was taken. No money shall be appropriated except by ordinance or resolution of the council; nor shall any resolution be passed or adopted except by the vote of a majority of all the aldermen elected to office, except as herein otherwise provided.

Editor's note— The first sentence of Charter ch. VI, § 7 is superseded by MCL 15.261 et seq.

Section 8. - Manner of conducting business.

The council shall prescribe the rules of its own proceedings, and keep a record or journal thereof. All votes shall be taken by yeas and nays when required by one or more members and be so entered upon the journal as to show the names of those voting in the affirmative and those in the negative.

Section 9. - Powers over officers.

The council may compel the attendance of its members and other officers of the city at its meetings in such manner, and may enforce such fines for non-attendance, as may by ordinance be prescribed; and may by ordinance prescribe punishment for any misbehavior, contemptuous or disorderly conduct by any member or any person present at any session of the council.

Section 10. - Certain officers entitled to seats.

The attorney, marshal and engineer of the fire department, may take part in all proceedings and deliberations of the council on all subjects relating to their respective departments, subject to such rules as the council shall from time to time prescribe, but without the right to vote. Said officers may be required to attend the meetings of the council in the same manner as members.

Section 11. - Control of property.

The council shall have control of the finances, and of all property of the city corporation, except as may be otherwise provided by law.

Section 12. - May enact ordinances.

Whenever by this act or any other provision, of law, any power or authority is vested in, or duty imposed upon, the corporation or council, the council may enact such appropriate ordinances as may be necessary for the execution and exercise of such power and authority, and to regulate the performance of such duty.

Section 13. - Standing committee.

The council may provide for the appointment of standing committees of its members, who shall perform such duties, investigate, have charge of, and report upon such matters as may be properly referred to them. Such committees shall be appointed by the mayor, subject to the approval of the council.

Section 14. - Books, documents, etc., where deposited.

The council shall cause all the records of the corporation, and of all proceedings of the council, and all books, documents, reports, contracts, receipts, vouchers and papers relating to the finances and affairs of the city, or to the official acts of any officer of the corporation unless required by this act to be kept elsewhere, to be deposited and kept in the office of the city clerk, and to be so arranged, filed and kept, as to be convenient of access and inspection, and all such records, books and papers shall be subject to inspection by any inhabitant of the city or other person interested therein, at all seasonable times, except such parts thereof as, in the opinion of the council, it may be necessary for the furtherance of justice to withhold for the time being. Any person who shall secrete, injure, deface, alter or destroy any such books, records, documents or papers, or expose the same to loss or destruction, with intent to prevent the contents of true meaning or import of the same from being known, shall on conviction thereof be punished by imprisonment in the state prison not longer than one year, or by fine not exceeding one thousand dollars, or by both such fine and imprisonment in the discretion of the court.

Section 15. - Members not to receive compensation.

No member of the council shall receive any compensation for his services, either as alderman, committeeman, or otherwise, except as herein provided.

Section 16. - Interest in contracts prohibited.

No member of the council or any officer of the corporation shall be interested, directly or indirectly, in the profits of any contract, job, work or service other than official services, to be performed for the corporation, and any member of the council, or officer of this city, herein specified, offending against the provisions of this section shall, upon conviction thereof, be fined not less than five hundred nor more than

one thousand dollars, or be imprisoned in the county jail not less than one nor more than six months, or both, in the discretion of the court, and shall forfeit his office.

Editor's note— The provisions of Charter ch. VI, § 16 are superseded by MCL 15.321 et seq. See MCL 15.328.

Section 17. - Officers subject to removal.

Any person appointed to office by the council by authority of this act, may be removed therefrom by a vote of the majority of the aldermen elect; and the council may remove from office any alderman by a concurring vote of two-thirds of all the aldermen elect. In case of elective officers other than aldermen and justices of the peace, provision shall be made, by ordinance, for preferring charges against such officers and trying the same; and no removal of an elective officer, other than an alderman, shall be made except by a two-thirds vote of all the aldermen elect and unless a charge in writing is preferred, and an opportunity given to make a defense thereto.

Editor's note— The reference in Charter ch. VI, § 17 to the justice of the peace is obsolete. See MCL 600.9921.

Section 18. - Investigation of charges.

To enable the council to investigate charges against any officer, or such other matters as they may deem proper to investigate, the mayor, or any justice of the peace of the city, is empowered, at the request of the council, to issue subpoenas or process by warrant, to compel the attendance of persons and the production of books and papers, before the council or any committee thereof.

Editor's note— The reference in Charter ch. VI, § 18 to the justice of the peace is obsolete. See MCL 600.9921.

Section 19. - Power to compel attendance of witnesses.

Whenever the council, or any committee of the members thereof, are authorized to compel the attendance of witnesses for the investigation of matters which may come before them, the presiding officer of the council or chairman of such committee for the time being, shall have power to administer the necessary oaths.

Section 20. - Auditing accounts, claims.

The council shall audit and allow all accounts chargeable against the city, but no account or claim or contract shall be received for audit or allowance, unless it shall be accompanied with a certificate of an officer of the corporation, or an affidavit of the person rendering it, to the effect that he verily believes that the services therein charged have been actually performed or the property delivered for the city, that the sums charged therefor are reasonable and just, and that to the best of his knowledge and belief, no set-off exists, nor payment has been made on account thereof, except such as are endorsed and referred to in such account or claim, and every such account shall exhibit in detail all the items making up the amount claimed, and the true date of each. It shall be a sufficient defense in any court, to any action or proceeding for the collection of any demand or claim against the city for personal injuries or otherwise, that it has never been presented, certified to or verified as aforesaid, to the council for allowance; or if such claim is founded on contract that the same was presented without the affidavit or certificate as aforesaid, and rejected for that reason; or that the action or proceeding was brought before the council had a reasonable time to investigate and pass upon it.

CHAPTER VII. - ORDINANCES

Section 1. - Style concurrence.

The style of all ordinances shall be, "The City of Mackinac Island ordains." All ordinances shall require, for their passage, the concurrence of a majority of all the aldermen elected. The time when any ordinance shall take effect shall be prescribed therein. Such time, when the ordinance imposes a penalty, shall not be less than twenty days from the day of its passage.

Section 2. - Fines and penalties.

When, by the provisions of this act, the council of said city has authority to pass ordinances for any purpose they may prescribe fines, penalties and forfeitures not exceeding five hundred dollars unless a greater fine or penalty is herein authorized, or imprisonment not exceeding six months, or both, in the discretion of the court, together with the costs of prosecution for each violation of any of said ordinances; and may provide that the offender, on failing to pay any such fine, penalty or forfeiture, and the costs of prosecution, may be imprisoned for any term not exceeding six months unless payment thereof be sooner made; and may direct such imprisonment to be in the city prison, or in the county jail of Mackinac County or in such other prison or place of confinement in the state as provided by law. Such fine, penalty, forfeiture and imprisonment, for the violation of any ordinance, shall be prescribed therein.

Section 3. - Mayor may suspend immediate operation of ordinance.

No ordinance or resolution passed by the council shall have any force or effect, if, on the day of its passage, or on the next day thereafter, the mayor, or other officer or person legally discharging the duties of mayor, shall lodge in the office of the clerk a notice, in writing, suspending the immediate operation of such ordinance or resolution. If the mayor, or other officer or person legally exercising the office of mayor, shall, within three days after the passage of any such ordinance or resolution, lodge in the office of the city clerk his reasons in writing, why the same should not go into effect, the same shall not go into effect, nor have any legal operation unless it shall, at a subsequent meeting of the council, within one month after the filing of such veto, be passed by a three-fourths vote of all the aldermen elect, exclusive of the mayor or other officer or person legally exercising the duties of the office of mayor, and if so repassed shall go into effect according to the terms thereof. If such reasons shall not be lodged with the clerk as above provided, such ordinance or resolution shall have the same operation and effect, as if no notice suspending the same had been lodged with the city clerk, and no ordinance or resolution of the council shall go into operation until after the expiration of twenty-four hours after its passage, unless the said mayor, or acting mayor, shall approve the same in writing.

Section 4. - Repealed ordinance.

No repealed ordinance shall be revived unless the whole, or so much as is intended to be revived, shall be reenacted. When any section or part of a section of an ordinance is amended, the whole section, as amended, shall be reenacted.

Section 5. - Ordinances to be recorded.

All ordinances when approved by the mayor or when regularly enacted shall be immediately recorded by the clerk of the council, in a book to be called "The Record of Ordinances," and it shall be the duty of the mayor and clerk to authenticate the same by their official signatures upon such record.

Section 6. - Ordinance to be published.

Within one week after the passage of any ordinance the same shall be published in some newspaper printed in the county and circulated within the city, or posted in five public places in the city, and the clerk shall immediately after such publication of posting enter upon the record of ordinances, in a blank space to be left for such purpose under the recorded ordinance, a certificate stating in what newspaper and of what date such publication was made or when and of what date such posting was made, and sign the same officially, and such certificate shall be prima facie evidence that legal publication or posting of such ordinance has been made.

(Mich. Local Acts (1901), No. 263, § 1)

Section 7. - Courts to take notice of enactment.

In all courts having authority to hear, try or determine any matter or cause arising under the ordinances of any city, and in all proceedings in such city relating to or arising under the ordinances or any ordinance thereof, judicial notice shall be taken of the enactment, existence, provisions, and continuing force of the ordinances of the city. And whenever it shall be necessary to prove any of the laws, regulations or ordinances of said city, or any resolution adopted by the council thereof, the same may be read in all courts of justice, and in all proceedings: First, from a record thereof kept by the city clerk; second, from a copy thereof, or of such record thereof, certified by the city clerk under the seal of the city; third, from any volume of ordinances purporting to have been written or printed by authority of the council.

CHAPTER VIII. - ENFORCEMENT OF ORDINANCES[2]

Footnotes:

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Editor's note— Most of Charter ch. VIII appears superseded by the Code of Criminal Procedure (MCL 760.1 et seq.).

Section 1. - Prosecutions for violations, when commenced.

Prosecutions for violations of the ordinances of said city shall be commenced within two years after the commission of the offense, and shall be brought within the city.

Section 2. - Pecuniary penalty, how recovered.

Whenever a pecuniary penalty or forfeiture shall be incurred for the violation of any ordinance, and no provision shall be made for the imprisonment of the offender upon conviction therefor, such penalty or forfeiture may be recovered in an action of debt, or in assumpsit; and if it be a forfeiture of any property, it may be sued for and recovered in an action of trover, or other appropriate action. Whenever a corporation shall incur a penalty or forfeiture for the violation of any ordinance, the same shall be sued for in one of the actions aforesaid.

Section 3. - Judgment against defendant.

Such action shall be brought in the name of the city, and shall be commenced by summons. The form, time of return, and service thereof, the pleadings and all the proceedings in the cause shall, except as otherwise provided herein, conform to and be the same, as nearly as may be, as in like actions provided by law for the recovery of penalties for violations of the laws of the state. Upon the rendition of judgment against the defendant, execution shall issue forthwith, and except when against a corporation, shall require, if sufficient goods and chattels cannot be found to satisfy the same, that the defendant be committed to prison, there to remain for a period not exceeding ninety days, unless such execution be sooner paid, or he be discharged by due course of law; but imprisonment without payment shall not operate as a satisfaction of the judgment, nor shall costs be allowed to the defendant in any such action.

Section 4. - Suits, how commenced.

Prosecutions for violations of the ordinances of the city may also, in all cases, except against corporations, be commenced by warrant for the arrest of the offender.

Section 5. - Form of warrant.

Such warrant shall be in the name of the people of the State of Michigan, and shall set forth the substance of the offense complained of, and be substantially of the form, and be issued upon complaint made, as provided by law in criminal cases cognizable by justices of the peace. And the proceedings relating to the arrest and custody of the accused during the pendency of the suit, the pleadings, and all proceedings upon the trial of the cause, and in procuring the attendance and testimony of witnesses, and in the rendition of judgment, and in the execution thereof, shall, except as otherwise provided by this act, be governed by, and conform as nearly as may be, to the provisions of law regulating the proceedings in criminal cases cognizable by justices of the peace.

Section 6. - Court to render judgment.

If the accused shall be convicted, the court shall render judgment thereon, and inflict such punishment, either by fine or imprisonment, or both, not exceeding the limit prescribed in the ordinance violated, as the nature of the case may require, together with such costs of prosecution as the court shall order.

Section 7. - Execution of judgment.

Every such judgment shall be executed by virtue of an execution or warrant, specifying the particulars of the judgment. If the judgment be for the payment of a fine only, with or without costs, execution of the form prescribed in section three of this chapter shall issue forthwith. If judgment be for both fine and imprisonment, a warrant shall issue immediately for the commitment of the defendant until the expiration of the term mentioned in the sentence, and an execution shall issue at the same time against the goods and chattels of the defendant for the collection of the fine or forfeiture imposed; but in neither case above mentioned shall the imprisonment without payment operate as a satisfaction of the fine and costs imposed. In cases where a fine and imprisonment in default of payment thereof, or where imprisonment alone is imposed, a warrant of commitment shall issue accordingly, in the former case, until the expiration of the sentence, unless the fine and costs be sooner paid, and in the latter, for the term named in the sentence.

Section 8. - City allowed use of county jail.

Said city shall be allowed the use of the jail of Mackinac County for the confinement of all persons liable to imprisonment under the ordinances thereof, or under any of the provisions of this act; and any person so liable to imprisonment may be sentenced to, and committed to imprisonment, in such county jail or in the city prison, or other place of confinement provided by the city, or authorized by law, and the sheriff or other keeper of such jail, or other place of confinement or imprisonment, shall receive and safely keep any person committed thereto as aforesaid, until lawfully discharged.

Section 9. - Serve process.

All process issued in any prosecution or proceeding for the violation of any ordinance of the city, shall be directed to the city marshal, or to any constable of the city or county, and may be executed in any part of the state, by said officers or any other officer authorized by law to serve process issued by justices of the peace.

Section 10. - Not necessary to set forth ordinances.

It shall not be necessary in any suit, proceeding or prosecution, for the violation of any ordinance of the city, to state or set forth such ordinance or any provision thereof, in any complaint, warrant, process or pleading therein; but the same shall be deemed sufficiently set forth or stated, by reciting its title and the date of its passage or approval. It shall be a sufficient statement of the cause of action in any such complaint or warrant, to set forth substantially, and with reasonable certainty as to time and place, the act or offense complained of, and to allege the same to be in violation of an ordinance of the city, referring thereto by its title and the date of its passage or approval, and every court or magistrate having authority

to hear or determine the cause shall take judicial notice of the enactment, existence and provisions of the ordinances of the city, and the resolutions of the council, and of the authority of the city to enact the same.

Section 11. - May require jury; who can serve.

In all prosecutions for violations of the ordinances of the city, either party may require a trial by jury. Such jury, except when other provision is made, shall consist of six persons; and in suits commenced by warrant, shall be selected and summoned as in criminal cases cognizable by justices of the peace, and in suits commenced by summons as in civil causes triable before such magistrates. No inhabitant of the city shall be incompetent to serve as a juror in any cause in which the city is a party, or interested, on account merely of such interest as he may have in common with all the inhabitants of the city in the result of the suit.

Section 12. - Party convicted may appeal; bond.

Any party convicted of a violation of any ordinance of the city, in a suit commenced by warrant, as aforesaid, may remove the judgment and proceedings into the circuit court for Mackinac County by appeal or writ of certiorari; and the proceedings therefor, and the bond or security to be given thereon, and the proceedings and disposition of the cause in the circuit court, shall be the same as on appeal and certiorari in criminal causes cognizable by justices of the peace; and in suits to which the city shall be a party, brought to recover any penalty or forfeiture for such violations, either party may appeal from the judgment, or remove the proceedings, by certiorari, into the circuit court and the like proceedings shall be had therefor and thereon, and the like bond or security shall be given, as in cases of appeal and certiorari in civil causes, tried before justices of the peace, except that the city shall not be required to give any bond or security therein. The circuit court to which the cause shall be appealed or removed by certiorari shall also take judicial notice of the ordinances of the city, and the resolutions of the council, and of the provisions thereof.

Section 13. - Fines imposed.

All fines imposed for violations of the ordinances of the city, if paid before the accused is committed, shall be received by the court or magistrate before whom the conviction was had. If any fine shall be collected upon execution, the officer or persons receiving the same shall immediately pay over the money collected, to such court or magistrate. If the accused be committed, payment of the fine and costs imposed shall be made to the sheriff or other keeper of the jail or prison, who shall, within thirty days thereafter, pay the same to said court or magistrate; and the court or magistrate receiving any such fine or penalty, or any part thereof, shall pay the same into the city treasury, except such fines as by the constitution are appropriated for library purposes, on or before the first Monday of the month next after the receipt of the same, and take the treasurer's receipt for and file the same with the city clerk.

Section 14. - Neglect to pay fines.

If any person who shall have received any such fine, or any part thereof, shall neglect to pay over the same pursuant to the foregoing provision, it shall be the duty of the council to cause suit to be commenced immediately therefor, in the name of the city, and to prosecute the same to effect. Any person receiving any such fine, who shall wilfully neglect or refuse to pay over the same as required by the foregoing provisions, shall be deemed guilty of a misdemeanor and shall be punished accordingly.

Section 15. - Fines and expenses.

Fines paid into the city treasury for violations of ordinances of the city, shall be disposed of as the council may direct. The expenses of the apprehension and punishment of persons violating the ordinances of the city, excepting such part as shall be paid by costs collected, shall be defrayed by the city.

Section 16. - Circuit court shall have jurisdiction in certain cases.

The circuit court of the County of Mackinac shall have jurisdiction to hear, try and determine all causes arising under the ordinances of the city for violations thereof, when the fine or forfeiture imposed shall exceed one hundred dollars, or where the offender may be imprisoned for a term exceeding three months. The proceedings in the circuit court in all such cases, shall be the same as in prosecutions to recover penalties and forfeitures, and to punish violations of the criminal laws of the state; and the general laws of the state regulating prosecutions in criminal cases, and to recover penalties shall apply.

Editor's note— The provisions of Charter ch. VIII, § 16 are obsolete. See MCL 600.601 et seq., 600.8311.

Section 17. - Jurisdiction of justices.

The justice of the peace of the city shall have jurisdiction in all cases mentioned in the preceding section when the fine or forfeiture imposed shall not exceed one hundred dollars, or when the offender may be imprisoned for a term not exceeding three months.

Editor's note— The provisions of Charter ch. VIII, § 17 are obsolete. See MCL 600.9921.

Section 18. - Security for costs.

In all prosecutions for violations of the ordinances of the city, commenced by any person other than an officer of the city, the court may require the prosecutor to file security for the payment of the costs of the proceedings, in case the defendant is acquitted. But he shall not be liable for the payment of the costs if the magistrate before whom the complaint is made, or trial is had, shall certify in his minutes that there was probable cause for the making of such complaint.

CHAPTER IX. - GENERAL POWERS OF CITY CORPORATION

Section 1. - Powers.

Said City of Mackinac Island shall, in addition to such other powers as are herein conferred, have the general powers and authority in this chapter mentioned; and the council may pass such ordinances in relation thereto and for the exercise of the same, as they may deem proper, namely:

Power and authority relative to vice.

First, to restrain and prevent vice and immorality, gambling, noise and disturbance, indecent or disorderly conduct or assemblages, and to punish for the same; to prevent and quell riots; to preserve peace and good order, and to protect the property of the corporation, and of its inhabitants, and of any association, public or private corporation or congregation therein, and to punish for injuries thereto, or for unlawful interference therewith;

Vagrants, etc.

Second, to apprehend and punish vagrants, truants, mendicants, street beggars, drunkards and persons found drunk in any of the public streets or places in the city, disorderly persons, and persons conducting themselves in a disorderly manner in any of the public streets or places in the city, and common prostitutes;

State Law reference— Ordinances punishing public intoxication, MCL 333.65232, 750.167(1)(e).

Nuisances, etc.

Third, to prevent injury or annoyance from anything dangerous, offensive, or unhealthy; to prohibit and remove anything tending to cause or promote disease; to prevent and abate nuisances, and to punish those occasioning them, or neglecting or refusing to abate, discontinue, or remove the same;

Disorderly houses, etc.

Fourth, to prohibit and suppress all disorderly houses and places, houses of ill-fame, assignation houses, gambling houses, and all places where persons resort for gaming or to play at games of chance, and to punish the keepers thereof;

Billiard tables, etc.

Fifth, to regulate or license the use of billiard tables, nine or ten-pin alleys or tables, and ball alleys;

Gaming, etc.

Sixth, to prohibit and suppress every species of gaming, and to authorize the seizure and destruction of all instruments and devices used for the purpose of gaming;

Selling liquors to minors, etc.

Seventh, to prohibit and prevent the selling or giving of any spirituous, fermented or intoxicating liquors to any drunkard or intemperate person, minor or apprentice, and to punish any person so doing;

Shows, etc.

Eighth, to regulate, restrain or prohibit all sports, exhibitions of natural or artificial curiosities, caravans, circuses, menageries, theatrical exhibitions, shows, and all exhibitions of whatever name or nature, for which money or other reward is in any manner demanded or received; lectures on historic, literary, or scientific subjects excepted;

Violation of Sabbath.

Ninth, to prevent and punish violations of the Sabbath day, and the disturbances of any religious meeting, congregation or society, or other public meeting assembled for any lawful purpose; and to require all places of business to be closed on the Sabbath day;

Auctions.

Tenth, to license auctioneers, auctions and sales at auction; to regulate or prohibit the sale of live or domestic animals at auction in the streets or alleys, or upon any public grounds within the city; to regulate or prohibit the sale of goods, wares, property, or anything at auction, or by any manner of public biddings or offers by the buyers or sellers after the manner of auction sales, and to license the same, and to regulate the fees to be paid by and to auctioneers; but no license shall be required in case of sales required by law to be made at auction or public vendue;

Peddlers, etc.

Eleventh, to license hawkers, peddlers, and pawnbrokers, and hawking and peddling, and to regulate, license or prohibit the sale or peddling of goods, wares, merchandise, refreshments, or any kind of property or thing by persons going about from place to place in the city for that purpose, or from any stand, cart, vehicle, or other device in or upon the streets, highways, alleys, sidewalks, or in or upon the wharves, docks, or from boats, open places or spaces, public grounds or buildings in the city;

Wharf boats, tugs, etc.

Twelfth, to license and regulate wharf boats, and to regulate the use of tugs and other boats used in and about the harbor, and within the jurisdiction of the city;

Ferries.

Thirteenth, to establish or authorize, license and regulate ferries to and from the city, or any place therein, or from one part of the city to another, and to regulate and prescribe from time to time the charges and prices for the transportation of persons and property thereon;

Taverns, etc.

Fourteenth, to regulate and license all taverns and houses of public entertainment; all saloons, restaurants, and eating houses, and to regulate and prescribe the location of saloons; but this shall not be construed as authorizing the licensing of the sale of intoxicating liquors;

Vehicles, etc.

Fifteenth, to license and regulate all vehicles of every kind, used for the transportation of persons or property for hire, in the city, and regulate or fix their stands on the streets and public places, and at wharves, boat landings, railroad station grounds and other places;

Bridges.

Sixteenth, to regulate and license all toll bridges within the city, and to prescribe the rates and charges for passage over the same;

Inspection of meats, etc.

Seventeen, to provide for and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meat, and other provisions;

Weighing and measuring.

Eighteenth, to regulate the inspection, weighing and measuring of brick, lumber, fire-wood, coal, hay, and any article of merchandise;

Sealing of weights.

Nineteenth, to provide for the inspection and sealing of weights and measures, and to enforce the keeping and use of proper weights and measures by vendors;

Vaults, cisterns, etc.

Twentieth, to regulate the construction, repair and use of vaults, cisterns, areas, hydrants, pumps, sewers and gutters;

Obscenity.

Twenty-first, to prohibit and prevent, in the streets, or elsewhere in the city, indecent exposure of the person, the show, sale, or exhibition for sale, of indecent or obscene pictures, drawings, engravings, paintings, and books or pamphlets, and all indecent or obscene exhibitions and shows of every kind;

Editor's note— Local regulation of obscenity is preempted by MCL 752.370. Local regulation of material harmful to minors is preempted by MCL 722.671 et seq.

Bathing.

Twenty-second, to regulate or prohibit bathing in the rivers, ponds, streams and waters of the city;

Purity of waters.

Twenty-third, to provide for clearing the rivers, ponds, canals and streams of the city and the races connected therewith of all driftwood and noxious matter; to prohibit and prevent the depositing therein of any filth or other matter tending to render the waters thereof impure, unwholesome and offensive;

Offensive places, etc.

Twenty-fourth, to compel the owner or occupant of any grocery, tallow chandler shop, soap or candy factory, butcher shop or stall, slaughterhouse, stable, barn, privy, sewer, or other offensive, nauseous or unwholesome place or house, to cleanse, remove or abate the same whenever the council shall deem it necessary for the health, comfort, or convenience of the inhabitants of the city;

Explosives and combustibles.

Twenty-fifth, to regulate the keeping, selling, and using of dynamite, gunpowder, firecrackers and fireworks, and other explosive or combustible materials, and the exhibition of fireworks, and the discharge of firearms, and to restrain the making or lighting of fires in the streets and other open spaces in the city;

Cellars, drains, etc.

Twenty-sixth, to direct and regulate the construction of cellars, slips, barns, private drains, sinks, and privies;

Mock auctions, etc.

Twenty-seventh, to prohibit, prevent and suppress mock auctions, and every kind of fraudulent game, device, or practice, and to punish all persons managing, using, practicing, or attempting to manage, use or practice the same, and all persons aiding in the management or practice thereof;

Lotteries.

Twenty-eighth, to prohibit, prevent and suppress all lotteries for the drawing or disposing of money or any other property whatsoever, and to punish all persons maintaining, directing, or managing the same, or aiding in the maintenance, directing, or managing the same;

Hackman, runners, etc.

Twenty-ninth, to license and regulate solicitors for passengers or for baggage to and from any hotel, tavern, public house, boat or street railway station; and to provide the places where they may be admitted to solicit or receive patronage; also draymen, carmen, truckmen, porters, runners, drivers of cabs, hackney coaches, omnibuses, carriages, sleighs, express vehicles, and vehicles of every other description used and employed for hire, and to fix and regulate the amounts and rates of their compensation;

Paupers.

Thirtieth, to provide for the protection and care of paupers, and to prohibit and prevent all persons from bringing to the city, from any other place, any pauper, or other person likely to become a charge upon the city, and to punish therefor;

Census.

Thirty-first, to provide for taking a census of the inhabitants of the city, whenever the council shall see fit, and to direct and regulate the same;

License of dogs.

Thirty-second, to provide for the issuing of licenses to the owners and keepers of dogs, and to compel the owners and keepers thereof to pay for and obtain such licenses; and to regulate and prevent the running at large of dogs; to require them to be muzzled and to authorize the killing of all dogs not licensed, or running at large in violation of any ordinance of the city;

Toy pistols, etc.

Thirty-third, to prohibit and punish the use of toy pistols, sling shots and other dangerous toys or implements within the city;

Horses in streets to be fastened.

Thirty-fourth, to require any horses, mules, or other animals attached to any vehicle or standing in any of the streets, lanes, or alleys in the city to be securely fastened, hitched, watched or held; and to regulate the placing and provide for the preservation of hitching posts;

Numbering of buildings.

Thirty-fifth, to provide for and regulate the numbering of buildings upon the streets and alleys, and to compel the owners or occupants to affix numbers on the same; and to designate and change the names of public streets, alleys and parks;

Public fountains, etc.

Thirty-sixth, to provide for, establish, regulate and preserve public fountains and reservoirs within the city, and such troughs and basins for watering animals as they may deem proper;

Street railways.

Thirty-seventh, to prevent or provide for the construction and operation of street railways and to regulate the same and to determine and designate the route and grade of any street railway to be laid or constructed in said city;

Public library.

Thirty-eighth, to establish and maintain a public library, and to provide a suitable building therefor, and to aid in maintaining such other public libraries as may be established within the city by private beneficence as the council may deem to be for the public good;

May license transient traders.

Thirty-ninth, the council may also license transient traders, which shall be held to include all persons who may engage in the business of selling goods or merchandise after the commencement of the fiscal year, and the license fee in such cases may be apportioned with relation to the part of the fiscal year which has expired, but such traders, if they continue in the same business, shall not be required to take out a second license after the commencement of the next fiscal year: Provided, such goods or merchandise have been assessed for taxes for said fiscal year;

Council may enact all ordinances for the good of the city.

Fortieth, the council shall further have authority to enact all ordinances, and to make all such regulations, consistent with the laws and constitution of the state as they may deem necessary for the safety, order and good government of the city, and the general welfare of the inhabitants thereof; but no exclusive rights, privileges or permits shall be granted by the council to any person or persons, or to any corporation, for any purpose whatever.

Section 2. - Licenses.

The council may prescribe the terms and conditions upon which licenses may be granted and may exact and require payment of such reasonable sum for any license as they may deem proper. The person receiving the license shall, before the issuing thereof, execute a bond to the corporation, when required by the council, in such sum as the council may prescribe, with one or more sufficient sureties, conditioned for a faithful observance of the charter of the corporation and the ordinances of the council, and otherwise conditioned as the council may prescribe. Every license shall be revocable by the council at pleasure; and when any license shall be revoked for noncompliance with the terms and conditions upon which it was granted, or on account of any violation of any ordinance or regulation passed or authorized by the council, the person holding such license shall, in addition to all other penalties imposed, forfeit all payments made for such license.

Section 3. - Terms; punishment for noncompliance.

No license shall be granted for any term beyond the first Monday in June next thereafter, nor shall any license be transferable, and the council may provide for punishment by fine or imprisonment, or both, of any person who, without license, shall exercise any occupation or trade, or do anything for or in respect to which any license shall be required by any ordinance or regulation of the council.

Section 4. - Money received from licenses.

All sums received for licenses granted for any purpose by the city or under its authority, shall be paid into the city treasury to the credit of the contingent fund.

Section 5. - Power of council.

The council of said city shall have authority to permit any street railway company to lay its tracks and operate its road with steam, electric or other power, on or across the streets, highways and public alleys

of the city, as the council may deem expedient, upon such terms and conditions, and subject to such regulations, to be observed by the company, as the council may prescribe; and to prohibit the laying of such track, or the operating of any such road except upon such terms and conditions. But such permission shall not affect the right or claim of any person for damages sustained by reason of the construction or location of any such railroad or street railway. The said council shall also have authority to grant to any person, persons, or corporation the right to construct, own, operate and maintain systems of waterworks, lighting or motive power, or any one or more of such systems, for the purpose of supplying said city or the inhabitants thereof with water, or light or motive power, or one or more of the same, upon such terms and conditions as the council may prescribe, and may also grant to such person, persons, or corporation the right to charge such rates and to prescribe such regulations for the use of such water, light and power during the full term of the franchise, as the council and such grantee or grantees may in the first instance agree upon, and for such purpose or purposes said council may also grant to such person, persons or corporation, upon such terms and conditions as it may prescribe, such right to the use of the streets, alleys, wharves, parks and other public grounds and places of said city as may be necessary in the premises: Provided, that no permission or franchise for any purpose mentioned in this section, shall be given or granted for a period exceeding thirty years, nor without the affirmative vote in favor thereof of two-thirds of all the members of the said common council as constituted at the time.

(Mich. Local Acts (1901) No. 263, § 1)

Section 6. - Council to regulate lay of tracks, speed, etc., of railway cars.

The council shall have power to compel any street railway company to raise or lower their railroad track, to conform to street grades which may be established by the city from time to time; and to construct street crossings in such manner, and with such protection to persons crossing thereat, as the council may require, and to keep them in repair; also to regulate and prescribe the speed of street railway cars within the city; but such speed shall not be required to be less than six miles per hour; and to impose a fine of not less than five nor more than fifty dollars, upon the company, and upon any motorman, driver or conductor, violating any ordinance regulating the speed of street railway cars.

Section 7. - Council shall require ditches, drains, etc., to be kept open.

The council shall have power to require and compel any street railway company, to make, keep open and in repair, such ditches, drains, sewers, and culverts, along and under, or across their railroad tracks, as may be necessary to drain their grounds and right of way properly, and in such manner as the council shall direct, so that the natural drainage of adjacent property shall not be impeded. If any such street railway company shall neglect to perform any such requirement, according to the directions of the council, the council may cause the work to be done at the expense of such company, and the amount of such expense may be collected at the suit of the city against the company, in a civil action, before any court having jurisdiction of the cause.

Section 8. - Council may enact ordinances relative to buildings.

The council is authorized to enact all such ordinances and by-laws as it may deem proper relative to the building, rebuilding, maintaining and repairing of partition fences by the owners and occupants of adjoining lots, enclosures and parcels of land in said city; and relative to the assigning to the owners or occupants of such adjoining pieces of land the portion of such partition fences to be maintained by them respectively; and may provide for the recording of such assignments and divisions when made; and may provide for the recovery of damages from any owner or occupant who shall fail to comply with the provisions and requirements of any ordinance relative to such partition fences. And the council may appoint fence viewers, and prescribe their duties and mode of proceeding in all cases relative to partition fences in said city.

Section 9. - Support of poor.

The council of said city may make such provision as they shall deem expedient for the support and relief of poor persons residing in the city; and for that purpose may provide by ordinance for the election or appointment of a director of the poor for the city, and may prescribe his duties and vest him with such authority as may be proper for the exercise of his duties.

CHAPTER X. - POLICE[3]

Footnotes:

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State Law reference— Law enforcement training standards, MCL 28.601 et seq.

Section 1. - Council may provide for appointment of police force.

The council of said city may provide by ordinance for a police force, and for the appointment by the mayor, by and with the consent of the council, of such number of policemen and night-watchmen as they may think necessary for the good government of the city, and the protection of the persons and property of the inhabitants; and may authorize the mayor to appoint special policemen from time to time, when in his judgment the emergency or necessity may so require.

Section 2. - Rules for government; temporary police.

The council may make and establish rules for the regulation and government of the police, prescribing and defining the powers and duties of policemen and night-watchmen, and shall prescribe and enforce such police regulations as will most effectually preserve the peace and good order of the city, preserve the inhabitants from personal violence, and protect public and private property from destruction by fire and from unlawful depredation. The mayor is hereby authorized, whenever he shall deem it necessary for the preservation of peace and good order in the city, to appoint and place on duty such number of temporary policemen as in his judgment the emergencies of the case may require; but such appointments, unless made in accordance with some ordinance or resolution of the council shall not continue longer than three days.

Section 3. - Marshal as chief of police.

The city marshal, subject to the direction of the mayor, shall, as chief of police, have the superintendence and direction of the policemen and night-watchmen, subject to such regulations as may be prescribed by the council.

Section 4. - Powers and duties of police.

It shall be the duty of the police and night-watchmen and officers of the force under the direction of the mayor and chief of police, and in conformity with the ordinances of the city, and laws of the state, to suppress all riots, disturbances and breaches of the peace and to pursue and arrest any person fleeing from justice in any part of the state; to apprehend any and all persons in the act of committing any offense against the laws of the state, or the ordinances of the city involving a breach of the peace, and to take the offender forthwith before the proper court or magistrate, to be dealt with for the offense, to make complaints to the proper officers and magistrates of any person known or believed by them to be guilty of the violation of the ordinances of the city, or the penal laws of the state; and at all times diligently and faithfully to enforce all such laws, ordinances and regulations for the preservation of good order and the public welfare as the council may ordain and to serve all process directed or delivered to them for service, and for such purposes the chief of police, and every policeman and night-watchman, shall have all the powers of constables, and may arrest upon view and without process, any person in the act of violating any ordinance of the city involving a breach of the peace, or of committing any crime against the laws of the state. The chief of police and any policeman may serve and execute all process in suits and

proceedings for violations of the ordinances of the city, and also any other process which, by law, a constable may serve.

Section 5. - Policemen, compensation.

When employed in the service of process, policemen shall receive the same fees therefor as are allowed to constables for like services; when otherwise engaged in the performance of police duty, they shall receive such compensation therefor from the city as the council may prescribe. Every policeman shall report on oath to the council, at its first meeting in every month the amount of all moneys and fees received by him for services as policeman since his last preceding report, and the names of the persons from whom received, and the amount received from each.

Section 6. - Suspensions and removals.

The mayor may suspend or remove any policeman or night-watchman for neglect of duty, misconduct or other sufficient cause, as provided in section three of chapter five of this act.

CHAPTER XI. - CITY PRISON

Section 1. - Power to provide and maintain.

The council of said city shall have power to provide and maintain a city prison, and such watch or station houses as may be necessary, and may provide for the confinement therein of all persons liable to imprisonment or detention under the ordinances of the city, and for the employment of those imprisoned therein.

Section 2. - Prisoners kept at hard labor.

All persons sentenced to confinement in the city prison, and all persons imprisoned therein on execution or commitment for the non-payment of fines for violations of the ordinances of the city, may be kept at hard labor during the term of their imprisonment, either within or without the prison, under such regulations as the council may prescribe.

CHAPTER XII. - PUBLIC HEALTH

Section 1. - Protection.

The council of said city may enact such ordinances as may be deemed necessary for the preservation and protection of the health of the inhabitants thereof, and to prevent the introduction of malignant, infectious or contagious diseases within the city, or within one mile thereof; and for the removal of persons having such diseases, or who, from exposure thereto or otherwise may be suspected or believed to be liable to communicate the same, either beyond the city limits or to such hospital or place of treatment within the city as the council may prescribe, or the public safety may require.

Section 2. - Nuisances dangerous to life and health.

The council shall have power to prevent and remove or abate all nuisances dangerous to life or health within the city; and may require any person, corporation or company, causing such nuisance, and the owner or occupant of any lot or premises upon or in which any such nuisance or cause of disease may be found, to remove or abate the same, upon such notice, and within such time, and in such manner as the council may by ordinance or resolution direct.

Section 3. - Cellars and vaults dangerous to.

If any cellar, vault, lot, sewer, drain, place, or premises within the city shall be damp, unwholesome, offensive or filthy, or be covered during any portion of the year with stagnant or impure water, or shall be in such condition as to produce unwholesome or offensive exhalations, the council may cause the same

to be drained, filled up, cleaned, amended or purified; or may require the owner or occupant, or person in charge of such lot, premises or place, to perform such duty and may require the owner or occupant of any building, fence or structure, which may be dangerous or liable to fall and injure persons or property, to pull down or remove the same; or the council may cause the same to be done by the proper officers of the city.

Section 4. - Recovery of expense for removing nuisances.

If any person, corporation or company shall neglect to remove or abate any nuisance, or to perform any requirement made by or in accordance with any ordinance or resolution of the council, or by the board of health of the city, for the protection of the health of the inhabitants, and if any expense shall be incurred by the city in removing or abating such nuisance, or in causing such duty or requirement to be performed, such expense may be recovered by the city in an action of debt or assumpsit against such person, corporation or company. And in all cases where the city shall incur any expenses for draining, filling, cleansing or purifying any lot, place or premises, or for removing any unsafe building or structure, or for removing or abating any nuisance found upon any such lot or premises, the council may, in addition to all other remedies provided for the recovery of such expense, charge the same, or such part thereof as they shall deem proper, upon the lot or premises upon or on account of which such expense was incurred, or from which such nuisance was removed or abated, and cause the same to be assessed upon such lot or premises and collected as a special assessment.

State Law reference— Nuisance abatement, MCL 600.2940.

Section 5. - Dangerous and offensive business.

The council, when they shall deem it necessary, may from time to time assign, by ordinance, certain places within the city for the exercising of any trade or employment offensive to the inhabitants or dangerous to the public health; and may forbid the exercise thereof in places not so assigned and may change or revoke such assignments at pleasure; and whenever a business, carried on in any place so assigned, or in any other place in the city, shall become hurtful and dangerous to the health of the neighborhood, the council may prohibit the further exercise of such business or employment at such place.

Section 6. - Establishment of hospitals.

The council may purchase the necessary lands, and erect thereon, or otherwise provide one or more hospitals, pest-houses or quarantine buildings, either within or without the city limits, and provide for the appointment of the necessary officers, attendants, or employees, for the care and management thereof, and for the care and treatment therein of such sick and diseased persons as to the council or board of health of the city shall seem proper; and by direction of the council or board of health, persons having any malignant, infectious or contagious disease, or who have been exposed to such disease, may be removed to such hospital, pest-house or quarantine buildings, and there detained and treated, when the public safety may so require; and the council may provide such restraints and punishments as may be necessary to prevent any such person from departing from such hospital, pest house or quarantine grounds until duly discharged.

Section 7. - Council vested with powers of boards of health.

The council of said city shall also have and exercise within and for the city, all the powers and authority conferred upon boards of health by chapter forty-six, of the compiled laws of eighteen hundred and seventy-one, and all amendments thereto, being chapter thirty-nine of Howell's Annotated Statutes of the State of Michigan, so far as the same are applicable and consistent with this act; and they may enact such ordinances as may be proper for regulating the proceedings and mode of exercising such powers and authority. [Now repealed—See MCL 333.2401 et seq.]

Section 8. - May establish board of health.

The council, when deemed necessary, may establish a board of health for the city and appoint the necessary officers thereof, and provide rules for its government, and invest it with such power and authority as may be necessary for the protection and preservation of the health of the city; and in addition thereto the board shall have and exercise all the powers and authority conferred on boards of health by the chapter of the compiled laws referred to in the preceding section, so far as they may be exercised consistently with the provisions of this act. And the council may prescribe penalties for the violation of any lawful order, rule or regulation made by the board of health, or any officer thereof.

CHAPTER XIII. - CEMETERIES

Section 1. - City may acquire and own; regulate burials.

Said city may acquire, hold and own such cemetery or public burial place or places, either within or without the limits of the corporation, as in the opinion of the council shall be necessary for the public welfare, and suitable for the convenience of the inhabitants, and may prohibit the interment of the dead within the city, or may limit such interments therein to such cemetery or burial place as the council may prescribe; and the council may cause any bodies buried within the city in violation of any rule or ordinance made in respect to such burials to be taken up and buried elsewhere.

Section 2. - Raising money.

The council may, within the limitations of this act contained, raise and appropriate such sums as may be necessary for the purchase of cemetery grounds and for the improvement, adornment, protection and care thereof.

Section 3. - Board of trustees.

Whenever said city shall own, purchase or otherwise acquire any cemetery or cemetery grounds, the mayor, by and with the consent of the council, shall appoint five trustees who shall be freeholders and electors in the city, and who shall constitute a "Board of Cemetery Trustees." The five trustees so appointed shall hold their offices for the term of five years, except that at the first appointment one shall be appointed for one year, one for two years, one for the term of three years, one for the term of four years and one for the term of five years from the first Monday in May of the year when appointed, and annually thereafter one trustee shall be appointed for the term of five years. The council may remove any trustee so appointed for inattention to his duties, want of proper judgment, skill or taste for the proper discharge of the duties required of him, or other good cause. Said board shall serve without compensation.

Section 4. - Powers and authority.

The board of cemetery trustees shall appoint one of their number chairman and the city clerk shall be the clerk of the board. And the council may by ordinance invest the board with such powers and authority as may be necessary for the care, management and preservation of such cemetery and grounds, the tombs, and monuments therein, and the appurtenances thereof; and in addition to the duties herein mentioned, the board shall perform such other duties as the council may prescribe.

Section 5. - Idem.

Said board, subject to the directions and ordinances of the council, shall have the care and management of any such cemetery or burial place or places and shall direct the improvements and embellishments of the grounds; cause such grounds to be laid out into lots, avenues and walks; the lots to be numbered and the avenues and walks to be named and plats thereof to be made and recorded in the office of the city clerk. Such board shall also have power in its discretion to take, receive, and hold any property, real or personal, by devise or otherwise, which may be granted, transferred or devised to such board in trust for the purpose of caring for and keeping in good order and repair any given lot or lots, or portions thereof, specified in any such trust. The board shall fix the price of lots and make the sales

thereof. The conveyances of such lots shall be executed on behalf of the city by the city clerk, and be recorded in his office at the expense of the purchasers.

Section 6. - Idem.

Said board shall appoint the necessary superintendents and employees for the cemetery; expend the money provided for the care and improvement of the grounds; enforce the ordinances of the city made for the management and care thereof, and make such regulations for the burial of the dead, the care and protection of the grounds, monuments and appurtenances of the cemetery, and the orderly conduct of persons visiting the grounds, as may be consistent with the ordinances of the city and the laws of the state.

Section 7. - Treasurer to be custodian of moneys.

All moneys raised for any public cemetery authorized by this act, and all moneys received from the sale of lots therein, or otherwise therefrom, shall be paid into the city treasury, and constitute a fund to be denominated the "cemetery fund." Said fund shall not be devoted or applied to any other purpose, except the purposes of such cemetery. The board of trustees shall report to the council annually on the first Monday in March, and oftener when the council shall so require, the amount of all moneys received into and owing to the cemetery fund, and from what source and from whom, and the date, amount, items, and purpose of all expenditures and liabilities incurred, and to whom paid, and to whom incurred, and such other matters as the council shall require to be reported; which report shall be verified by the oath of the clerk of the board.

Section 8. - Council may pass relevant ordinances.

The council of said city may pass and enforce all ordinances necessary to carry into effect the provisions herein and to control or regulate such cemetery or burial place and the improvement thereof, and to protect the same and the appurtenances thereof from injury, and to punish violations of any lawful orders and regulations made by the board of cemetery trustees.

Section 9. - Church cemeteries.

The council shall have power also to pass all ordinances deemed necessary for the preservation and protection of any cemetery or burial place within the city, belonging to or under the control of any church, religious society, corporation, company or association, and for the protection and preservation of the tombs, monuments and improvements thereof, and the appurtenances thereto.

CHAPTER XIV. - POUNDS

Section 1. - Council may provide.

The council may provide and maintain one or more pounds within the city and may appoint pound-masters, prescribe their powers and duties and fix their compensation; and may authorize the impounding of all beasts and fowls found in the streets or otherwise at large contrary to any ordinance of the city; and if there shall be no pound or pound-master they may provide for the impounding of such beasts and fowls, by the city marshal, in some suitable place under his immediate care and inspection, and may confer on him the powers and duties of pound-master.

Section 2. - Fees.

The council may also prescribe the fees for impounding and the amount or rate of expenses for keeping, and the charges to be paid by the owner or keeper of the beasts or fowls impounded; and may authorize the sale of such beasts and fowls for the payment of such fees, expenses and charges, and for penalties incurred, and may impose penalties for rescuing any beast or thing impounded.

CHAPTER XV. - HARBORS, WHARVES AND HARBORMASTERS

Section 1. - Council may establish.

The council of said city, shall have the power to establish, construct, maintain, and control public wharves, docks, piers, landing places, and levees, basins, and canals, upon any lands or property belonging to or under the control of the city; and for that purpose the city shall have the use and control of the shore or bank of any lake, river or other waters within the city, not the property of individuals, to the extent to which the state can grant the same, and the council may lease wharfing and landing privileges upon any of the public wharves, docks, or landings, but not for a longer time than five years, and in such manner as to preserve the right of all persons to a free passage over the same with their baggage.

Section 2. - Power and authority.

The council shall have authority also to require and cause all docks, wharves, and landings, whether upon public grounds or upon the property of private individuals, to be constructed of such material and in such manner and maintained in conformity with such grade as may be established therefor by the council, and prescribe the line beyond which any such wharf, dock, or landing shall not be constructed or maintained.

Section 3. - Idem.

The council shall have authority to prohibit the incumbering of the public wharves and landings, and to regulate the use of all wharves, docks, and landing places within the city; regulate the use and location of wharf boats, and to regulate and prescribe the rates and charges for landing, wharfage, and dockage at all public and private wharves, docks, and landings, and to collect wharfage and dockage from boats, watercraft, and floats landing at or using any public landing place, wharf, or dock within the city.

Section 4. - Purity of waters.

The council shall have authority to provide by ordinance for the preservation of the purity of the waters of any harbor, river, or other waters within the city, and within a mile from the corporate boundaries thereof; to prohibit and punish the casting or depositing therein of any filth, logs, floating matter or any injurious thing; to control and regulate the anchorage, moorage and management of all boats, watercraft and float within the jurisdiction of the city; to prescribe the mode and speed of entering and leaving the harbor, and of coming to and departing from the docks, wharves and landings, by boats, watercraft and floats, and to regulate and prescribe, by such ordinances or through a harbormaster or other officer, such location for any boat, craft, vessel, or float and such changes of station in and use of the harbor as may be required to promote order therein, and the safety and convenience of all such boats, craft, vessels and floats; and generally to enact and enforce such ordinances and regulations not inconsistent with the laws of the United States and of this state, as in the opinion of the council shall be most conducive to the orderly, safe and convenient use and occupancy of the harbor, navigable waters, wharves, docks, piers, and landing places within the city.

Section 5. - License of tugs.

The council may also license and regulate the use of tugs, and prescribe the rates and charges of towage within the harbor or other waters of the city, and regulate the opening and passage of bridges.

Section 6. - Duties of harbormaster.

It shall be the duty of the marshal as harbormaster to enforce all such ordinances and regulations as the council may lawfully enact and prescribe, in respect to and over the navigable waters, harbors, wharves, docks, landings and basins, within the city, and in respect to the navigation trade, and commerce of the city, and the council may prescribe the powers and duties of such harbormaster and fix the compensation to be paid him.

CHAPTER XVI. - FERRIES

Section 1. - License.

The council of said city may regulate and license ferries from such city or any place of landing therein to the opposite shore, or from one part of the city to another; and may require the payment of such reasonable sum for such license as to the council shall seem proper and may impose such reasonable terms and restrictions in relation to the keeping and management of such ferries, and the time, manner, and rates of carriage and transportation of persons and property as may be proper, and provide for the revocation of any such licenses and for the punishment, by proper fines and penalties, of the violation of any ordinance prohibiting unlicensed ferries, and regulating those established and licensed.

CHAPTER XVII. - MARKETS

Section 1. - Council may establish and regulate.

The council of said city shall have the power to erect market houses, establish and regulate markets and market places for the sale of meats, fish, vegetables, and other provisions and articles necessary to the sustenance, convenience and comfort of the inhabitants; to prescribe the time for opening and closing the same; the kind and description of articles which may be sold; and the stands and places to be occupied by the vendors.

Section 2. - Rules and regulations.

The council may adopt and enforce such rules and regulations as may be necessary to prevent fraud, and to preserve order in the markets; and may authorize the immediate seizure, arrest, and removal from the market, of any person violating its regulations, together with any articles, in his or their possession; and may authorize the seizure and destruction of tainted or unsound meats, or other unwholesome provisions exposed for sale therein.

CHAPTER XVIII. - PUBLIC BUILDINGS, GROUNDS AND PARKS

Section 1. - Acquisition, use and disposition.

Said city may acquire, purchase and erect all such public buildings as may be required for the use of the corporation, and may purchase, acquire, appropriate, and own such real estate as may be necessary for public grounds, parks, markets, public buildings and other purposes necessary or convenient for the public good, and the execution of the powers conferred in this act; and such buildings and grounds, or any part thereof may be sold, leased and disposed of as occasion may require.

Section 2. - Hospitals, prisons; outside of city limits.

When the council shall deem it for the public interest, grounds and buildings for city prisons, workhouses and other necessary public uses, may be purchased, erected and maintained beyond the corporate limits of the city; and in such cases the council shall have authority to enforce, beyond the city limits, and over such lands, buildings and property, in the same manner and to the same extent as if they were situated within the city, all such ordinances and police regulations as may be necessary for the care and protection thereof, and for the management and control of the persons kept or confined in such prisons, workhouses or hospitals.

Section 3. - Parks within city.

The council shall have authority to lay out, establish and enlarge, or vacate and discontinue public grounds and parks within the city, and to improve, light and ornament the same, and to regulate the care thereof, and to protect the same and the appurtenances thereof from obstructions, encroachment and injury, and from all nuisances.

CHAPTER XIX. - SEWERS, DRAINS AND WATERCOURSES

Section 1. - Establishment and construction.

The council of said city may establish, construct and maintain sewers and drains whenever and wherever necessary, and of such dimensions and materials, and under such regulations as they may deem proper for the drainage of the city; and private property, or the use thereof, may be taken therefor in the manner prescribed in this act for taking such property for public use. But in all cases where the council shall deem it practicable such sewers and drains shall be constructed in the public streets and grounds.

Section 2. - Management and control.

The board of public works shall have the management, supervision and control of the sewers, sewerage system and drainage of the city, and the charge of their construction, subject to the general direction and approval of the council as herein provided, and the council may by ordinance prescribe the powers and duties of said board, relating to all matters connected with the sewers, sewerage system and drainage of the city.

Section 3. - Plan for drainage.

Whenever it may become necessary, in the opinion of the council to provide sewerage and drainage for the city, or for any part thereof, it shall be their duty to instruct and direct the board of public works to devise, or cause a plan of such sewerage or drainage to be devised, for the whole city, or for such part thereof as they shall determine.

Section 4. - How formed.

Such plan shall, in the discretion of the board, be formed with a view to the division of the city into main sewer districts, each to include one or more main or principal sewers, with the necessary branches and connections; the districts to be numbered and so arranged as to be as nearly independent of each other as may be. Plats or diagrams of such plan, when completed, shall be submitted to the council, and when adopted by the council shall be filed in the office of the clerk of the board.

Section 5. - Special sewer districts.

Main sewer districts may be subdivided into special sewer districts in such manner that each special district shall include one or more lateral or branch sewers connecting with a main sewer, and such lands as in the opinion of the board, subject to the approval of the council, will be benefited by the construction thereof. When deemed necessary, special sewer districts, to include one or more local or branch sewers, and such lands as in the opinion of the board, subject to the approval of the council, will be benefited by the construction thereof, may be formed of territory not included in any main sewer district.

Editor's note— A note in the copy of the Charter furnished to the publisher indicates that Charter ch. XIX, § 5 has been amended. No amendment has been furnished to the publisher.

Section 6. - Trunk sewers.

The council may, however, provide for main or trunk sewers without reference to sewer districts, and may direct the board of public works to prepare diagrams, or plats thereof, which, when approved by the council, shall be recorded in the office of the clerk, in the book of sewer records.

Section 7. - Payment manner.

The cost and expenses of establishing and making any main or trunk sewers, constructed without reference to sewer districts, shall be paid from the general sewer fund, excepting such portion or portions thereof as the council shall deem to be of benefit to adjacent private property, which property shall be described and the benefits thereto determined, assessed and taxed in the same manner as hereinafter

provided. Such part as the council shall determine, being not less than one-sixth of the cost and expense of any main district sewer, or of the cost of any lateral, branch or local sewer, constructed within a special sewer district, shall be paid from the general sewer fund, and the remainder of such cost and expenses shall be defrayed by special assessment upon all the taxable lands and premises included within the main or special sewer district, as the case may be, in proportion to the estimated benefits accruing to each parcel respectively from the construction of the sewer. Assessments according to benefits as aforesaid shall be made without reference to any improvements or buildings upon the lands.

Section 8. - Diagram of sewer district; estimate of cost.

Before proceeding to the construction of any district sewer, the council shall cause the board of public works to prepare, or cause to be prepared a diagram and plat of the whole sewer district, showing all the streets, public grounds, lands, lots and subdivisions thereof in the district, and the proposed route and location of the sewer; and the depth, grade and dimensions thereof, and shall procure an estimate of the cost thereof, and thereupon the council shall give two weeks' notice, by publication in one or more newspapers printed in the county, and circulated in the city, or by posting said notice in five public places in said city, of the intention to construct such sewer, and where said diagram and plat may be found for examination, and of the time when the board and the council will meet and consider any suggestions and objections that may be made by parties interested with respect to such sewer.

(Mich. Local Acts (1901) No. 263, § 1)

Section 9. - Route and location.

When the council shall determine to construct any such district sewer, they shall so declare by resolution, designating the district and describing by reference to the plat and diagram thereof, mentioned in the preceding section, the route and location, grade and dimensions of the sewer, and shall determine in the same resolution what part of the estimated expenses of the sewer shall be paid from the general sewer fund, and what part shall be defrayed by special assessment according to benefits; and they shall cause such plat and diagram as adopted to be recorded in the office of the city clerk in the book of sewer records.

Section 10. - Special assessments.

Special assessments for the construction of sewers shall be made by the board of special assessors in the manner provided in this act for making special assessments.

Section 11. - Majority may petition.

When the owner of a majority of the lands liable to taxation in any sewer district or part of the city which may be constituted a sewer district, shall petition for the construction of a sewer therein, the council shall construct a district sewer in such location, and if the lands included in the line of such proposed sewer are not within any sewer district, a district shall be formed for that purpose. In other cases sewers shall be constructed in the discretion of the council.

Section 12. - Private drains.

Whenever the council shall deem it necessary for the public health, they may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, and thereby to drain such lots and premises; and to keep such private drains in repair and free from obstruction and nuisance; and if such private drains are not constructed and maintained according to such requirement, the council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon in the manner hereinafter provided for the levying and collecting of special assessments.

Section 13. - Connection with public sewers.

The owners or occupants of lots and premises shall have the right to connect the same, at their own expense, by means of private drains, with the public sewers and drains, under such rules and regulations as the board of public works shall prescribe.

Section 14. - Annual fee for use.

The board of public works may charge and collect annually from persons whose premises are connected by private drains with the public sewers, such reasonable sum as they may deem just, in proportion to the amount of drainage through such private drain; and such charge shall be a lien upon the premises, and may be collected by special assessments thereon, or otherwise.

(Mich. Local Acts (1901) No. 263, § 1)

Section 15. - Expenses paid from special assessments.

Such part of the expenses of providing ditches and improving watercourses as the council shall determine, may be defrayed by a special assessment upon the lands and premises benefitted thereby, in proportion to such benefits.

Section 16. - Expenses paid from general fund.

The expenses of repairing public sewers, ditches and watercourses may be paid from the general sewer fund. The expenses of reconstructing public sewers shall be defrayed in the manner herein prescribed for paying the expenses of the construction thereof.

Section 17. - Council may enact ordinances.

The council may enact such ordinances as may be necessary for the protection and control of the public drains and sewers, and to carry into effect the powers herein conferred in respect to drainage of the city.

Section 18. - Manner of borrowing money.

If the council shall have determined to construct any main sewer in any main sewer district, or any main or trunk sewer, without reference to any sewer district, and if it shall be necessary for the city to borrow money for the payment of the amount determined by the council to be paid from the general sewer fund toward the construction of such sewer in such main sewer district, or for the payment of a trunk sewer to be constructed without reference to a sewer district, then before any further proceedings are had looking towards the construction of such sewer, the council shall cause to be made and recorded in their proceedings an estimate of the amount necessary to be borrowed for such purpose, and the question of borrowing such amount shall be submitted to the electors of the city at its next annual election or at a special election called for that purpose by the council as provided in this act, and shall be determined as two-thirds of the electors voting at such election by ballot shall decide; and if two-thirds of such electors shall vote for the borrowing of such amount of money, then it shall be lawful for any such city to borrow such sum of money not exceeding in all three per cent of the assessed value of the property in such city as shown by the last preceding tax roll, to be used exclusively for such purpose. The council shall have power to fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this section, and to issue the bonds of the city therefor, but the rate of such interest shall not exceed six per cent per annum, and such bonds shall not be sold for less than their par value.

CHAPTER XX. - STREETS AND PUBLIC GROUNDS

Section 1. - Control and repairing.

The council shall have supervision and control of all public highways, bridges, streets, avenues, alleys, sidewalks and public grounds within the city, and shall cause the same to be kept in repair, and free from nuisance. Said city shall not be liable in damages sustained by any person in such city either to his person or property or by reason of any defective street, sidewalk, crosswalk, or public highway, or by reason of any obstruction, ice, snow or other incumbrance upon such street, sidewalk, crosswalk or public highway, situated in said city, unless such person shall serve or cause to be served, within sixty days after such injury shall have occurred, a notice in writing upon the clerk or the deputy clerk of said city, which notice shall set forth substantially the time when and place where such injury took place, the manner in which it occurred, and the extent of such injury as far as the same has become known, and that the person receiving such injury intends to hold said city liable for such damages as may have been sustained by him. Said city shall not be responsible for the care, improvement, or repair of any street or alley laid out or dedicated to public use by the proprietors of any lands which had not been actually accepted, worked and used by the public as a street or alley before the incorporation of the city under this act, nor for the improvement and repair of any street or alley laid out or dedicated by any such proprietor after such incorporation, unless the dedication shall have been accepted and confirmed by the council by an ordinance or resolution specially passed for that purpose.

Section 2. - Powers and duties.

The council shall have authority to lay out, open, widen, extend, straighten, alter, close, vacate or abolish any highway, street or alley in the city, whenever they shall deem the same a public improvement; and, if in so doing it shall be necessary to take or use private property, the same may be taken in the manner in this act provided for taking private property for public use. The expense of such improvement may be paid by special assessments upon the property adjacent to or benefitted by such improvement, in the manner in this act provided for levying and collecting special assessments; or in the discretion of the council, a portion of such costs and expenses may be paid by special assessments as aforesaid, and the balance from the general street fund.

Section 3. - Vacating; notice.

When the council shall deem it advisable to vacate, discontinue or abolish any street, alley or public ground, or any part thereof, they shall by resolution so declare, and in the same resolution shall appoint a time, not less than four weeks thereafter, when they will meet and hear objections thereto; notice of such meeting with a copy of said resolution shall be published for not less than four weeks before the time appointed for such meeting, in one of the newspapers of the city or be posted twenty days next preceding such meeting in five public places in the city. Objections to such proposed action of the council may be filed with the city clerk in writing, and if any such shall be filed, the street, alley, or public ground, or any part thereof, shall not be vacated or discontinued, except by a concurring vote of two-thirds of the aldermen elect.

Section 4. - Survey and record of streets.

The council may cause all public streets, alleys and public grounds to be surveyed, and may determine and establish the boundaries thereof, and cause the surveys and descriptions thereof to be recorded in the office of the city clerk, in a book of street records; and they shall cause surveys and descriptions of all streets, alleys and public grounds opened, laid out, altered, extended, or accepted and confirmed by the council, to be recorded in like manner; and such record shall be prima facie evidence of the existence of such streets, alleys or public grounds as in the records described. Every resolution or ordinance discontinuing or vacating any street, alley or public grounds, shall also be recorded in said book of street records, and the record shall be prima facie evidence of all the matters therein set forth.

Section 5. - Street grades.

The council shall have authority to determine and establish the grades of all streets, avenues, alleys and public grounds within the city, and to require improvements and buildings adjacent to or abutting upon such streets, alleys or grounds to be made and constructed in conformity with such grade and upon such line as shall be prescribed by the council; and the council may change or alter the grade of any

street, alley or public ground, or of any part thereof, whenever in their opinion the public convenience will be promoted thereby. Whenever a grade shall be established or altered, a record and diagram thereof shall be made in the book of street records in the office of the city clerk.

Section 6. - Expense of change of grade.

Whenever any street, alley or public highway shall have been graded, or pavement shall have been constructed in conformity to grades established by authority of the city, and the expense thereof shall have been assessed upon lots or lands bounded by or abutting upon such street, alley or public highway, the owner or owners of such lots or lands shall not be subject to any special assessment occasioned by any subsequent change of grade in such pavement, street, alley or public highway, unless such change be asked for by a majority of the owners of such lots or lands; but the expense of all improvements occasioned by such change of grade shall be chargeable to and paid by the city.

Section 7. - Damage from change of grade.

Whenever the grade of any street or sidewalk shall have been heretofore, or shall hereafter be established, and improvements shall thereafter be made by the owner or occupant of the adjacent property in conformity to such grade, such grade shall not be changed without compensation to the owner for all damages to such property resulting therefrom, to be ascertained by a jury as provided in chapter twenty-three of this act, or said damages may be ascertained and agreed upon by and between such city and the owner or occupant of such premises. Whenever such damage shall be ascertained or agreed upon as heretofore provided, such damages, or such part thereof as the council shall deem equitable and just, shall be paid by the city, or the council may cause such damages, or such part thereof as may be just and proper, to be assessed upon such real estate as may be benefitted by reason of the change of such grade, and whenever the council shall determine to assess said damages, or any part thereof, upon the property benefitted, it shall determine and define a district in said city which in its judgment is benefitted by the improvement out of which said damages arise, and shall cause the same to be assessed upon such district, which said assessment shall be upon the owners or occupants of the taxable real estate in said district, in proportion as nearly as may be to the advantage or benefit each lot, parcel or subdivision is deemed to acquire by the improvement out of which such damages arise, but the property on account of which such damages were awarded shall not be included in said district. The assessment shall be made, and the amount levied and collected in the same manner as other assessments on a district deemed to be benefitted in the grading and improvement of streets, as provided for in this act; and all of the provisions of chapter twenty-two of this act, relative to special assessments and the collection thereof, shall apply thereto. Such damages when collected as aforesaid, and when determined upon by said city, shall be paid to the person entitled thereto.

PAVING AND IMPROVEMENTS

Section 8. - Authority; paving defined; sewer and water connection; neglect or refusal to connect.

The council shall have power to grade, pave, plank, gravel, curb, and otherwise improve and repair the highways, streets, avenues, lanes and alleys of the city; and for that purpose, and for defraying the expenses thereof, may divide the city into street districts. The term "paving" shall be deemed to include the construction of crosswalks, gutters and curbing. Whenever any paving has been ordered upon any street or public highway in the city, it shall be the duty of any person owning any lot or lots, lands or premises adjoining to, or abutting upon such street, before the same shall be paved, to put in and lay all such sewer, water and gas connections in front of their lands and premises, and carry the same from the pipe in such street to and beyond the curb line of such proposed pavement as the council shall determine to be necessary for the preservation of such proposed paving, when the same shall be laid and put down, and such connection shall be laid, made and put in, in the manner and at the time or times as shall be directed by the council. In case the owner of such lot or lots, lands or premises shall neglect or refuse to make, lay or put in such connections at the time or in the manner prescribed by the council, then the council shall cause the same to be made, laid or put in, and the respective owners of such lots, lands or premises shall be liable for the cost thereof, together with ten per cent in addition thereto as a penalty to be recovered by the city in an action of debt or assumpsit, or the costs together with the amount of such

penalty for which such persons shall be respectively liable, the council shall cause to be reported to the board of special assessors, to be levied and assessed by them as a special tax or assessment upon such lot or lots, lands or premises in the same manner as provided in section four, chapter twenty-one of this act, in cases of special assessment for rebuilding and keeping in repair sidewalks in such city.

Section 9. - Apportionment of paving expense.

Such part of the expenses of improving any street, lane or alley, by grading, paving, planking, graveling, curbing or otherwise, and of repairing the same as the council shall determine, may be paid from the general street fund or from the street district fund of the proper street district, or in part from each; or the whole, or such part of the expense of such improvement as the council shall determine, may be defrayed by special assessments upon lots and premises included in a special assessment district, to be constituted of the lands fronting upon that part of the street or alley so improved or proposed so to be; or constituted of lands fronting upon such improvement, and such other lands as in the opinion of the council may be benefitted by the improvement.

Section 10. - Public property.

When expenses for any such improvement or repairs shall be assessed in a special assessment district, and there shall be lands belonging to the city, school buildings or other public buildings, or public grounds not taxable, fronting upon such improvement, such part of the expense of such improvement as in the opinion of the council or board of assessors making a special assessment would be justly apportionable to such public grounds, buildings and city property and to any interior squares or spaces formed by the intersection of streets, were they taxable, shall be paid from the general street fund, or from the proper street district fund, or partly from each, as the council shall determine to be just, and the balance of such expenses shall be assessed upon the taxable lots and premises included in the special assessment district, in proportion to their number of feet frontage upon such improvement; or if the special assessment district shall include other lands not fronting upon the improvement, then upon all the lands included in such special assessment district in proportion to the estimated benefits resulting thereto from the improvement. When such assessment is to be made upon lots in proportion to their frontage upon the improvement, if from the shape or size of any lot an assessment thereon in proportion to its frontage would be unjust and disproportionate to the assessments upon other lots, the council or board of assessors making the assessment may assess such lot for such number of feet frontage as in their opinion will be just.

STREET REGULATIONS

Section 11. - Obstructions and encroachment.

The council shall have the power to prohibit and prevent obstructions and encumbrances in, and encroachments upon the public highways, streets and alleys of the city, and to remove the same, and to punish those who shall obstruct, encumber, encroach or maintain any encroachments, upon or in any such highway, street or alley; and to require all such persons to remove every such obstruction, encumbrance and encroachment.

Section 12. - Trees, lampposts.

The council may provide for and regulate the planting of shade and ornamental trees in the public highways, streets and avenues of the city, and for the protection thereof; and may light the streets and public places, and regulate the setting of lamps and lampposts therein, and protect the same.

Section 13. - Openings in streets.

The council may regulate the making of all openings in, and removals of the soil of public streets, and for the laying or repair of sewers, drains, tunnels, gas pipes, water pipes or for any other purpose; and may prohibit and prevent all such openings and removals of the soil, except by express permission of the council, and at such times and upon such terms and regulations as they may prescribe.

Section 14. - Use of streets; stands for vehicles; crowd gathering; animals running at large; cleaning of streets; general authority.

The council may regulate the use of the public highways, streets, avenues and alleys of the city, subject to the right of travel and passage therein. They shall have authority to prescribe the stands for all vehicles kept for hire, or, designate the places where loads of wood, coal, hay and other articles may stand for sale; to regulate traffic and sales in the streets and upon sidewalks; to regulate or prohibit the display, use or placing of signs, advertisements and banners, awning posts and telegraph, telephone or light poles and wires in or over the streets; to prohibit immoderate riding and driving in the streets or over bridges; to regulate or prohibit all such sports, amusements, proceedings and gathering of crowds in the streets as may interfere with the lawful use thereof, or render travel or passage therein inconvenient or unsafe; to prohibit and prevent the running at large of beasts and fowls in the streets or elsewhere in the city, and to impose penalties upon the owners or keepers thereof permitting the same; to cleanse and purify the streets; and to prohibit, prevent, remove and abate all nuisances therein, and to require the authors and maintainers thereof to remove the same and to punish them; and generally to prescribe and enforce all such police regulations over and in respect to the public streets, as may be necessary to secure good order and safety to persons and property in the lawful use thereof; and to promote the general welfare; and in addition to all other powers herein granted, the council shall have the same authority and powers over and in respect to the public streets of the city as are conferred by law upon highway commissioners in townships.

CHAPTER XXI. - SIDEWALKS

Section 1. - Construction.

The city council shall have control of all sidewalks in the public streets and alleys of the city, and may prescribe the grade thereof, and change the same when deemed necessary. They shall have power to build, maintain and keep in repair sidewalks and crosswalks in the public streets and alleys, and to charge the expense of constructing and maintaining such sidewalks upon the lots and premises adjacent to and abutting upon such walks.

Section 2. - Idem.

The council shall also have authority to require the owners and occupants of lots and premises to build, rebuild and maintain sidewalks in the public streets adjacent to and abutting upon such lots and premises, and to keep them in repair at all times, and to construct and lay the same upon such lines and grades, and of such width, materials, and manner of construction, and within such time as the council shall by ordinance or resolution prescribe, the expense thereof to be paid by such owner of occupant; or the council may, by a two-thirds vote of all the aldermen elect, pay such part of the expense of building or rebuilding such walk as they may deem proper from the general street fund, or from the street district fund of any street district in which such walk may be located.

Section 3. - Removal of snow and ice.

The council shall also have power, either by ordinance or resolution, to cause and require the owners and occupants of any lot or premises to remove all snow and ice from the sidewalks in front of or adjacent to such lot and premises, and to keep the same free from obstructions, encroachments, encumbrances, filth and other nuisances: Provided, that the council may, by a two-thirds vote of all the aldermen elect, provide by ordinance for the rebuilding, maintaining and keeping in repair of all sidewalks within the city, and for the removing of all ice and snow therefrom, and for keeping the same free from encumbrances, and pay the expense thereof from the general street fund, or from the street district fund of any street district in which the same may be located.

Section 4. - Neglect; penalties.

If the owner or occupant of any lot or premises shall fail to build, rebuild or maintain any particular sidewalk as mentioned and prescribed in the last two sections, or shall fail to keep the same in repair, or remove the snow, ice, and filth therefrom, or to remove and keep the same free from obstructions, encroachments, encumbrances, or other nuisances, or shall fail to perform any other duty required by the council or board of public works in respect to such sidewalks, within such time and such manner as the council shall require, said owner or occupant may as prescribed by ordinance be deemed guilty of a misdemeanor and punished as the council may by ordinance prescribe, and in addition thereto the council may cause said work to be done and improvements made and such sidewalk to be built, rebuilt or repaired, and the expense, or such part thereof as the council shall have determined, shall be charged to such owner or occupant, and the council may cause the amount of such expenses incurred thereby, for which such owner or occupant shall have become liable, together with a penalty of ten per cent in addition thereto, to be reported to the board of special assessors, to be levied by them as a special tax or assessment upon the lot or premises adjacent to and abutting upon such sidewalk, which special assessment shall be subject to review, after proper notice is given as in all other cases of special assessments provided for by this act, and such tax when confirmed shall be a lien upon such lot or premises the same as other special assessments, and the council shall order the city assessor to spread said amount, together with such penalty, upon his roll as a special assessment upon such lot or premises, and the same shall be collected in the same manner as other city taxes; or the city may collect such amount, together with the penalty aforesaid, from the owner or occupant of such premises in an action of assumpsit, together with costs of suit.

Section 5. - Sign regulation, excavation.

The council shall have power to regulate and prohibit the placing of signs, awnings, awning posts, and of other things upon or over sidewalks, and to regulate or prohibit the construction and use of openings in the sidewalks, and of all vaults, structures and excavations under the same; and to prohibit and prevent obstructions, encumbrances or other nuisances upon the walks.

CHAPTER XXII. - COST OF IMPROVEMENTS—SPECIAL ASSESSMENTS

Section 1. - Certain improvements paid from general fund; special assessment.

The cost and expense of the following improvements, including the necessary lands therefor, namely: For city hall and other public buildings and offices for the use of the city officers, engine houses and structures for the fire department, for water works, for lighting purposes, hospitals, quarantine grounds or pest-houses, market houses and spaces, cemeteries and parks, watch-houses, city prisons, and workhouses, and public wharves and landings upon navigable waters, levees and embankments, shall be paid from the proper general funds of the city. When by the provisions of this act the cost and expenses of any local or public improvement may be defrayed in whole or in part by special assessment upon lands abutting upon and adjacent to or otherwise benefitted by the improvement, such assessment may be made as in this chapter provided.

Section 2. - Board of accessors; compensation.

There shall be a board of special assessors in said city, consisting of the marshal and two other members, who shall be freeholders and electors in the city, to be appointed by the mayor, by and with the consent of the council. Their compensation shall be prescribed by the council. Special assessments authorized by this act shall be made by such board. If a member of the board shall be interested in any special assessment directed by the council, they shall appoint some other person to act in his stead in making the assessment, who for the purposes of that assessment shall be a member of the board.

Section 3. - Expenses of improvements, how apportioned.

When the council shall determine to make any public improvement or repairs, and defray the whole or any part of the cost and expenses thereof by special assessment, they shall so declare by resolution, stating the improvement, and what part or portion of the expenses thereof shall be paid by special assessment, and what part, if any, shall be appropriated from the general funds of the city, or from street

district funds, and shall designate the district or lands and premises upon which the special assessment shall be levied.

Section 4. - Estimates, plats; notice of meeting to consider.

Before ordering any public improvements or repairs, any part of the expenses of which is to be defrayed by special assessment, the council shall cause estimates of the expense thereof to be made, and also plats and diagrams, when practicable, of the work, and of the locality to be improved, and deposit the same with the city clerk for public examination; and they shall give two weeks notice thereof and of the proposed improvement or work, and of the district to be assessed, by publication in one of the newspapers of the city, or by posting said notice in five public places in said city, and of the time when the council will meet and consider any objections thereto. Unless a majority of the persons to be assessed shall petition therefor, no such improvement or work shall be ordered, except by the concurrence of two-thirds of the aldermen elect.

State Law reference— Notices and hearing relative to special assessments, MCL 211.741 et seq.

Section 5. - Costs.

The cost and expenses of any improvement which may be defrayed by special assessment shall include the costs of surveys, plans, assessments, and costs of construction. In no case shall the whole amount to be levied by special assessment upon any lot or premises for any one improvement exceed twenty-five per cent of the value of such lot or land, as valued and assessed for state and county taxation in the last preceding tax roll; any cost exceeding that per cent which would otherwise be chargeable on such lot or premises, shall be paid from the general funds of the city.

Section 6. - When levied.

Special assessments to defray the estimated cost of any improvement, shall be levied before the making of the improvement.

Section 7. - Statement to board of assessors.

When any special assessment is to be made pro rata upon the lots and premises in any special district, according to frontage or benefits, the council shall, by resolution, direct the same to be made by the board of assessors; and shall state therein the amount to be assessed, and whether according to frontage or benefits; and describe or designate the lots and premises, or locality constituting the district to be assessed.

Section 8. - Assessment roll.

Upon receiving such order and directions, the board of assessors shall make out an assessment roll, entering and describing therein all the lots, premises and parcels of land to be assessed, with the names of the persons, if known, chargeable with the assessments thereon; and shall levy thereon and against such persons the amount to be assessed, in the manner directed by the council and the provisions of this act, applicable to the assessment. In all cases where the ownership of any description is unknown to the board of assessors, they shall, in lieu of the name of the owner, insert the name "Unknown;" and if by mistake or otherwise, any person shall be improperly designated as the owner of any lot, parcel of land or premises, or if the same shall be assessed without the name of the owner, or in the name of a person other than the owner such assessment shall not, for any such cause, be vitiated, but shall, in all respects, be as valid upon and against such lot, parcel of land or premises as though assessed in the name of the proper owner, and, when the assessment roll shall have been confirmed, be a lien on such lot, parcel of land or premises, and collected as in other cases.

Section 9. - Assessment according to benefits.

If the assessment is required to be according to frontage, the board of assessors shall assess to each lot or parcel of land such relative portion of the whole amount to be levied as the length of front of such premises abutting upon the improvement bears to the whole frontage of all the lots to be assessed, unless on account of the shape or size of any lot, an assessment for a different number of feet would be more equitable. If the assessment is directed to be according to benefits, they shall assess upon each lot such relative portion of the whole sum to be levied as shall be proportionate to the estimated benefit resulting to such lot from the improvement. When the board shall have completed the assessment they shall report the same to the council; such report to be signed by at least two of the assessors, may be in the form of a certificate, endorsed on the assessment roll as follows:

STATE OF MICHIGAN,	)	
	)	SS.
CITY OF MACKINAC ISLAND.	)	

To the Council of the City of Mackinac Island:

We hereby certify and report, that the foregoing is the special assessment roll, and the assessment made by us pursuant to a resolution of the council of said city, adopted (give date), for the purpose of paying that part of the cost which the council decided should be paid and borne by special assessment for the (here insert the object of the assessment); that in making such assessment we have, as near as may be, and according to our best judgment conformed in all things to the directions contained in the resolution of the council hereinbefore referred to, and the charter of the city relating to such assessments.

Dated _____	_____
	_____
	_____
	Board of Assessors

Section 10. - Other assessments.

When any expense shall be incurred by the city upon or in respect to any separate or single lot, parcel of land or premises which, by the provisions of this act, the council is authorized to charge and collect as a special assessment against the same, and not being of that class of special assessments required to be made pro rata upon several lots or parcels of land in a special assessment district, on account of the labor or services for which such expense was incurred, verified by the officer or person performing the labor or services, or causing the same to be done, with a description of the lot or premises upon or in respect to which the expense was incurred, and the name of the owner or person, if known, chargeable therewith, shall be reported to the council in such manner as they shall prescribe. And the provisions of the preceding sections of this chapter with reference to special assessments generally, and

the proceedings necessary to be had before making the improvement shall not apply to assessments to cover the expenses incurred, in respect to that class of improvements contemplated in this section.

Section 11. - Dates of council respecting special assessments.

The council shall determine what amount or part of every such expense shall be charged, and the person, if known, against whom, and the premises upon which the same shall be levied as a special assessment; and as often as the council shall deem it expedient they shall require all of the several amounts so reported and determined, and the several lots or premises, and the persons chargeable therewith, respectively, to be reported by the city clerk to the board of assessors for assessment.

Section 12. - Duties of assessors.

Upon receiving the report mentioned in the preceding section, the board of assessors shall make a special assessment roll, and levy as a special assessment therein, upon each lot or parcel of land so reported to them, and against the persons chargeable therewith, if known, the whole amount or amounts of all the charges so directed as aforesaid to be levied upon each of such lots or premises respectively and when completed they shall report the assessment to the council.

Section 13. - Filing and review of assessment.

When any special assessment shall be reported by the board of assessors to the council, as in this chapter directed, the same shall be filed in the office of the city clerk and numbered consecutively. Before adopting such assessment, the council shall cause notice to be published two weeks, at least, in some newspaper of the city, or shall cause two weeks notice to be given by posting such notice in five public places in said city of the filing of the same with the city clerk, and appointing a time when the council and board of assessors will meet to review said assessment. Any person objecting to the assessment may file his objections thereto in writing with the city clerk. The notice provided for in this section may be addressed to the persons whose names appear upon the special assessment roll, and to all others interested therein, and may be in the following form:

NOTICE OF SPECIAL ASSESSMENT

To (insert the names of the persons against whom the assessment appears), and to all other persons interested, take notice: That the roll of the special assessment heretofore made by the board of assessors for the purpose of defraying that part of the cost which the council decided should be paid and borne by special assessment for the (insert the object of the assessment and the locality of the proposed improvement in general terms) is now on file in my office for public inspection. Notice is also hereby given, that the council and board of assessors of the City of Mackinac Island will meet at the council room in said city on (insert the date fixed upon) to review said assessment, at which time and place opportunity will be given all persons interested to be heard.

Dated _____	
	_____
	City Clerk

State Law reference— Notices and hearing relative to special assessments, MCL 211.741 et seq.

Section 14. - Review of assessment.

At the time and place appointed for the purpose, as aforesaid, the council and board of assessors shall meet and there, or at some adjourned meeting, review the assessment, and shall hear any objections to any assessment which may be made by any person deeming himself aggrieved thereby, and the council may correct said roll as to any assessment, or description of premises, appearing therein, and may confirm it as reported, or as corrected; or they may refer the assessment back to the board for revision; or annul it and direct a new assessment; in which case the same proceedings shall be had as in respect to the previous assessment. When a special assessment shall be confirmed, the city clerk shall make an endorsement upon the roll showing the date of confirmation.

State Law reference— Notices and hearing relative to special assessments, MCL 211.741 et seq.

Section 15. - Confirmation.

When any special assessment shall be confirmed by the council, it shall be final and conclusive.

Section 16. - Assessment constitutes a lien.

All special assessments shall, from the date of the confirmation thereof, constitute a lien upon the respective lots or parcels of land assessed, and shall be charged against the person to whom assessed until paid.

Section 17. - Installments.

Upon the confirmation of any special assessment, the amount thereof may be divided into not more than five installments, one of which shall be collected each year, at such times as the council shall determine, with annual interest at a rate not exceeding six per cent per annum, but the whole assessment after confirmation may be paid to the city treasurer at any time in full, with the proportionate interest thereon.

Section 18. - First installment, when due.

All special assessments, except such installments thereof as the council shall make payable at a future time, as provided in the preceding section, shall be due and payable upon confirmation.

Section 19. - Division of assessment, special roll to be made.

If any special assessment shall be divided into installments, a special assessment roll shall be made for each installment as the same shall become due, with the accrued interest upon all unpaid installments included and assessed therein. Such special rolls may be made and confirmed without notice to the persons assessed.

Section 20. - Division of lots.

Should any lots or lands be divided after a special assessment thereon has been confirmed and divided into installments, and before the collection of all the installments, the council may require the board of assessors to apportion the uncollected amounts upon the several parts of lots and lands so divided. The report of such apportionment, when confirmed, shall be conclusive upon all the parties, and all assessments thereafter made upon such lots or lands shall be according to such division.

Section 21. - Deficiency.

Should any special assessment prove insufficient to pay for the improvement or work for which it was levied, and the expenses incident thereto, the council may, within the limitations prescribed for such

assessments, make an additional pro rata assessment to supply the deficiency, and in case a larger amount shall have been collected than was necessary, the excess shall be refunded ratably to those by whom it was paid.

Section 22. - Irregularity.

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

Section 23. - Lien not destroyed.

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

Section 24. - Assessments that may be reported to assessor.

Whenever any special assessment shall be confirmed and be payable, the council may direct the city clerk to report to the city assessor a description of such lots and premises as are contained in said roll, with the amount of the assessment levied upon each, and the name of the owner or occupant against whom the assessment was made, and direct said assessor to levy the several sums so assessed as a tax upon the several lots and premises to which they were assessed respectively. Upon receiving said report, the assessor shall levy the sums therein mentioned upon the respective lots and premises to which they are specially assessed, and against the persons chargeable therewith, as a tax, in such tax roll next thereafter to be made, in a column for special assessments, and thereupon the amounts so levied in said roll shall be collected and enforced with the other taxes in the tax roll, and in the same manner; and shall continue to be a lien upon the premises assessed, until paid, and when collected shall be paid into the city treasury.

Section 25. - Council to order direct collection by city treasurer.

When any special assessment shall be confirmed, and be payable as hereinbefore provided, the council, instead of requiring the assessments to be reported to the assessor, as provided in the preceding section, may direct the assessment so made in the special assessment roll to be collected directly therefrom; and thereupon the city clerk shall attach his warrant to a certified copy of said special assessment roll, therein commanding the city treasurer to collect from each of the persons assessed in said roll the amount of money assessed to and set opposite his name therein; and in case any person named in said roll shall neglect or refuse to pay his assessment upon demand, then to levy and collect the same by distress and sale of the goods and chattels of such person; and return said roll and warrant, together with his doings thereon, within sixty days from the date of such warrant.

Section 26. - Duty of treasurer.

Upon receiving said assessment roll and warrant, the city treasurer shall proceed to collect the amounts assessed therein. If any person shall neglect or refuse to pay his assessment upon demand, the treasurer shall seize and levy upon any personal property found within the city, or elsewhere within the state belonging to such person, and sell the same at public auction, first giving six days' notice of the time and place of such sale, by posting such notices in three of the most public places in the city or township where such property may be found. The proceeds of such sale, or so much thereof as may be necessary

for that purpose, shall be applied to the payment of the assessment, and a percentage of four per centum upon the amount of the assessment for the costs and expenses of said seizure and sale, and the surplus, if any, shall be paid to the person entitled thereto.

Section 27. - Further duties.

The treasurer shall make return of said assessment roll and warrant to the city clerk according to the requirement of the warrant, and if any of the assessments in said roll shall be returned unpaid, the treasurer shall attach to his return a statement, verified by affidavit, containing a list of the persons delinquent, and a description of the lots and premises upon which the assessments remain unpaid, and the amount unpaid on each.

Section 28. - Reassessment.

Said warrant may be renewed from time to time by the city clerk, if the council shall so direct, and for such time as they shall determine, and during the time of such renewal the warrant shall have the same force, and the city treasurer shall perform the same duties and make the like returns, as above provided. In case any assessment shall be finally returned by the city treasurer unpaid, as aforesaid, the same may be certified to the assessor in the manner provided in section twenty-four of this chapter, and shall then be reassessed with interest included at the rate of ten per cent per annum from the day of the confirmation of the assessment until the first day of December next, in the next city tax roll, and be collected and paid in all respects as provided in section twenty-four aforesaid.

Section 29. - Collection by suit.

At any time after a special assessment has become payable, the same may be collected by suit, in the name of the city, against the person assessed, in an action of assumpsit, in any court having jurisdiction of the amount. In every such action a declaration upon the common count for money paid shall be sufficient. The special assessment roll and a certified order or resolution confirming the same shall be prima facie evidence of the regularity of all the proceedings in making the assessment, and of the right of the city to recover judgment therefor.

Section 30. - Judgment in ease of irregularity.

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

CHAPTER XXIII. - APPROPRIATION OF PRIVATE PROPERTY[4]

Footnotes:

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Editor's note— The provisions of this chapter are superseded by MCL 213.21 et seq., 213.51 et seq. and other acts found in MCL 213.1 et seq.

Section 1. - Purpose.

Private property may be appropriated for public use in said city for the purpose of opening, widening, altering or extending streets, alleys and avenues; for the construction of bridges, for public buildings and for other public structures, for public grounds, parks, market places and spaces; for public wharves, docks, slips, basins and landings on navigable waters and for the improvement of watercourses; for

sewers, drains and ditches; for public hospitals, pest-houses, quarantine grounds and public cemeteries, and for other lawful and necessary public uses.

Section 2. - Manner of acquiring.

If it shall become necessary to appropriate private property for the public uses or purposes specified in the preceding section, the right to occupy and hold the same and the ownership therein and thereto may be acquired by the city either in the manner and with like effect as provided by the general laws of this state relating to the taking of private property for public use in cities and villages, or by instituting and prosecuting the proceedings for that purpose as hereinafter set forth.

Section 3. - Proceedings of council when seizure is necessary.

Whenever the council shall have declared a public improvement to be necessary in the municipality and shall have declared that they deem it necessary to take private property, describing it, for such public improvement, designating it, and that the improvement is for the use or benefit of the public, they shall, by resolution, direct the city attorney or other attorney to institute the necessary proceedings in behalf of the municipality, before such justice of the peace of the city as they may designate, to carry out the object of the resolution in regard to taking private property by the city for such public use.

Section 4. - Attorney to file petition with justice.

The city clerk shall make and deliver to such attorney, as soon as may be, a copy of such resolution certified under seal, and it shall be the duty of such attorney to prepare and file with such justice, in the name of the city, a petition signed by him in his official or representative character and duly verified by him; to which petition a certified copy of the resolution of the council shall be annexed, which certified copy shall be prima facie evidence of the action taken by the council and of the passage of the said resolution. The petition shall state, among other things, that it is made and filed as commencement of judicial proceedings by the municipality in pursuance of this act to acquire the right to take private property for the use or benefit of the public, without consent of the owners, for a public improvement, designating it, for a just compensation to be made. A description of the property to be taken shall be given, and generally the nature and extent of the use thereof that will be required in making and maintaining the improvement shall be stated, and also the names of the owners and others interested in the property, so far as can be ascertained, including those in possession of the premises. The petition shall also state that the council has declared such public improvement to be necessary and that they deem it necessary to take the private property described in that behalf for such improvement for the use or benefit of the public. The petition shall ask that a jury be summoned and impaneled to ascertain and determine whether it is necessary to make such public improvement, whether it is necessary to take such private property as it is proposed to take for the use or benefit of the public, and to ascertain and determine the just compensation to be made therefor. The petition may state any other pertinent matter or things, and may pray for any other or further relief to which the municipality may be entitled, within the objects of this chapter.

Section 5. - Justice to summons respondents.

Upon receiving such petition it shall be the duty of the said justice to issue a summons against the respondents named in such petition, stating briefly the object of said petition, and commanding them, in the name of the people of the State of Michigan, to appear before said justice at a time and place to be named in said summons, not less than twenty nor more than forty days from the date of the same, and show cause, if any they have, why the prayer of said petition should not be granted.

Section 6. - Summons; minor.

Said summons shall be served by the city marshal, any member of the police force, or any constable of the city, at least five days before the return day thereof, upon all the respondents found within the county, by exhibiting the original and delivering a copy to each of them. If any respondent who is a resident of the county cannot be found, the summons shall be served by leaving a copy thereof at his or

her usual or last place of abode, with some person of suitable age and discretion. If any minor or person of unsound mind is interested in the premises to be taken, service may be made on the guardian of such person, if any, and if there is no guardian, the justice may appoint some discreet and proper person to be guardian ad litem of such person in such proceedings, and such guardian shall have authority to represent such person in said proceedings. The proceedings to appoint such guardian shall be the same as in other cases provided by statute. If it shall appear on the return day of the summons that any respondent cannot be found within the county and has not been served in the manner provided, or is a non-resident and has not voluntarily appeared, the court may make an order requiring such respondent or respondents to appear and show cause why the prayer of the petition should not be granted, on a day to be named in the order, and not less than thirty days from the date thereof, and may require that a certified copy of such order be personally served on such respondents wherever found, if practicable, at least six days before the time named in the order for appearance, or the court may make such order for appearance and require as to any or all of such respondents who shall not have been personally served and have not appeared, that service be made by publishing a certified copy of such order for three successive weeks, at least once in each week, in at least one newspaper published within Mackinac County, the last publication to be at least six days before the day fixed in the order for appearance. Alias and pluries summons may be issued, and the justice may adjourn the proceedings from time to time as there shall be occasion, and as in other civil cases. Service of such order for appearance in either mode prescribed shall be sufficient notice of the proceedings to bind the respondents and the property represented by them. The return of the officer upon the summons and an affidavit of the due service or the publication of the order for appearance, if any, shall be filed with such justice before a jury shall be impaneled, and be sufficient evidence of service on the respondents and of the manner of service.

Section 7. - Impaneling jury.

On the return day of the summons, or on some subsequent day to which the proceedings are adjourned, if no sufficient cause to the contrary has been shown, the justice shall make an order that a jury be impaneled in the case. Such jury shall be composed of twelve freeholders of the municipality and shall be selected and impaneled as follows: The city marshal or any constable or any member of the police force of said city shall, on the same day, or at an adjourned day, make a list of twenty-four resident freeholders of said city, and the city attorney or other attorney for the city and the respondents collectively, shall each have the right to strike six names from the list of persons written down as aforesaid, and subject to objection for cause; the twelve persons whose names are left on the list shall compose the jury for the trial of the cause and shall be summoned to attend at not less than three nor more than ten days from the date of selecting such jury, by a venire issued by him and to be served by one of the officers aforesaid. If the respondents neglect or refuse to strike six names from said list, it shall be done by the justice, and in case any of the persons to be summoned cannot by him be found in the county, or being summoned do not attend, or shall be excused for cause or otherwise, talesmen possessing the necessary qualifications may be summoned as jurors in the case by such officer, and the practice and proceedings under this chapter, except as herein otherwise provided, relative to impaneling, summoning and excusing jurors and talesmen and imposing penalties or fines upon them for non-attendance, shall be the same as the practice and proceedings of justice courts relative to jurors in civil cases in such courts.

Section 8. - Oath of jurors.

The jurors so impaneled shall be sworn or shall affirm in substance as follows: "You do solemnly swear (or affirm) that you will well and truly ascertain and determine whether there is a public necessity for making the proposed improvement and for taking for the use or benefit of the public the private property which the petition describes and prays may be taken, and if you shall determine that it is necessary to make such improvement and to take said property, that then you ascertain, determine and award the just compensation to be made therefor, and faithfully and impartially discharge all other duties as devolve upon you in this case, and unless discharged by the court, a true verdict give, according to the law and evidence, so help you God (or under the pains and penalties of perjury)." The jury shall hear the proofs and allegations of the parties, and shall go to the place of the intended improvement, in the charge of an officer, and upon or as near as practicable to the property proposed to be taken and examine the

premises. They shall be instructed as to their duties and the law of the case by the justice, and shall retire under the charge of an officer and render their verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and be signed by all jurors.

Section 9. - Determination; award.

The jury shall determine in their verdict the necessity for the proposed improvement and for taking such private property for the use or benefit of the public for the proposed improvement, and in case they find such necessity exists, they shall separately award to the owners of such property and others interested therein such compensation therefor as they shall deem just. If any such private property shall be subject to a mortgage, lease, agreement or other lien, estate or interest, they shall apportion and award to the parties in interest such portion of the compensation as they shall deem just.

Section 10. - Justice to furnish map of proposed improvement.

To assist the jury in arriving at their verdict, the justice may allow the jury, when they retire, to take with them the petition filed in the case and a map showing the location of the proposed improvement and of each and all parcels of property to be taken, and may also submit to them a blank verdict, which may be as follows:

PART I.

Blank verdict. We find that it is … necessary to take the private property described in the petition in this cause, for the use and benefit of the public for the proposed public improvement.

PART II.

The just compensation to be paid for such private property we have ascertained and determined and hereby award as follows:

Description of each of the several parcels of private property to be taken	Owners, occupants and others interested in each parcel	Compensation	To whom payable

The different descriptions of the property and the names of the occupants, owners and others interested therein may be inserted in said blank verdict, under the direction of the justice, before it is submitted to the jury, or it may be done by the jury.

Section 11. - Allowance of amendments.

Amendments either in form or substance may be allowed in any paper, petition, process, record or proceeding, or in the description of property proposed to be taken, or the name of any person, whether contained in a resolution passed by the council or otherwise, whenever the amendment will not interfere with the substantial rights of the parties. Any such amendment may be made after as well as before judgment confirming the verdict of the jury.

Section 12. - Duty of justice.

Upon filing the report and award made by any jury with said justice, he shall enter it upon the docket of his proceedings, and a copy thereof may be taken by the attorney of the city for the use of the council; and at any time thereafter, and within forty days after the impaneling of the jury making the report, the justice, upon the application of the city council, shall enter judgment of confirmation of the determination and awards therein made. Unless such application and confirmation shall be made within said forty days, all proceedings upon that report and award shall be at an end, and a new jury and new proceedings may be had, as in the case of a disagreement of the jury. All parties interested in such report shall take notice of the confirmation thereof. Any such judgment of confirmation shall be final and conclusive as to all parties not appealing therefrom within the time hereinafter provided.

Section 13. - Disagreement of jury.

If such jury should be unable to agree upon a verdict, or for any cause should fail to render a verdict, said justice shall, on the application of the city's attorney, designate some day and hour when another jury may be impaneled, and such other jury shall be obtained, drawn, summoned, returned, bound to attend and serve, have the same qualifications, be sworn, and when sworn have the same powers and duties as the first jury. The same proceedings after they are sworn shall be had by them, and by and before said justice or some other justice in said city, as provided for above after the first jury is sworn.

Section 14. - Juror unable to discharge duties.

If any juror, after being sworn, and before the hearing shall have been commenced, shall die, or from sickness or any other cause be unable to discharge his duties as a juror, said justice may cause to be drawn another person to serve in his place, who shall be sworn, and shall have the like qualifications, powers and duties as those already sworn.

Section 15. - Circuit court appeal.

Any party aggrieved by the judgment of confirmation hereinbefore mentioned, may, within ten days after the entry thereof, appeal therefrom to the circuit court of Mackinac County, by filing with the justice a claim of appeal, in writing under oath, in which he shall set forth a description of the land in which he claims an interest and a statement that he considers himself aggrieved by the proceedings and judgment of which he complains, and his objections, if any, to the amount of damages awarded, and at the same time filing with the justice a bond to the city, in a penal sum of not less than three hundred dollars, with sureties to be approved by said justice, conditioned that he will prosecute his appeal to effect, and pay costs that may be awarded against him in the circuit court, and paying to the justice the sum of three dollars for making his return to the appeal.

Section 16. - Filing of transcript.

Within ten days after taking such appeal said justice shall make and certify a return to said appeal, setting forth a transcript from his docket of all the proceedings and the judgment of confirmation entered therein, and shall attach thereto the report of the jury, and all notices and papers filed with him together the bond and claim of appeal, and file the same with the clerk of such circuit court.

Section 17. - Circuit court to have jurisdiction.

Upon filing the return of the justice, as mentioned in the preceding section, the circuit court shall have jurisdiction of the case. The parties may proceed to trail by jury without reference to any term of court upon the question as to the amount of damages to be awarded; but the finding of the jury before the justice as to the necessity of taking the land shall be conclusive. The appeal of one or more persons interested in any judgment of confirmation shall not in any way affect said judgment as to other persons interested therein who do not appeal.

Section 18. - Impaneling jury.

The circuit judge shall make an order that a jury be impaneled in the case. Such jury shall be composed of twelve freeholders of the municipality or county and shall be selected and impaneled as follows: The city marshal or any member of the police force of such city shall, on the same day or at an adjourned day, make a list of twenty-four resident freeholders of said city or county, and the city's attorney and the respondents collectively shall each have the right to strike six names from the list of persons written down as aforesaid and subject to objection for cause, the twelve persons whose names are left on the list shall compose the jury for the trial of the cause and shall be summoned to attend at not less than three nor more than ten days from the date of selecting such jury, by a venire issued by him to be served by one of the officers aforesaid. If the respondents neglect or refuse to strike six names from the list, it shall be done by the circuit judge, and in case any of the persons to be summoned cannot by him be found in the county, or being summoned do not attend, or shall be excused for cause or otherwise, talesmen possessing the necessary qualifications may be summoned as jurors in the case by such officer, and the practice and proceedings under this chapter, except as herein otherwise provided relative to impaneling, summoning and excusing jurors and talesmen, and imposing penalties or fines upon them for non-attendance, shall be same as practice and proceedings of circuit courts relative to jurors in cases in such courts.

Section 19. - Oath of jurors.

The jurors so impaneled shall be sworn or shall affirm in substance as follows: "You do solemnly swear (or affirm) that you will well and truly ascertain, determine and award the just compensation to be made for the taking for the use or benefit of the public the private property which the petition describes, and that you will faithfully and impartially discharge all other duties as devolve upon you in this case, and unless discharged by the court, a true verdict give, according to the law and the evidence, so help you God (or under the pains and penalties of perjury)." The jury shall hear the proofs and allegations of the parties, and shall go to the place of the intended improvement, in the charge of an officer, and upon or as near as practicable to the property taken, and examine the premises. They shall be instructed as to their duties and the law of the case by the circuit judge, and shall retire under the charge of an officer and render their verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and shall be signed by all jurors.

Section 20. - Verdict, award.

The jury shall in their verdict separately award to the owners of such property, and others interested therein, such compensation therefor as they shall deem just. If any such private property shall be subject to a mortgage, lease, agreement or other lien, estate or interest, they shall apportion and award to the parties in interest such portion of the compensation as they shall deem just.

Section 21. - Jury may have map, form of blank.

To assist the jury in arriving at their verdict the circuit judge may allow the jury, when they retire, to take with them the petition filed in the case, and a map showing the location of the proposed improvement and of each and all the parcels of property to be taken, and may also submit to them a blank verdict which may be as follows:

The just compensation to be paid for such private property we have ascertained and determined, and hereby award as follows:

Description of each of the several parcels of private property to be taken	Owners, occupants and others interested in each parcel	Compensation	To whom payable

The different descriptions of the property and the names of the occupants, owners and others interested therein may be inserted in said blank verdict, under the direction of the circuit judge, before it is submitted to the jury, or it may be done by the jury.

Section 22. - Judgment.

Upon any dismissal of the appeal, or rendition of judgment after trial in the circuit court, said court shall confirm the proceedings and rights of the city to take and appropriate the lands of the appellant for the purpose mentioned in the resolution of the council. And unless the appellant shall recover judgment for at least fifty dollars more than the amount awarded to him before the justice, he shall pay costs to the city; otherwise the court shall award such costs to him or to the city as shall be just.

Section 23. - Record and copies of judgment, evidence.

It shall be the duty of the city clerk to procure copies of any judgment of confirmation of the circuit court or of the justice of the peace after the same has become final, as well as of the report and findings of the jury, and the same shall be recorded in a book of records to be kept by him, and the docket of such justice, or the judgment of said court, as well as the book of records of such proceedings kept by said clerk, or certified copies thereof, shall be presumptive evidence of the matters therein contained, and of the regularity of all the proceedings to appropriate the property sought to be acquired and to confirm the same.

Section 24. - Payment of damages; owners of land benefitted may be assessed.

When the verdict of the jury shall have been finally confirmed by the justice and the time in which to take an appeal has expired, or, if an appeal is taken and the judgment has been confirmed, thereupon the proper and necessary proceedings, in due course, shall be taken for the collection of the sum or sums awarded by the jury. If the council believe that a portion of the city in the vicinity of the proposed improvement will be benefitted by such improvement, they may by an entry in their minutes determine that the whole or any just proportion of the compensation awarded by the jury shall be assessed upon the owners or occupants of real estate deemed to be thus benefitted, and thereupon they shall by resolution, fix and determine the district or portion of the city benefitted, and specify the amount to be assessed upon the owners or occupants of the taxable real estate therein. The amount of the benefit thus ascertained shall be assessed upon the owners or occupants of such taxable real estate, in proportion, as nearly as may be, to the advantage which such lot, parcel or subdivision is deemed to acquire by the improvement. The assessment shall be made and the amount levied and collected in the same manner and by the same officers and proceedings, as near as may be, as is provided in this act for assessing, levying and collecting the expense of a public improvement when a street is graded. The assessment roll containing said assessments, when ratified and confirmed by the council, shall be final and conclusive and prima facie evidence of the regularity and legality of all proceedings prior thereto, and the assessment therein contained shall be a lien on the premises on which the same is made until payment thereof. Whatever amount or portion of such awarded compensation shall not be raised in the manner herein provided shall be assessed, levied and collected upon the taxable real estate of the municipality, the same as other general taxes are assessed and collected therein. At any sale which takes place of the assessed premises or any portion thereof delinquent for non-payment of the amount assessed and levied thereon, the city may become a purchaser.

Section 25. - Council may provide for payment; duty of judgment.

Within one year after the confirmation of the verdict of the jury, or after the judgment of confirmation shall on appeal be confirmed, the council shall set apart and cause to be provided in the treasury, unless

already provided, the amount required to make compensation to the owners and persons interested, for the private property taken, as awarded by the jury, and shall, in the resolution setting apart and providing said sum, if not already provided, direct the city to pay the persons respectively entitled to the money so set apart and provided, to each his or her portion, as ascertained and awarded by said verdict. And it shall be the duty of the treasurer to securely hold such money in the treasury for the purpose of paying for the property taken, and pay the same to the persons entitled thereto, according to the verdict of the jury, on demand, and not pay out the money for any other purpose whatever. The council may provide the necessary amount by borrowing from any other money or fund in the treasury and repay the same from money raised to pay the compensation awarded by the jury when collected or otherwise, as they may provide. Whenever the necessary sum is actually in the treasury for such purpose, the treasurer shall make and sign duplicate certificates, verified by his oath, showing that the amount of compensation awarded by the jury is actually in the treasury for payment of the private property taken in the case, giving the title of the case; he shall cause one of the certificates to be filed in the office of the justice before whom such proceedings were had, or his successor, or in case an appeal has been had, then in the office of the clerk of the court in which the proceedings were had, and the other to be filed with the city clerk, which certificate shall be prima facie evidence of the matters therein stated. Whenever the amount of such compensation is in the treasury and thus secured to be paid, the council may enter upon and take possession of and use such private property for the purposes for which it was taken, and may remove all buildings, fences and other obstructions therefrom. In case of resistance or refusal on the part of any one to the council or their agents and servants entering upon and taking possession such private property for the use and purpose for which it was taken, at any time after the amount of the compensation aforesaid is actually in the treasury, ready to be paid to those entitled thereto, the council, by the city's attorney, may apply to the court, and shall be entitled, on making a sufficient showing, to a writ of assistance to put them in possession of the property.

Section 26. - Compensation of officers, jurors and witnesses.

Officers, jurors and witnesses in any proceedings under this chapter shall be entitled to receive the same fees and compensation as are provided by law for similar services in an ordinary action at law in the justice courts of this state, and in cases of appeals, the same fees and compensation as are provided by law for similar services in circuit courts.

Section 27. - Evidence of ownership.

It shall be prima facie evidence as to who are owners of, and persons interested in, any property proposed to be taken in the proceedings instituted under this act, if the register or deputy register of deeds of the county shall testify in open court that he has examined the records and titles in his office, and states who such records show are the owners of, and persons interested in, such property, and the nature and extent of such ownership and interest; and an abstract of the title of such property, or of any parcel or parcels thereof, certified by the register or deputy register of deeds shall also be prima facie evidence as to ownership, and persons having an interest in any such property, and the extent and nature of such interest.

Section 28. - Disposition of condemned property.

In case there in [is] on the private property taken a building or other structure, the same shall be sold by or under direction of the council; the amount produced by this sale shall belong and be paid to the fund for paying the compensation awarded for the property taken, and the council shall cause such amount to be credited and applied in reduction pro rata of the assessment and apportionment made to pay for the property taken.

Section 29. - City may purchase.

Nothing in this chapter contained shall prevent said city from obtaining private property for any of the public uses herein specified by negotiation and purchase.

CHAPTER XXIV. - WATERWORKS

Section 1. - City may purchase or construct.

Said city shall have authority to purchase or construct new and to maintain and extend existing waterworks for the introduction of water into such city, and supplying the same and the inhabitants thereof with pure and wholesome water for the ordinary and extraordinary uses of the inhabitants thereof, the extinguishment of fires and for such other purposes as the council may prescribe.

Section 2. - Idem.

Said city may acquire, purchase, erect and maintain such reservoirs, canals, aqueducts, sluices, buildings, engines, water-wheels, pumps, hydraulic machines, distributing pipes and other apparatus, appurtenances and machinery, and may acquire, purchase, appropriate and own such grounds, real estate, rights and privileges as may be necessary and proper for the securing, construction and maintenance of such waterworks.

Section 3. - Borrowing money permissible.

It shall be lawful for said city, to borrow any sum of money not exceeding five per cent of the assessed value of the property in said city, as shown by the last preceding tax roll, to be used exclusively for the purpose of purchasing, constructing or extending waterworks, as provided in the two preceding sections. The council shall have the power to fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this chapter, and to issue bonds of the city therefor, but the rate of such interest shall not exceed six per cent per annum, and such bonds shall not be sold for less than their par value: Provided, that the total amount expended for constructing, purchasing or extending such waterworks shall not exceed the estimate expense provided for in section four of this chapter.

Section 4. - Submission to electors.

Before any money shall be borrowed, appropriated, raised or expended for the purchase, construction or extension of waterworks in said city, the council shall direct the board of public works to cause to be made an estimate of the expense thereof, and the question of raising the amount required for such purpose shall be submitted to the electors of the city at its next annual election or at a special election called for that purpose by the council as provided in this act, and shall be determined as two-thirds of the electors voting at such election by ballot shall decide: Provided however, that after waterworks have been purchased or constructed by such city the council may then raise and expend, in making repairs or alterations, or in extending such works, such sum as they may deem necessary without submitting the question to the electors of the city, but the sum to be raised for such purpose shall be included in and shall not increase the total amount which, by the provisions of section five, chapter twenty-eight of this act, the council is authorized to raise.

Editor's note— Bonds issues under the Revenue Bond Act of 1933 (MCL 141.101 et seq.) may be issued without a referendum. See MCL 141.133.

Section 5. - Manner of supplying pipes.

The connecting or supplying pipes leading from buildings or yards to the distributing pipes, shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard, and shall not be inserted or connected with the main pipe until a permit therefore shall be obtained from the board of public works. All such connecting or supplying pipes shall be constructed and connected in the manner prescribed by such board.

Section 6. - Water rates.

The board of public works shall annually, on or before the first Monday in June, establish a scale of rates to be charged and paid for supply of water for the year next ensuing, to be called water rates, which

rates shall be approved by the council and shall be appropriate to different classes of buildings in the city, with reference to their dimensions, value, exposure to fires, ordinary or extraordinary uses for dwellings, stores, shops, hotels, factories, livery stables, barns and all other buildings, establishments and trades, yards, number of families or occupants or consumption of water, as near as may be practicable, and from time to time, either modify, amend, increase or diminish such rates.

Section 7. - Council may enact ordinances relative to construction.

The council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation, and control of the waterworks and all the fixtures, appurtenances, apparatus, buildings and machinery connected therewith or belonging thereto, and to carry into effect the provisions of this chapter and the powers herein conferred in respect to the construction, management and control of such waterworks.

Section 8. - May construct and control outside city limits.

When the council shall deem it for the public interest, such waterworks may be purchased, or may be constructed and maintained beyond the corporate limits of the city; and in such case the council shall have authority to enforce beyond the corporate limits of the city, within the county or counties in which such city is situated, and over the buildings, machinery and other property belonging to and connected with such waterworks, in the same manner and to the same extent as if they, or it, were within the city, all such ordinances and police regulations as may be necessary for the care, protection, preservation, management and control thereof.

Section 9. - Construction.

For the purpose of operating, constructing, maintaining or extending such waterworks, the city shall have the right to lay conduits, pipes, aqueducts or other necessary works over or under any water course or under and along any street, alley, lane, turnpike, road or highway within such city, but not in such manner as to obstruct the same or impede or prevent travel thereon; and the city authorities may at all times enter upon and dig up such street, alley, road or highway to lay pipes thereon, or to construct works beneath the surface thereof, but they shall cause the surface of such street, alley, road or highway to be relaid and restored to its usual state, and any damage done thereto to be repaired, and such right shall be continuous for the purpose of repairing and relaying water pipes upon like conditions.

Section 10. - Private property may be taken.

If it shall be necessary, in the judgment of the council, to appropriate private property either within or without the city for the construction and maintenance or for the due operation of waterworks, the right to occupy and hold the same, and the ownership therein and thereto may be acquired by the city in the manner and with like effect as provided in this act for the taking of private property for public use.

Section 11. - May contract water supply.

The common council shall have power to contract with any person, persons, corporation or association, which shall have permission to construct, operate or maintain a system of waterworks in said city for a supply of water for public purposes, including street hydrants, upon such terms and conditions and for such rates as may be agreed upon: Provided; that no such contract shall be made for any period exceeding fifteen years, nor without the affirmative vote in favor thereof of two-thirds of all the members of the said common council as constituted at the time.

(Mich. Local Acts (1901) No. 263, § 1)

CHAPTER XXV. - LIGHTING

Section 1. - City may own.

It shall be lawful for said city to acquire by purchase or to construct, operate and maintain, either independently or in connection with the waterworks of such city, either within or without the city, works for the purpose of supplying such city and the inhabitants thereof, or either, with gas, electric or other lights at such times and on such terms and conditions as hereinafter provided.

Section 2. - Idem.

Whenever the council of said city shall by resolution declare that is expedient for such city to acquire by purchase, or to construct, as the case may be, works for the purpose of supplying such city and the inhabitants thereof, or either, with gas, electric or other lights, then such council shall have power to take such action as shall be deemed expedient to accomplish such purpose.

Editor's note— A note in the copy of the Charter furnished to the publisher indicates that Charter ch. XXV, § 2 has been amended. No amendment has been furnished to the publisher.

Section 3. - Ownership submitted to electors.

In case the council shall declare that it is expedient for such city to acquire by purchase or to construct, as the case may be, works for the purpose of supplying such city and the inhabitants thereof, or either, with electric or other lights, then the council shall direct the board of public works to cause to be made and recorded in their proceedings an estimate of the expense thereof, and the question of raising the amount required for such purpose shall be submitted to the electors of the city at its annual election, or at a special election called for that purpose by the council, as provided in this act, and shall be determined as two-thirds of the electors voting at such election by ballot shall decide.

Section 4. - Council may borrow money.

It shall be lawful for said city to borrow any sum of money not exceeding five per cent of the assessed value of the property in said city as shown by the last preceding tax roll, to be used exclusively for the purpose of purchasing or constructing and maintaining such lighting works as provided in the preceding sections of this chapter. The council shall have power to fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this chapter, and to issue bonds of the city therefor, but the rate of such interest shall not exceed six per cent per annum, and such bonds shall not be sold for less than their par value: Provided, that the total amount expended for the purpose or construction of such lighting works shall not exceed the amount of the estimate of expense thereof provided for in section three of this chapter.

Section 5. - May raise money for repairs.

After lighting works have been purchased or constructed as aforesaid, in such city, the council may then raise and expend in making repairs or alterations, or in extending such works such sum as it may deem advisable without submitting the question to the electors of the city; but the sum to be so raised in any one year shall be included in, and shall not increase the total amount which, by the provisions of section five of chapter twenty-eight of this act, the council is authorized to raise.

Section 6. - Rates for lights.

The board of public works, subject to the approval of the council, shall have the power to fix such just and equitable rates as may be deemed advisable for supplying the inhabitants of said city with lights, and shall annually, on the first Monday in June, fix such rates for the year next ensuing.

Section 7. - Council may take private property.

If it shall be necessary in the judgment of the council to appropriate private property, either within or without the city, for the construction and maintenance, or for the due operation of lighting works, the right

to occupy and hold the same, and the ownership therein and thereto may be acquired by the city in the manner and with like effect as provided in this act for the taking of private property for public use.

Section 8. - Contract for lighting.

The common council shall have power to contract for public lighting with any person, persons, corporation or association which shall have permission to construct, operate and maintain a system of gas, electric or other lighting works in said city upon such terms and conditions, as for contract shall be made for any period exceeding fifteen years, nor without the affirmative vote in favor thereof of two-thirds of all the members of the said common council as constituted at the time.

(Mich. Local Acts (1901) No. 263, § 1)

Section 9. - May enact ordinances to protect property.

The council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation and control of the lighting works, and all the fixtures, appurtenances, apparatus, buildings and machinery connected therewith or belonging thereto, and to carry into effect the provisions of this chapter and the powers herein conferred in respect to the erection, purchase, management and control of such works.

CHAPTER XXVI. - BOARD OF PUBLIC WORKS

Section 1. - Members; term of office.

There shall be created and constituted in said city a board of public works composed of five members who shall be freeholders and electors of the city, and shall serve without compensation. Such board shall, as near as may be, be non-partisan, no more than three members to be appointed from any one political party, and shall be appointed by the mayor, by and with the consent of the council. At the first appointment of the members of said board, which shall be within thirty days after the incorporation of said city under this act, one member shall be appointed for the term of one year, one member for the term of two years, one member for the term of three years, one member for the term of four years and one member for the term of five years from the first Monday of May next thereafter, one member shall be appointed for the term of five years unless otherwise provided in this act.

Section 2. - Majority to constitute quorum.

Said board shall, within ten days after their first appointment and annually thereafter, during the month of May, organize and elect one of their number president. A majority of the board shall constitute a quorum for the transaction of business. The city clerk shall be ex-officio clerk of said board, but shall have no vote therein. It shall be his duty to perform all the clerical labor required by said board, and he shall have charge of all its books, records, accounts and papers.

Section 3. - Powers and duties.

The said board of public works, subject to the direction of the council, is hereby charged and entrusted with the following duties, powers and responsibilities:

First, the construction, management, supervision and control of such waterworks as are or shall be owned by the city;

Second, the construction, management, supervision and control of such electric or other lighting plants as are or shall be owned by the city;

Third, the management and supervision of the sewers, sewerage system and drainage of such city, and of the construction thereof;

Fourth, such other public improvements or works as the common council may, by ordinance, place under their management, supervision and control.

Section 4. - Rules.

The said board shall have power to make and adopt all such by-laws, rules and regulations as they deem necessary and expedient for the transaction of their business, not inconsistent with the ordinances of the city or the provisions of this act.

Section 5. - Power of board relative to construction.

Whenever the expense of constructing or repairing any public work placed under the control of the board of public works shall not exceed the sum of two hundred dollars, the work shall be done by such board in such a manner as they may deem proper; but whenever such expense shall exceed the sum of two hundred dollars, then the said board shall submit the plans, diagrams, profiles, and estimates thereof to the council for their approval, and when so approved the board shall, subject to the approval of the council, cause such work to be done by contract or otherwise in such manner as they may deem proper: Provided, that if the expense shall exceed the sum of five hundred dollars, the board shall give twenty days notice of the same, posting said notice in five public places in said city asking for sealed proposals, and such notice shall be as the council may direct, and they shall let the contract to the lowest responsible bidder who shall be deemed competent to do the work and give adequate security for the performance thereof, which contract and security shall be approved by the council.

Section 6. - Manner of paying account claims; annual report.

All work done under the supervision of said board shall be reported to the council from time to time, and no money shall be paid out of the treasury on account of any work so done until the council shall have authorized the same and ordered the same paid by warrant drawn on the city treasurer, and all claims or accounts against the city that in any manner relate to the works in charge of such board or that have been incurred by such board shall first be submitted to and approved by the said board of public works before the council shall be authorized to order such warrant drawn. It shall be the duty of the board to make an annual report to the council on the third Monday in April of each year, which report shall embrace an itemized statement of the revenues and the expenditures relating to or connected with each of the works under their control, keeping a separate account of each fund, and a statement of the condition, progress and operation of said works. They shall also make such other reports and furnish such other information to the council as that body shall by resolution or ordinance provide.

Section 7. - Annual estimates to be furnished council.

On or before the first Monday of September in each year, the board of public works shall submit to the common council careful estimates in detail of the amount of money, which, according to the judgment of the board, will be needed for the waterworks fund, the light fund and the sewer fund during the ensuing year, which estimates may be increased, modified or adopted by the said common council as in its judgment may seem justifiable.

Section 8. - Disposition of money received by board.

The board of public works shall, on the first Monday of each month pay into the city treasury to the credit of the water, light, sewer or other fund, as the case may be, all moneys received by them and belonging to any such fund, and shall file a detailed statement thereof, together with the receipt of the treasurer attached thereto, with the city clerk who shall report the filing of such statement and receipt to the council.

Section 9. - May arrange for collection of rates.

The board of public works may provide when and to whom all water and light rates, and other moneys collectable by them shall be paid, and what steps shall be taken to enforce payment thereof, and

may provide in case of non-payment that such water, light or sewerage connection be shut off or stopped as to any person neglecting or refusing to make such payment; and may also collect the same in an action of assumpsit on the common counts in any court of competent jurisdiction.

Section 10. - May, subject to the council, employ officers and others.

The board of public works is hereby empowered, subject to the approval of the council, to employ all necessary officers, agents and employees that they may deem necessary to operate, carry on and improve all the public works and duties placed under their care and supervision, and subject to the approval of the council to fix the salaries and compensation of such employees.

Section 11. - Council may submit question of abolishing board to electors.

The council of said city, upon petition to them of one hundred or more free-holders of such city praying that an election of the qualified voters of such city be called to determine whether the board of public works in such city shall be abolished, shall, by resolution, submit the question of abolishing such board of public works to the qualified electors of such city at the city election held in the month of April next following. The board of public works in such city shall not be abolished unless two thirds of the electors voting on such proposition shall by ballot so determine.

Section 12. - Powers and duties of council when board is abolished.

If at any such election two-thirds of the electors voting thereon shall vote to abolish the board of public works in such city, then such board of public works shall be abolished, and all the powers, rights and privileges now exercised by or vested in said board of public works, as well as all duties and obligations imposed upon such board of public works by this act, shall be vested in, exercised and assumed by the council of such city; the board of public works in such city in all things appertaining to them as such board, shall be superseded by the council, and the council may appoint a committee of its own members more particularly to perform these duties, always under the direction of the council and subject to such rules and regulations as the council may determine.

Section 13. - Canvass and return.

An election under the provisions of this chapter cannot be held oftener than once in two years and notice of such election shall be given in the same manner and for the same length of time as is provided in this act for the calling of special elections, and the vote shall be counted and canvassed and the return shall be made, and the result declared and determined in the same manner as is provided in this act for the counting, canvassing and returning of votes, and the determining of the result thereof at special elections, and the propositions submitted shall be in the following language:

For the board of public works—Yes. □

For the board of public works—No. □

CHAPTER XXVII. - FIRE DEPARTMENT[5]

Footnotes:

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State Law reference— Firefighters Training Council Act of 1966, MCL 29.361 et seq.

Section 1. - Council may establish.

The council of said city shall have power to enact such ordinances and establish and enforce such regulations as they shall deem necessary to guard against the occurrence of fires, and to protect the property and persons of the citizens against damage and accident resulting therefrom; and for this purpose to establish and maintain a fire department; to organize and maintain fire companies; to employ and appoint firemen; to make and establish rules and regulations for the government of the department, the employees, firemen and officers thereof; and for the care and management of the engines, apparatus, property and buildings pertaining to the department; and prescribing the powers and duties of such employees, firemen and officers.

Section 2. - Provision of engines, wells, cisterns.

The council may purchase and provide suitable fire engines and such other apparatus, instruments and means for the use of the department as may be deemed necessary for the extinguishment of fires; and may sink wells and construct cisterns and reservoirs in the streets, public grounds and other suitable places in the city; and make all necessary provisions for a convenient supply of water for the use of the department.

Section 3. - Engine houses.

The council may also provide or erect all necessary and suitable buildings for keeping the engines, carriages, teams and fire apparatus of the department.

Section 4. - Engineer and his duties.

The engineer of the fire department shall be the chief of the department, and, subject to the direction of the mayor, shall have the supervision and direction of the department and the care and management of the fire engines, apparatus and property, subject to such rules and regulations as the council may prescribe. And the council map appoint such assistant engineers and other officers of the department as may be necessary.

Section 5. - Power to command aid at fires.

The chief of the fire department, or other officer acting as such, may command any person present at a fire to aid in the extinguishment thereof and to assist in the protection of property thereat. If any person shall wilfully disobey any such lawful requirement or other lawful order of any such officer he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for a period not exceeding ninety days, or by a fine not exceeding one hundred dollars, or by both such fine and imprisonment, in the discretion of the court.

State Law reference— Obstruction or resisting firefighters, MCL 750.241.

Section 6. - Fire wardens and their duties.

The council may provide by ordinance, for the appointment of, and may appoint, such number of fire wardens, as may be deemed necessary; and for the examination by them, from time to time, of the stoves, furnaces and heating apparatus and devices in all the dwellings, buildings and structures within the city; and in all places where combustible or explosive substances are kept; and to cause all such as are unsafe with respect to fire to be put in a safe condition.

Section 7. - Fire limits.

The council may prescribe by ordinance, from time to time, limits or districts within the city, within which wooden buildings and structures shall not be erected, placed, enlarged or repaired; and to direct the manner of constructing buildings within such districts, with respect to protection against fire and the material of which the outer walls and roofs shall be constructed. The council may provide by ordinance for

proper fire escapes on buildings and compel the owners or occupants thereof to construct and maintain the same.

Editor's note— The first sentence of Charter ch. XXVII, § 7 is superseded by the mandatory state construction code established in MCL 125.1501 et seq.

Section 8. - Council to approve location of certain businesses.

The council may also prohibit within such places or districts as they shall deem expedient, the location of shops; the prosecution of any trade or business; the keeping of lumber yards; and the storing of lumber, wood, or other easily inflammable material, in open places, when, in the opinion of the council, the danger from fire is thereby increased. They may regulate the storing of gunpowder, oils and other combustible and explosive substances and the use of lights in buildings; and generally may pass and enforce such ordinances and regulations as they may deem necessary for the prevention and suppression of fires.

State Law reference— Local restrictions on aboveground storage of flammable liquids, MCL 29.50.

Section 9. - Declared a nuisance.

Every building or structure which may be erected, placed, enlarged, repaired or kept, in violation of any ordinance or regulation made for the prevention of fires, is hereby declared to be a nuisance, and may be abated or removed by the direction of the council.

State Law reference— Dangerous buildings, MCL 125.538 et seq.

Section 10. - Compensation of employees in case of injury.

The officers, firemen and employees of the department shall receive such compensation as the council may prescribe, and during their term of service shall be exempt from serving on juries. The council may provide suitable compensation for any injury which any fireman may receive to his person or property in consequence of the performance of his duty at any fire.

Section 11. - Authority to pull down buildings; compensation therefor.

The engineer in charge of the department at any fire, with the concurrence of the mayor or any two aldermen, may cause any building to be pulled down or destroyed, when deemed necessary, in order to arrest the progress of the fire. Whenever any building is so pulled down or destroyed, any person having an interest in such building may present his claim for damages to the council of such city, and it shall thereupon be the duty of the council to pay such claimant such damages as may be just under all the circumstances, taking into consideration the fact whether or not such loss would probably have occurred to such building if it had not been pulled down or destroyed, and whether the same was insured or not. If the council and such claimant shall not be able to agree upon the amount of damages to be paid such claimant, then the amount of such damages shall be ascertained by the appraisal of a jury, to be selected in the same manner as in cases of juries to appraise damages for taking private property for public use. Such jury may visit the premises and hear all the proofs in the case, and shall allow such claimant such amount of damages as they may deem proper under all the circumstances as above stated. If such jury shall not be able to agree, a new jury shall be impaneled, as above provided, until a jury has been obtained that shall agree; and the city shall pay such claimant the amount of damages fixed by such jury. There shall be no appeal from the verdict of such jury, either by the city or any claimant.

Section 12. - Owners and others concerned with watercraft in the prevention of fires in the harbor.

The council of said city may, by ordinance, prescribe such regulations to be observed by owners, masters and employees of steamboats and watercraft as may be necessary for the prevention of fires in the harbor, and to prevent the communication of fire from such boats and craft; and may prescribe in such ordinances the manner of collecting any penalties imposed thereby.

CHAPTER XXVIII. - FINANCE AND TAXATION

Section 1. - Fiscal year.

The fiscal year of said city shall commence on the first Monday of March in each year.

Section 2. - Authority of council to raise money by taxation.

The council of said city shall have authority, within the limitations herein prescribed, to raise annually by taxation within the corporation such sum of money as may be necessary to defray the expenses and pay the liabilities of the city and to carry into effect the powers in this act granted.

Section 3. - Divisions of revenue raised by general taxes.

The revenues raised by general tax upon all the property in the city or by loan to be repaid by such tax shall be divided into so many of the following general funds as are necessary:

First, contingent fund. To defray the contingent and other expenses of the city for the payment of which from some other fund no provision is made;

Second, fire department fund. To defray the expenses of purchasing grounds, erecting engine houses thereon, purchasing engines and other fire apparatus, and all other expenses necessary to maintain the fire department of the city;

Third, general street fund. To defray the expenses of opening, widening, extending, altering and vacating streets, alleys and public grounds and for grading, paving, curbing, graveling and otherwise improving, repairing and clearing the streets, alleys and public grounds and for grading, paving, curbing, graveling and otherwise improving, repairing and clearing the streets, alleys and public grounds of the city, and for the construction and repair of sidewalks and crosswalks, and for the care thereof;

Fourth, general sewer fund. To defray the expenses of sewers, drains, ditches and drainage, and the improvement of watercourses;

Fifth, water fund. For maintaining and extending a system of waterworks and for constructing reservoirs and cisterns, and providing other supplies of water;

Sixth, public building fund. For providing for public buildings, and for the purchase of lands therefor, and for the erection, preservation and repair of any such public buildings, city hall, offices, prisons, watch-houses and hospitals as the council is authorized to erect and maintain, and not herein otherwise provided for.

Seventh, police fund. For the maintenance of the police of the city, and to defray the expenses of the arrest and punishment of those violating the ordinances of the city;

Eighth, cemetery fund.

Ninth, interest and sinking fund. For the payment of the public debt of the city and the interest thereon;

Tenth, park fund. For the purchase of grounds for public parks and the maintenance and improvement thereof;

Eleventh, light fund. For the construction, purchase and maintenance of electric or other lights;

Twelfth, other funds. Such other funds as the council may from time to time constitute.

Section 4. - Division of revenue raised in special districts.

Revenues and moneys raised by taxation in special districts of the city shall be divided in the following special funds:

First, a street district fund, for each street district. For defraying the expenses of grading, improving, repairing and working upon the streets therein, and for the payment of all street expenses, which the council shall charge upon the street district;

Second, a district sewer fund, for each main sewer district. For the payment of the costs and expenses of sewers and drainage in, and chargeable to the main sewer district, when the city shall be divided into such districts;

Third, special assessment funds; any money raised by special assessment levied in any special assessment district or special sewer district to defray the expenses of any work, paving, improvement, repairs, or drainage therein, shall constitute a special fund for the purpose for which it was raised.

Section 5. - Aggregate amount council may raise by general tax.

The aggregate amount which the council may raise by a general tax upon the taxable real and personal property in the city, for the purpose of defraying the general expenses and liabilities of the corporation, and for all purposes for which the several general funds mentioned in section three of this chapter are constituted, exclusive of taxes for schools and schoolhouse purposes, shall not, except as herein otherwise provided, exceed in one year, two per cent.

Section 6. - Amount in street district.

The council may also raise by tax in each street district, for defraying the expenses of working upon, improving and repairing and cleaning the streets of the district and for all purposes for which the street district fund above mentioned is constituted, a sum not exceeding in any one year one-fourth of one per cent on the assessed value of the taxable real and personal property in the district.

Section 7. - Special assessments in sewer districts.

In addition to the above amounts, the council may raise by special assessment in sewer districts, and special assessment districts, for the purpose of grading, paving, curbing, graveling and otherwise improving the streets, and for constructing sewers and drains, and making other local improvements chargeable upon lands and property in the district, according to frontage or benefits, and for all other purposes for which the main sewer funds and special assessment funds are constituted, such sums as they shall deem necessary, but not exceeding in any one year five per cent on the assessed value of the property in the sewer district, or special assessment district, as the case may be, as shown by the last preceding assessment rolls of the city.

Section 8. - Tax for use of public sewer.

A tax or assessment of not more than two dollars per year may be levied upon each lot or premises drained by a private sewer or drain leading into any public drain or sewer.

Section 9. - Tax to provide for interest and sinking fund.

The council may also raise such further sum annually, not exceeding one cent on the dollar, of the assessed valuation of the property in the city, as may be necessary to provide an interest and sinking fund to pay the funded debts of the city and the interest thereon.

Section 10. - Estimates of expenditures.

It shall be the duty of the council to cause estimates to be made in the month of September, of all the expenditures which will be required to be made from the several general funds of the city during the next fiscal year, for the payment of interest and debts to fall due, or for lands to be acquired, buildings to be erected or repaired, bridges to be built and for the paving of streets, the construction of sewers, making improvements, and for the support of the police and fire departments, and for defraying the current

expenses of the year, and for every other purpose for which any money will be required to be paid from any of the several general funds during such fiscal year; and also, to estimate the amounts that will be required to be expended from street district funds during said next fiscal year, in working upon, improving and repairing the streets in the several street districts of the city.

Section 11. - Determination of amounts to meet deficiencies.

The council shall also in the same month determine upon the amount required to be raised in the next general tax levy to meet any deficiencies for the current year; also the amount or part of any special assessments which they require to be reassessed in the next general tax rolls of the city, upon lands in any main sewer, or special assessment district, or upon any parcel of land, or against any particular person as a special assessment.

Section 12. - Annual appropriation bill.

The council shall also in the said month of September, pass an ordinance, to be termed the annual appropriation bill, in which they shall make provision for, and appropriate the several amounts required to defray the expenditures and liabilities of the corporation for the next fiscal year payable from the several general funds, and from the street district funds as estimated and determined upon, as provided in section ten of this chapter, and order the same, or so much of such amounts as may be necessary, to be raised by tax with the next general tax levy, or by loans, or both, and to be paid into the several general funds and street district funds of the city; but the whole amount so ordered to be raised by tax or loan, or by both, shall not, except as herein otherwise provided, exceed the amount which the city is authorized by sections five, six and nine of this chapter, to raise by general tax during the year. The council shall specify in such ordinance the objects and purposes for which such appropriations are made, and the amount appropriated for each object or purpose, and to each of the general funds and street district funds. The council shall also designate in the appropriation bill the sums, if any, required to be levied to meet any deficiency for the current year, and the amount or part of any special assessment, or other sum which they require to be levied or reassessed, with the next general tax as mentioned in section eleven of this chapter, and the disposition to be made of such moneys, and shall also designate in said bill any local improvements which they may deem advisable to make during the next fiscal year to be paid for in whole or in part by special assessments, and the estimated cost thereof.

Section 13. - Schools, library, appropriation.

All sums ordered in the annual appropriation bill, in any year to be raised for the several general funds and all amounts reported to the city clerk by the board of education to be raised for schools, library and schoolhouse purposes, as provided in chapter thirty of this act, shall be certified by the city clerk to the clerk of the board of supervisors of the county on or before the first Monday of October. All sums ordered in said bill to be levied or reassessed in street or sewer districts or as special assessments, shall, forthwith, be certified by the city clerk to the city assessor as provided in chapter twenty-two of this act, and all such sums shall be levied and collected with the state and county taxes next thereafter to be levied within such city.

Section 14. - No further sums raised, except as herein provided.

After the passage of the annual appropriation bill, no further sums shall be used, raised or appropriated; nor shall any further liability be incurred for any purpose, to be paid from any general fund or street district fund, during the fiscal year for which the appropriation was made, unless the proposition to make the appropriation shall be sanctioned by a two-thirds vote of the electors voting upon the proposition at the next annual city election or at any special election called for that purpose. But this section shall not prohibit the council from making any necessary repairs or expenditure at a cost not exceeding five thousand dollars, the necessity for which is caused by casualty or accident, happening after making the annual appropriation for the year, and from borrowing the money therefor.

Section 15. - Improvements limited by appropriations.

No improvement, work, repairs or expense to be paid for out of any general fund or street district fund, excepting as herein otherwise provided, shall be ordered, commenced or contracted for, or incurred in any fiscal year unless in pursuance of an appropriation specially made therefor in the last preceding annual appropriation bill, nor shall any expenditure be made, or liability be incurred, in any such year, for any such work, improvement, repairs, or for any purpose, exceeding the appropriation so made therefor; nor shall any expenditure be made, or money be paid out of any general, or street district fund, for any purpose, unless appropriated for that purpose in said bill.

Section 16. - Limit to cost of certain improvements not specified.

No work or improvement to be paid for by special assessment, costing more than three thousand dollars, shall be ordered, commenced or contracted for; nor shall any assessment be levied therefor, in any year, unless the intention to make such improvement or expenditure, and to defray the cost thereof by special assessment, was set forth in the last preceding annual appropriation bill.

Section 17. - Taxes levied before commencement of work.

No public work, improvement or expenditure shall be commenced, nor any contract therefor be let or made, except as herein otherwise provided, until a tax or assessment shall have been levied to pay the cost and expense thereof, and no such work or improvement shall be paid for, or contracted to be paid for, except from the proceeds of the tax or assessment thus levied, or from the proceeds of bonds issued in anticipation of the collection of said tax.

Section 18. - Certain funds raised partly by loan.

Instead of levying a tax for the whole amount authorized by this act to be raised in that manner in any year, for the purpose of the general and street district funds, the council may, in its discretion, raise a part thereof by tax and a part thereof by loan: Provided, that the aggregate amount of taxes and loans so raised and made shall not exceed the amount for which a tax might be levied for the same year.

Section 19. - Loan in anticipation of receipts.

The council shall also have authority to raise moneys by loan in anticipation of the receipts from special assessments, for the purpose of defraying the costs of the improvement for which the assessment was levied. Such loan shall not exceed the amount of the assessment for the completion of the whole work.

Section 20. - Greater sums authorized by electors.

Should any greater amount be required in any year for the purpose of erecting public buildings, or for the purchase of ground therefor, or for other public improvements or purposes, to be paid for from the general funds of the city, than can be raised by the council under the foregoing provisions of this chapter, such amount may be raised by tax or loan, or partly by tax and partly by loan, if authorized by two-thirds of the electors voting upon the question at an annual city election or special election called for such purpose. The amount that may be voted or raised in any year under the provisions of this section, shall not exceed two per cent of the assessed valuation of the property in the city as shown by the last preceding tax rolls made therein.

Section 21. - Submittal of questions to electors.

The proposition to raise such additional amount shall be submitted to a vote of the electors by an ordinance or resolution of the council, distinctly stating the purpose of the proposed expenditure, the amount proposed to be raised therefor, and whether by tax or loan. Such ordinance or resolution shall be passed, and published in a newspaper of the city, or copies thereof posted in five public places in said city, at least two weeks before the election at which the vote is to be taken. Such vote shall be by ballot.

Section 22. - Moneys raised; how credited.

All moneys and taxes raised, loaned, or appropriated for the purposes of any particular fund, shall be paid in and credited to such fund, and shall be applied to the purposes for which such moneys were raised and received, and to none other; nor shall the moneys belonging to one fund be transferred to any other fund, or be applied to any purpose for which such other fund is constituted, except when there shall be a surplus in any general fund, at the close of any fiscal year. In such case the surplus may be transferred to the sinking funds, should there be a deficiency in that fund, otherwise the council may apply such surplus as they shall deem proper. Moneys not received or appropriated for any particular fund shall be credited to the contingent fund.

Section 23. - Dispensing of money.

No money shall be drawn from the treasury, except in pursuance of the authority and appropriation of the council and upon the warrant of the clerk. Such warrant shall specify the fund from which it is payable, and shall be paid from no other fund.

Section 24. - Limits regarding warrant drawn.

No warrant shall be drawn upon the treasury, after the fund from which it should be paid has been exhausted; nor when the liabilities outstanding, and previously incurred and payable from such fund, are sufficient to exhaust it. Any warrant, draft or contract, payable by the provisions of this act from any particular fund, excepting bonds given for loans herein authorized, and issued or made after such fund has been exhausted by previous payments or by previous liabilities payable from such fund, shall be void as against the city.

Section 25. - Loans and bonds.

No loans shall be made by the council, or by its authority, in any year exceeding the amounts prescribed in this act. For any loans lawfully made, the bonds of the city may be issued, bearing a legal rate of interest. A record showing the dates, numbers and amounts of all bonds issued, and when due, shall be kept by the city clerk. When deemed necessary by the council to extend the time of payment, new bonds may be issued in place of the former bonds falling due, in such manner as merely to change, but not increase the bonded indebtedness of the city. Each bond shall show upon its face the class of indebtedness to which it belongs, and from what fund it is payable.

Section 26. - Auditing accounts; annual financial statement.

Immediately upon the close of the fiscal year the council shall audit and settle the accounts of the city treasurer and other officers of the city, and the accounts also, as far as practicable, of all persons having claims against the city, or accounts with it not previously audited; and shall make out a statement in detail of the receipts and expenditures of the corporation during the preceding year, which statement shall distinctly show the amount of all taxes raised during the preceding year for all purposes, and the amount raised for each fund; the amount levied by special assessments and the amount collected on each; and the amount of money borrowed, and upon what time and terms, and for what purpose; also the items and amounts received from all other sources during the year, and the objects thereof, classifying the expenditures for each purpose separately. Said statement shall also show the amount and items of all indebtedness outstanding against the city, and to whom payable, and with what rate of interest; the amount of salary or compensation paid or payable to each officer of the city for the year, and such other information as shall be necessary to a full understanding of all the financial concerns of the city.

Section 27. - Statement to be filed in office of city clerk.

Said statement, signed by the mayor and clerk, shall be filed in the office of the city clerk.

Section 28. - Private use of public money prohibited.

If any officer of the corporation shall, directly or indirectly, appropriate or convert any of the moneys, securities, evidences of value, or any property whatsoever, belonging to the corporation or any board

thereof, to his own use, or shall directly or indirectly and knowingly, appropriate or convert the same to any other purpose than for that for which such moneys, securities, evidences of value or property may have been appropriated, raised or received, or to any purpose not authorized by law, he shall be deemed guilty of wilful and corrupt malfeasance in office, and may be prosecuted, tried and convicted therefor, and, on conviction, may be punished by fine not exceeding one thousand dollars, or by imprisonment in the state prison for a period not exceeding three years, or both, in the discretion of the court.

Section 29. - Requirements of bond.

Every bond issued by said city shall be made payable within thirty years from the date of issue, and shall contain on its face a statement specifying the object for which the same is issued, and if issued for the purpose of raising money for any public improvement, the particular public improvement shall also be specified on the face of such bond, and it shall be unlawful for any officer of such city to sign or issue any such bond without such matters as set forth on the face of the same as aforesaid, or to use such bonds or the proceeds from the sale thereof, for any other object than that mentioned on the face of such bond, and any such officer who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail for a period not exceeding one year, or by both such fine and imprisonment in the discretion of the court.

CHAPTER XXIX. - ASSESSMENT AND COLLECTION OF TAXES[6]

Footnotes:

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State Law reference— General Property Tax Act, MCL 211.1 et seq.

Section 1. - Assessor to make assessments.

The assessor of said city, shall in each year, make and complete an assessment of all the real and personal property within said city liable to taxation under the laws of the state, and of all the property of any person liable to be assessed therein, in the same manner, and within the same time as required by law for the assessment of property in the townships of the state, and in so doing he shall conform to the provisions of law governing the action of supervisors of townships performing the like services, and in all other respects within said city, he shall, unless otherwise in this act provided, conform to the provisions of law applicable to the action and duties of supervisors in townships, in the assessment of property, the levying of taxes, and in the issuing of warrants for the collection and return thereof. Such assessor shall make his assessment of all such property in a single roll and in the making of such assessments and in the levying of taxes such city shall be treated as a whole or as one assessment district as townships are treated under the general tax laws of the state, and said city assessor shall represent the city on the board of supervisors in and for said County of Mackinac and shall have all the rights, privileges and powers of the several members of the said board of supervisors.

State Law reference— Tax assessments generally, MCL 211.10 et seq.

Section 2. - Action in case of claim of exemption.

If any person residing in the city a part of the time during the year shall, in the opinion of the assessor, unjustly or falsely claim exemption from taxation therein on the ground that he or she has a residence, and is taxed or liable to taxation elsewhere than in said city, the assessor shall, notwithstanding, assess such person for such amount of personal property as in his opinion shall be just, and such assessment shall be conconclusive as to the liability of such person to be assessed and to pay

the tax levied in pursuance thereof, unless such person shall present to the treasurer, or officer requiring payment of such tax, a receipt duly signed and authenticated by the affidavit of some other collector of taxes, and also by the affidavit of the person charged with the tax, showing that such person has paid a tax upon all of the same property for the same year to such other collector or receiver of taxes.

Section 3. - Board of equalization; powers; compensation.

The supervisor, city assessor and the mayor shall constitute a board of equalization and review of the general assessment roll of said city, a majority of whom shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day. They shall have power, and it shall be their duty, to examine said assessment roll, and they shall have authority to, and shall correct any errors or deficiencies found therein, either as to the names, valuations or descriptions; and of their own motion, or on cause shown, may reduce or increase the valuation of any property found on said roll, and to add thereto any taxable property in said city that may have been omitted, and to value the same; and to strike from said roll any property wrongfully thereon, and generally to perfect said roll in any respect by said board deemed necessary and proper, for which services such members of said board shall receive $2.00 per day while actually employed. And the board of supervisors of the county shall equalize such city as a unit the same as a township is equalized.

Editor's note— The reference in Charter ch. XXIX, § 3 to the supervisor is obsolete. See MCL 46.401 et seq.

State Law reference— Composition of board of review, MCL 211.28, 211.107.

Section 4. - Meetings.

The said board shall meet on the third Monday in May in each year, at the council rooms in such city, at nine o'clock in the forenoon, at which time and place notice shall be given by the clerk at least two weeks prior to the time of meeting, by publishing a notice thereof in one or more of the newspapers of said city, or by posting the same in five public places in said city, at which time and place the assessor shall submit to said board his general assessment roll. They shall select one of their number as chairman, and shall continue in session at least two days successively, and as much longer as may be necessary to complete the review, and at least six hours in each day, during said two days or more; and any person or persons desiring so to do, may examine his, her or their assessment on said roll, and may show cause, if any exists, why the valuation thereof should be changed, and the said board shall decide the same, and their decision shall be final. They may examine on oath any person touching the matter of any assessment, and the chairman or any member of said board may administer oaths. They may issue subpoenas signed by any member of the board to compel the attendance of witnesses. They shall keep a record of their proceedings, and all changes made in said roll shall be entered upon such record, which record shall be deposited with the city clerk, who shall be clerk of said board. The decision of a majority of the members of said board upon all questions shall govern. The roll as prepared by the assessor shall stand as approved and adopted as the act of the board of review, except as changed as herein provided. Said board shall have the same power and perform the same duties in all respects as boards of review of townships, in reviewing and correcting assessments made by supervisors of townships, except as in this act otherwise provided. After said board of review shall have completed the revision of said roll, the clerk shall endorse and sign a statement upon such roll, to the effect that the same is the general assessment roll of the city for the year in which it has been prepared, as approved by the board of review. Such statement may be in the following form, namely:

STATE OF MICHIGAN,	)	
	)	SS

CITY OF MACKINAC ISLAND.	)	

I hereby certify that the board of review and equalization of the City of Mackinac Island have reviewed, equalized and corrected the within assessment roll, and have determined the aggregate value of the real estate to be _____ dollars, and the total value of the personal estate to be _____ dollars for the year A. D. _____.

Dated _____	
	_____
	Clerk of the Board of Review

Upon the completion of such roll and its endorsement in manner aforesaid, it shall be returned to the assessor and shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside, except for causes mentioned in the general laws of the state, relating to the assessment of property and the levy and collection of taxes thereon. The omission of such endorsement, however, shall not affect the validity of any such roll.

Editor's note— The provisions of Charter ch. XXIX, § 4 are superseded by MCL 211.29 et seq. See MCL 211.107.

Section 5. - Assessor to certify amount to county clerk.

Within sixty days after the confirmation of such rolls, as above provided, the assessor shall deliver a certified copy of his assessment roll to the city clerk, to be filed in his office for the use of the council.

Section 6. - Clerk to certify amount to be raised to county clerk.

On or before the first Monday of October in each year, the city clerk shall certify to the county clerk of the county in which the city is located the aggregate amount of all sums which the council require to be raised for the next fiscal year for all city purposes, and the amount the school board report for schools and library and schoolhouse purposes, by general taxation upon all the taxable property of the whole city.

Section 7. - Supervisors to have same powers as under general tax law.

The board of supervisors of such county shall have the same powers and duties in regard to said taxes as they exercise under the general tax law of this state, in regard to township and school taxes and they shall direct that such of the several amounts of money proposed to be raised for all such purposes, and for schools, library, schoolhouse and all other purposes as shall be authorized by law to be spread upon the assessment roll of said city, and such action shall be deemed final as to the levy and assessment of all such taxes, and the clerk of said board shall certify to the assessor of said city for assessment therein, the amount so directed to be raised, giving the amount named for school, library and schoolhouse purposes in a separate sum, within five days after the board of supervisors of the county

shall have completed the equalization of the valuation of the property in the county for the year. Said clerk of the board shall also certify to the city clerk the amounts so directed to be raised as aforesaid.

Editor's note— The reference in Charter ch. XXIX, § 7 to the board of supervisors is obsolete. See MCL 46.401 et seq. References to school taxes are obsolete in light of MCL 380.1218.

Section 8. - City clerk to certify to assessor amounts to be assessed in special districts.

On or before the first day of October, the city clerk shall certify to the assessor for the assessment therein, all amounts which the council require to be assessed or re-assessed in any street district, main or special sewer district, or other special assessment district, or upon any parcel of land, or against any particular person as a special assessment or otherwise within said city, together with a designation of the district, or description of the land or person upon whom or within which the several sums are to be assessed or reassessed, with such further descriptions and directions as will enable such assessor to assess the several amounts upon the property and person chargeable therewith.

Section 9. - Assessor to levy amounts certified by clerk of board.

The assessor shall, at the time of levying state and county taxes in the city for the year, levy in the same roll upon all the taxable property in the ward, the amounts certified to him by the clerk of the board of supervisors as provided in section seven of this chapter, to be raised for city, school and library purposes placing the city taxes in one column, and the school, library and schoolhouse taxes in another column, and he shall also levy, in the same roll, upon the lands, property, and persons chargeable therewith, all special assessments and sums reported to him by the city clerk, as provided in section eight of this chapter, or in chapter twenty-eight of this act, for assessment or reassessment, in street districts, main or special sewer districts, or for other special assessments, placing all such special assessments in separate columns, and shall place the state and county taxes in other columns, and the total of all taxes assessed against any one valuation or parcel of property shall be added and carried out in the last column upon the right hand side of such roll.

Section 10. - Assessor to certify amounts levied to city clerk.

The assessor on completing his roll shall certify to the city clerk the amounts of taxes levied in the roll for the state and county purposes, and for city and school taxes, special assessments and other purposes, and the clerk shall charge the said amounts to the city treasurer. The city treasurer shall give bond to the county treasurer in the same manner as township treasurers are required to do; and thereupon, and on or before the first Monday in December, the assessor shall deliver a certified copy of the tax roll, with the taxes extended therein as aforesaid, to the city treasurer, with his warrant for the collection of taxes therein, annexed thereto.

Section 11. - Warrants.

The warrant annexed to such roll shall state the several amounts levied therein to be paid into the city and county treasuries respectively; and shall command the city treasurer to collect from the several persons named in the said roll the several sums named in the last column thereof opposite their respective names, and to pay over and to account for all moneys collected and specified in the roll as in the said warrant directed, on the first day of March then next ensuing. And the warrant shall authorize the treasurer, in case any person shall neglect to pay his tax, to levy the same by distress and sale of the goods and chattels of such person.

Section 12. - Lien on property.

All taxes thus assessed shall become at once a debt to the city from the person to whom they are assessed and the amounts assessed on any interest in real property shall, on the first day of December become a lien upon such real property; and the lien for such amounts and for all interest and charges thereon shall continue until payment thereof. All personal taxes shall also be a lien on all personal

property of such persons so assessed from and after the first day of December in each year, and shall take precedence of any sale, assignment, chattel mortgage, levy or other lien on such personal property, executed or made after the first day of December, except where such property is actually sold in the usual or regular course of trade.

Editor's note— The provisions of Charter ch. XXIX § 12 appear superseded by MCL 211.40a.

Section 13. - Tax notice; collection fee.

Upon receiving the tax roll as above provided the city treasurer shall give notice immediately to the taxpayers of the city that such roll has been delivered to him, and that the taxes therein levied can be paid to him at his office before the first day of March next ensuing. That on all sums voluntarily paid before the tenth day of January of the succeeding year one per cent will be added for collection fees, and upon all taxes paid on or after the tenth day of January four per cent will be added for collection fees. Said notice shall be given by posting copies thereof in five public places in the city, and it shall be the duty of the treasurer to be at his office at such time previous to the tenth day of January as the council shall direct, and there receive payment of such taxes as may be offered to him. In case he may be apprehensive of the loss of any personal tax assessed upon his roll he may proceed to enforce such collection at any time, and if compelled to seize the property or bring suit before the tenth day of January he may add four per cent for collection fees. All percentage for fees collected by him under this act shall be retained by said treasurer or paid into the city treasury to the credit of the contingent fund, as the common council shall direct at the time of fixing the salary of the city treasurer.

State Law reference— Tax collections, MCL 211.44.

Section 14. - Collection of taxes unpaid the same as in township.

For the collection of all taxes remaining unpaid on the tenth day of January, the city treasurer shall proceed in the same manner as township treasurers are required by law to do for the collection of taxes in townships, and shall for that purpose have all the powers and authority conferred by law upon township treasurers for such purposes, and shall, when necessary, enforce the payment of the tax against any person by distress and sale of his goods and chattels, if any such can be found anywhere within this state and from which seizure no property shall be exempt.

Section 15. - Duties of treasurer.

The county treasurer may issue new warrants to the city treasurer for the collection of taxes in the same manner and in the same cases, and with the same effect, as such new warrant may be issued to township treasurers. The city treasurer may, and it shall be his duty to proceed by suit in the name of the city, for the collection of unpaid taxes in the same cases, and under like circumstances in which township treasurers are authorized to proceed in that manner; and all the provisions of law applicable to suits and evidence therein brought by township treasurers in the name of their township for such purposes, shall apply to suits brought by the city treasurer as aforesaid.

Section 16. - City same as township.

For the purpose of assessing and levying taxes in said city for state, county, school and library purposes, the city shall be considered the same as a township, and all provisions of law relative to the collection of taxes levied in townships shall apply to the collection of taxes levied and assessed by the assessor in such city, except as herein otherwise provided. For the purpose of collecting taxes and returning property for non-payment thereof, the city treasurer shall perform the same duties and have the same powers as township treasurers, except as herein otherwise provided.

Section 17. - City treasurer to pay township treasurer.

The city treasurer shall, within one week after the time specified and directed in the warrant annexed to said tax roll, pay to the county treasurer the sums required in said warrant to be so paid, either in delinquent taxes on lands, or in funds then receivable by law, and all lands upon which any unpaid tax shall be returned shall be sold therefor the same as lands returned for delinquent taxes by township treasurers.

Section 18. - Delinquent taxes.

All the provisions of law respecting delinquent taxes levied in townships shall apply to all taxes levied in said city, and be returned as delinquent to the county treasurer; and the city in respect to taxes levied therein and returned to the county treasurer, as delinquent, shall, except as herein otherwise provided, be considered and treated as a township; and all provisions of law for the sale of lands for the payment of taxes levied for state, county and township purposes, and returned delinquent, shall apply to the return and sale of property for the non-payment of delinquent taxes levied in the city, except as herein otherwise provided.

Section 19. - Contract for sewerage.

The council may contract from year to year or for a period of time not exceeding thirty years, with any person or persons, or with any duly authorized corporation or association, for the supplying of such city, or the inhabitants thereof, or both, with sewerage and drainage, upon such terms as may be agreed; and may grant to such person, persons, corporation or association, the right to the use of the streets, alleys and other public grounds, and places of said city, both for the laying and maintenance of pipes and mains and for outlets to the lake and straits, for a period not exceeding thirty years, to enable such person, persons, corporation or association to construct, operate and maintain proper sewers and drains upon such terms and conditions as may be specified.

(Mich. Local Acts (1901) No. 263, § 2)

CHAPTER XXX. - EDUCATION[7]

Footnotes:

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Editor's note— Except for the creation of a school district, the provisions of Charter Ch. XXX appear superseded by MCL 380.1 et seq.

Section 1. - Powers of school district.

Said city shall constitute a single school district. Such school district shall be a body corporate, by the name and style of the "public schools of the City of Mackinac Island," and shall possess the usual powers of corporations for public purposes; and in that name may sue and be sued, and purchase, acquire, hold and dispose of such real and personal property as is authorized to be purchased, acquired or disposed of by this chapter.

Section 2. - Board of education.

The board of education of such public school shall consist of six trustees, who shall be qualified electors of the school district, and the regular annual election of school trustees shall be held on the first Tuesday of September of each year: Provided, that the first election of school trustees under this chapter shall be held on the second Tuesday of July, A. D. nineteen hundred, and at said election two trustees shall be elected for the term of one year, two for the term of two years, and two for the term of three years

from the first Tuesday of September of such year, and the term for which each trustee is elected shall be designated on the ballot cast for him. Annually thereafter two trustees shall be elected for a term of three years from and after the first Tuesday of September of the year when elected and until their successors are qualified and enter upon the duties of their offices.

Section 3. - Election of trustees; polls.

Such annual election of school trustees as above provided shall be held at such place in said city as the board of education shall designate. The polls shall be opened at nine o'clock in the forenoon and shall continue open without intermission or adjournment until the hour of eight o'clock in the afternoon [sic], at which time they shall be finally closed. Said election shall be by ballot, and shall, except as herein otherwise directed, be conducted in all respects in the manner provided by law for conducting the election of officers in graded school districts. Notices of the time and place of holding such election shall be given by the secretary of the board, at least ten days before said election, by posting such notices in ten of the most public places in the city or by publishing a copy thereof in one or more newspapers published in the city, the same length of time before the election.

Section 4. - Board of inspectors.

The president and secretary of the board of education and one other trustee, to be designated by the board, shall constitute a board of inspectors of such election after the first election and if any of said three trustees shall not be present at the time of the opening of the polls or remain in attendance, the electors present may choose viva voce such number of such electors as with the trustee or trustees present shall constitute a board of three inspectors of such election. Each of said inspectors shall take the required oath to faithfully perform the duties of inspector of such election. The president of the board shall be chairman of the board of inspectors; in his absence the inspectors shall elect one of their number as such chairman. Every person shall be entitled to vote at such election who is a qualified voter of the city and qualified by the laws of the state to vote at any election for school officers. The board of inspectors shall have the same authority and powers in maintaining and enforcing order and obedience to their lawful commands at such elections and during the canvass of the votes as are conferred by the general laws of the state upon school officers in similar cases.

Section 5. - List of electors to be made.

The board of inspectors shall make a poll list of the names of persons voting at such election. They shall also have the right of access to the registration books of the city, if they deem it necessary, and for that purpose they may require the city clerk to attend said election with such registers.

Section 6. - Board to count votes.

When said polls shall be finally closed, the board of inspectors shall proceed publicly to count, determine and declare the number of votes cast and for whom, and shall on the same or on the next succeeding day make up and sign a statement in writing showing the whole number of votes cast and the number of votes cast for each person for whom votes were cast; which statement, together with the minutes and other papers of the election, shall be filed with the secretary of the board of education. The person or persons who shall have received the highest number of votes for such office of trustee for the several terms designated upon the ballot shall be declared elected by the board of trustees, and if two or more persons shall have received an equal number of votes where only one trustee is to be elected, the said board of trustees shall choose one of such persons by lot, as such trustee. The ballots shall, when the vote shall have been declared, be returned to the box, and the box be locked and sealed and deposited with the secretary at the time of the filing of said statement. Every person so declared elected to the office of school trustee, under the provisions of this act, shall, within five days after he has been declared elected, qualify, by taking and subscribing the required oath of office, and file the same with the secretary of the board of education.

Section 7. - Expenses.

The board of education shall pay all the expenses of such election from the contingent fund of the district, and shall allow each inspector of election the same compensation as is allowed to inspectors at city elections.

Section 8. - Meeting of board.

At the first regular meeting of the board after each annual election, the board shall elect from their own number a president, and they shall also at such time elect a secretary, who may or may not be a member of the board, and whose duty shall be fixed and prescribed by the board: Provided, that whenever a secretary shall be elected who is not a member of the board, he shall have no vote therein. They shall meet from time to time, as they may determine, for the transaction of business, and shall keep a record of all their proceedings. The city treasurer shall be the treasurer of the public schools, as hereinbefore in this act provided.

Section 9. - Board to manage district property.

The board of education shall have the control and management of the property, interests and affairs of the district, and of the schools organized, or that may be organized therein. They shall establish and maintain such primary and graded schools as the public interests may require; and when deemed expedient shall establish a higher school for instruction in the higher branches of education, authorized by the school laws of the state. The schools of the district shall be public, and free to all children between the ages of five and twenty years, residing within the city; and shall be taught for such length of time, at least, during each year as is or may be required by law in respect to school districts having a like number of children of the ages aforesaid.

Section 10. - Appointment of teachers.

The board of education shall appoint and employ a superintendent, and the teachers and instructors for the public schools, and determine their salaries and define their duties. They shall prescribe the courses of study to be pursued, the books to be used, classify the pupils as may be expedient, and provide the necessary apparatus and facilities for instruction, determine the rate of charges for instruction to pupils not resident in the city, make all regulations necessary or required for the examination of teachers, determine the length of time the schools shall be taught each year, adopt rules for the regulation and government of the schools, and do whatever may be required to advance the interest of education.

Section 11. - District library.

Said board shall maintain a district library, and may apply to the purchase of books therefor, in addition to the amount received on account of fines and forfeitures, such sum annually as they may deem expedient, and the Township of Holmes and Village of Mackinac are hereby empowered to transfer to said public schools of the City of Mackinac Island any library now belonging to said township or village, to be thereafter owned and maintained by the board of trustees of such school district.

Section 12. - Board may establish sites for schools.

The board of education shall have authority, and it shall be their duty, to designate and establish such number of sites for school-houses in the district as may be necessary and to purchase and procure the lands therefor, and to erect and maintain thereon, in proper repair, convenient and suitable schoolhouses and buildings for the use of the public schools, and to provide the proper furniture and appurtenances for such buildings and grounds. They may also lease lands and buildings for the use of the schools; and may sell and dispose of any lands and property of the district when no longer needed. They shall make and enforce all needful regulations for the protection and preservation of the school buildings, property and improvements of the district; and the council shall also pass all necessary ordinances for that purpose.

Section 13. - Census.

The board shall cause a census to be taken annually of all the children between the ages of five and twenty years, residing in the district, within the time and in the manner required by law, and report the same and make and transmit all other necessary reports to the proper officers, as designated by law, in order that the district may receive its share of the primary school funds and library moneys. For the purposes of distribution of the primary school funds and moneys collected from fines and penalties, the city shall be considered the same as a township and said board shall be entitled to receive from the county treasurer or other officer, for the use of the public schools, all moneys appropriated or apportioned to the city for the primary schools and district libraries.

Section 14. - Receipts and expenditures to be published.

The board shall during the last week of the month of August in each year, publish in some newspaper in the county a statement of the number of schools in the city, the number of teachers employed, and of the pupils instructed therein during the preceding year, and the branches of education pursued in such schools, and at the same time make and publish a statement of all the receipts and expenditures of the district for the preceding year, showing the items thereof, the sources of income, the amount of salaries paid to officers, teachers and employees, and to whom paid, the obligations incurred during the year and the amount of indebtedness outstanding and to whom payable; and also the estimates required to be made, as in the next section mentioned of the expenditures for grounds and buildings and for the support of the schools for the ensuing year, and the items thereof, or instead of publishing said statement as above provided, such statement may be posted in five public places in said city not later than the last Monday in August of each year, which said statement shall be recorded with the proceedings of the board.

Section 15. - Board to estimate and report funds.

The board shall also make and deliver to the city clerk, annually, in the month of September, an estimate and report of the amounts necessary to be raised in addition to other school funds for the entire support of the public schools, including fuel, pay of teachers, repairs and other incidental expenses and indebtedness falling due, and for the purchase of grounds and the construction of school buildings and support of the library, and for all purposes of expenditure which the board is authorized or required to make during the ensuing year, specifying the different objects of expense as particularly as may be, and it shall be the duty of the city clerk on or before the first Monday in October of each year to make and deliver to the county clerk a certified copy of the same, which sums so reported the board of supervisors shall cause to be raised by tax upon all the taxable property in the city, with the state and county taxes thereafter to be raised: Provided, that the amount so to be raised in any one year for the purchase of grounds and the erection of buildings, and for the payment of indebtedness and interest thereon incurred for grounds and buildings shall not exceed one-half of one per cent, and the amount for the support of the schools and for all the other purposes above mentioned shall not exceed one and one-fourth per cent of the dollar of the taxable valuation of the real and personal property in the city as shown by the tax roll of the preceding year, except as provided in section sixteen of this chapter.

Section 16. - Board may borrow in anticipation of collections.

For the payment of current expenses, the board may borrow, from time to time, in anticipation of the collection of taxes levied, or herein authorized to be levied, during the same year for school purposes, such sum not exceeding twenty-five per cent of the tax, to be paid therefrom as they may deem expedient. Should any greater sum be required in any one year for the purchase of grounds, the erection of school buildings, and for the payment of indebtedness incurred for such purposes than can be raised under the provisions of the foregoing section, such sum, not exceeding two per cent of the taxable valuation of the property in the city for the preceding year, may be raised by tax or loan and should any greater sum than one and one-fourth per cent of the taxable valuation of the real and personal property in the city, as shown by the tax roll of the preceding year, be required for the support of the schools and for all other purposes above mentioned in any year such additional sum not to exceed three-fourths of one per cent of the taxable valuation of real and personal property in the city for the preceding year may be raised by tax if authorized by a majority vote of the qualified electors of the district present at any general meeting or at any special meeting appointed and called by the board for the purpose of voting thereon.

Notice of the time and place and object of any such meeting shall be given by publishing such notice in one of the newspapers of the county, or by posting copies thereof in ten public places in the city at least ten days before the meeting. For any sums borrowed and for the renewing of former loans, the board may issue the bonds of the public schools of the city, for payment of which the faith of the district shall be pledged.

Section 17. - Treasurer to give bond.

The treasurer shall give bond to the public schools of the city, in such sum and with such sureties as the board of education shall approve, conditioned for the faithful performance of the duties of his office. All school and library moneys receivable from the county treasurer and from the collection of taxes and other sources, shall be deposited with the treasurer of the public schools, and shall not be used, applied to, or paid out for any purpose except upon the written order of the president, countersigned by the secretary of the board. Any officer or person paying to the treasurer any money belonging to the public schools shall take duplicate receipts therefor, and transmit one of them to the secretary of the board.

Section 18. - Compensation of secretary.

The secretary of the board shall receive such compensation for his services as such officer as the board shall determine; otherwise no member of the board shall receive any compensation. No member of the board shall be a party to or interested in any contract with the public schools.

Section 19. - Property to belong to district.

All the school buildings, property and effects situated within the Village of Mackinac and said Township of Holmes shall be vested in, and be the property of the district hereby designated as the public schools of the city; and all the debts and liabilities of any school district within the territory incorporated as a school district by this act shall be the debt of, and be paid by, the district as herein constituted; and any suit pending against any such former school district shall be continued to judgment. Any tax levied and uncollected in any such former district shall be collected and enforced in the same manner as if such new incorporation had not taken place.

Section 20. - Vacancies.

All resignations of trustees shall be made to the board of education, subject to their approval and acceptance. The board shall have power to fill any vacancies that may occur in their number until the next annual election.

Section 21. - Inspectors for "first" election.

At least two weeks before the time of holding the first election of trustees under this chapter the council of said City of Mackinac Island shall appoint three qualified electors of said city, who shall serve as inspectors of election for the said first election, and shall exercise all the powers and perform all the duties imposed by this chapter on inspectors of election for school trustees.

Section 22. - Present officers.

All present school officers in said Township of Holmes, and in said Village of Mackinac shall continue to exercise the duties of their several offices until the first day of July nineteen hundred.

CHAPTER XXXI. - MISCELLANEOUS

Section 1. - Real and personal property.

Said city shall succeed to and be vested with all the property, real and personal, moneys, rights, credits and effects, and all the records, files, books and papers belonging to the said Township of Holmes and Village of Mackinac as formerly incorporated, and no rights or liabilities either in favor of or against

such former corporations existing at the time this act shall take effect, and no suit or prosecution of any kind shall be in any manner affected by such change, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the said former corporation shall be deemed to be the debts and liabilities of the City of Mackinac Island, and all taxes levied and uncollected at the time of such change shall be collected the same as if such change had not been made: Provided, that when a different remedy is given in this act which can be made applicable to any rights existing at the time of the incorporation of the said city under this act, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

Section 2. - Officers to continue in office.

All the officers of the Village of Mackinac and of the said Township of Holmes elected or appointed and in office at the time of the passage of this act shall continue to exercise their respective functions until the second Monday in April A. D. nineteen hundred and until their successors under the provision of this act shall have qualified and entered upon the duties of their offices, unless herein otherwise provided.

Section 3. - By-laws to remain in force.

The by-laws and ordinances of the said Village of Mackinac, and the rules and regulations of the council, and of the board of health or other board or boards of such village and township heretofore in force and not inconsistent with this act shall remain in force after the passage of this act, and are hereby declared to be reenacted by virtue of and under the powers conferred by this act until altered, amended or repealed by the council or such board as the case may be.

Section 4. - Licenses.

All licenses granted by said Village of Mackinac under its former act of incorporation shall be and remain in full force and virtue until the expiration of the time for which they were granted.

Section 5. - Election of officers.

The first election of officers for such city under the provisions of this act shall be held on the first Monday in April in the year of our Lord nineteen hundred and notice thereof and of the officers to be elected thereat shall be given and the election held and conducted, the votes canvassed, the result determined and notice given to persons elected in the same manner and within the same time as herein provided.

Section 6. - All process to run in name of city.

All process against said city shall run against the city in the corporate name thereof and may be served by leaving a certified copy with the mayor or city clerk at such time and manner as may provided by law.

Editor's note— The provisions of Charter ch. XXXI, § 6 are superseded by MCL 600.1925.

Section 7. - Council to approve plats.

No lands or premises shall hereafter be laid out, divided and platted into lots, streets and alleys within said city, except by permission and approval of the council by resolution passed for that purpose; nor until the proprietor shall file with the city clerk a correct survey, plan and map of such grounds and the subdivisions thereof, platted and subdivided as approved by the council, and made to their satisfaction; showing also the relative position and location of such lots, streets and alleys with respect to the adjacent lots and streets of the city; nor shall any such plat and dedication of the streets and public grounds thereon be recorded in the office of the register of deeds of the county in which such city is located until a certificate has been endorsed thereon by the city clerk, under the seal of the city, showing that such plat and dedication has been approved by the council; nor shall the city by reason of such approval, be

responsible for the improvement, care, and repairs of such streets and alleys, excepting such as the council shall accept and confirm by ordinance or resolution as in this act provided.

State Law reference— Land Division Act, MCL 560.1d et seq.

Section 8. - City not to hold stock in incorporated company.

Said city shall not become the owner or holder of stock or shares in any incorporated company.

Section 9. - Publication of proceedings.

When, by the provisions of this act, notice of any matter or proceeding is required to be published or posted, an affidavit of the publication or posting of the same, made by the printer of the newspaper in which the same was inserted, or by some person in his employ knowing the facts, if such notice was required to be made by publication, or by the person posting the same, when required to be by posting, shall be prima facie evidence of the facts therein contained: Provided, the same shall be filed with the city clerk within six months from the date of the last publication thereof, or of posting the same.

Section 10. - City may issue bonds in payment of judgment.

Whenever any judgment or decree of any court shall be rendered or decreed against said city, and said city shall be unable to meet the payment of such judgment or decree by reason of the limitation of its power of taxation, then and in such case it shall be lawful for the council to issue the bonds of such city to an amount not exceeding the sum of such judgment or decree, and the taxed costs, arising in the procuring of such judgment or decree, together with the interest thereon, which bonds may be made payable at such time and place and at such rate of interest, not exceeding six per cent per annum, as shall be prescribed by the council, and such bonds shall be sold and disposed of at not less than their par value, in such manner as may be deemed advisable by said council.

Section 11. - Authority of city and council.

The City of Mackinac Island and the council thereof are hereby given authority in the manner hereinafter provided to acquire through purchase, condemnation, construction, or in any other manner, and to own, operate, maintain, extend, improve and equip any revenue producing property or properties or any combination of such properties, including but not in limitation thereof, an electric light and power plant and system, a waterworks plant and system, a sewerage and sewerage disposal plant and system, a natural or artificial gas plant and system, and any part or parts thereof, for the purpose of supplying the commodities and service to be supplied by such properties to the City of Mackinac Island and its inhabitants, and to consumers residing outside the corporate limits of said city. Any revenue producing property or properties, including those above defined, or any part or parts thereof or combination thereof, are herein referred to as the 'utility' and shall be construed to include flowage rights, easements, franchises, contracts, and real and personal property of every nature used or useful in the operation of such utility, and use, operation and maintenance of such utility. Such utility may be either within or without the corporate limits of said city but not more than twenty-five miles from the corporate limits of said city. In acquiring a utility under the provisions of this section the city council may provide either for the acquisition of an existing utility or utilities, or for the acquisition of such part of any existing utilities as the council may consider it necessary or desirable to acquire. If part only of a utility is acquired, or if all of an existing utility is acquired and it shall thereafter be determined by any court of competent jurisdiction that the city may not lawfully own or operate all of such utility, then the council may either operate as a utility such part thereof as it may lawfully own and operate or may lease in such manner and pursuant to such terms as it may consider desirable any part of an existing utility or any other property or properties, real or personal, which it may consider necessary or useful in the operation of the utility or part thereof lawfully owned by said city, and may purchase or otherwise acquire the beneficial interest in such part of an existing utility or other property or properties, if such other property or properties are conveyed by the city or by any other grantor to be held in trust for the benefit of the city, and the council is hereby given complete discretion and authority to enter into such contracts or agreements as it may deem fitting in order to effectuate such

lease or trust. The city is also authorized to acquire jointly with any other municipality or municipalities a utility or any part of a utility and to enter into such agreement with such other municipality or municipalities for the joint or several operation of such utility or part thereof as may be determined by the council.

The council shall prescribe rates to be charged for services or commodities supplied or furnished by any utility acquired, improved or extended under the provisions of this section, which rates shall be reasonable and equitable and fully sufficient to produce revenues adequate to pay and the council shall cause to be paid:

(a) All expenses necessary to the operation and maintenance of said utility. Such operating and maintenance expenses shall include the cost of the acquisition of properties and materials necessary to maintain said utility in good condition and operate it efficiently, wages and salaries payable to the employees of said utility and such other expenses as may be reasonably necessary to the efficient operation of said utility.

(b) The annual or semi-annual interest upon bonds issued under the provisions of this section.

(c) The amount required to be paid annually into the sinking fund for the payment of bonds issued under this section.

No other charge shall be made upon the revenues of said utility so long as any bonds issued under this section shall remain outstanding and unpaid as to principal or interest, provided that out of revenues which may be received in excess of those required for the purposes listed in the above subparagraphs (a), (b) and (c) the council may pay the cost of improvements and replacements not covered by subparagraph (a), may establish a depreciation fund, and may place all or part of such surplus in its general fund.

All commodities and services furnished the City of Mackinac Island by such utility shall be charged for at the rate or rates applicable to other customers taking service under similar conditions. The city shall pay such charges from its general revenues.

The council may by ordinance or resolution authorize the issuance of bonds of the City of Mackinac Island payable solely out of the revenues of said utility for the purpose of paying wholly or in part the cost of the acquisition, extension, improvement or equipment of said utility, or for the purpose of refunding any bonds theretofore issued under authority of this section. Each authorized issue of bonds shall constitute a separate series and shall be appropriately designated. Such bonds shall not constitute an indebtedness or pledge of the credit of the city and shall contain a recital to that effect, shall be in registered or coupon form and if in coupon form may be registerable as to principal, shall be in such denomination or denominations as the council may provide, shall bear interest at a rate or rates not to exceed six per cent per annum payable annually or semiannually, and shall mature serially or at one time not more than forty years from their date in such manner as may be provided by the council. Principal of and interest on such bonds shall be made payable at any place or places within or without the State of Michigan and in the discretion of the council such bonds may be made redeemable at the option of the council prior to maturity at such premium or premiums as the council shall determine. Such bonds shall be signed by the mayor and attested by the city clerk under the seal of the city in such manner as may be authorized by the council. Interest coupons may be executed with the facsimile signatures of such officers. Such bonds shall be sold in such manner and at such times as the council shall determine to be expedient and necessary to the public interest or may be delivered at not less than their par value in payment of all or part of the acquisition cost of such utility or any part thereof, provided that if sold said bonds shall in no event be sold for a price which will result in an interest yield therefrom of more than six per cent per annum, computed to maturity according to standard bond tables in general use by banks and insurance companies. In the event any of the officers whose signatures appear on such bonds or coupons shall cease to be such officers before the delivery of such bonds to the purchaser such signature or signatures shall nevertheless be valid and sufficient for all purposes.

If more than one series of bonds shall be issued under this section, priority of lien against the revenues of such utility shall depend on the time of delivery of such bonds, each series enjoying a lien prior and superior to that enjoyed by any series of bonds subsequently delivered; provided however, that as to any issue or series of bonds which may be authorized as a unit but delivered from time to time in blocks, the council may in the proceedings authorizing the issuance of said bonds provide that all of the

bonds of such series or issue shall be co-equal as to lien regardless of the time of delivery. All bonds issued under this section shall constitute negotiable instruments within the meaning of the negotiable instruments law.

Any ordinance or resolution authorizing the issuance of bonds hereunder shall provide for the creation of a sinking fund into which shall be paid from the revenues of said utility from month to month as said revenues are collected, sums fully sufficient to pay principal of and interest on such bonds as hereinafter provided. The money in such sinking fund shall be applied solely to the payment of interest on the bonds for the payment of which said fund was created, and for the retirement of said bonds at or prior to maturity in the manner herein provided. The council may at the time bonds are authorized provide that all money in such sinking fund in excess of the amount required for the payment of interest on and principal of such outstanding bonds for such period as it may determine shall be expended once each year in the purchase of bonds for the account of which such sinking fund has been accumulated if any such bonds can be purchased at any price not greater than 105 per cent of the par value thereof which may seem reasonable to the council, provided that in the event such bonds contain an option permitting retirement prior to maturity then it may be provided that such excess sums shall be paid out as aforesaid for the purchase of such bonds and that if the council shall be unable so to purchase sufficient bonds of such issue to absorb all such surplus at the first opportunity, it shall call for redemption a sufficient amount of said bonds to absorb so far as practicable the entire available surplus remaining in said sinking fund. It may be provided that any excess sums in the sinking fund which cannot be applied to the purchase or redemption of bonds shall remain in said sinking fund to be used for the payment of principal and interest when due, or for the subsequent call of bonds for purchase or redemption in the manner above provided.

Any ordinance or resolution authorizing the issuance of bonds under this section may contain such covenants with the holders of the bonds as to the management and operation of said utility (and the management and operation of the utility may be reposed either in the council or in a board of public works or in such other board or authority as may be provided in said ordinance or resolution), imposition and collection of charges for the services or commodities furnished thereby, distribution of revenues, issuance of future bonds, and the creation of future liens and encumbrances against said utility and the revenues thereof, and other pertinent matters, as may be deemed necessary to insure the marketability of such bonds, provided such covenants are not inconsistent with the provisions of this section.

All money received from the sale of any bonds issued hereunder shall be applied solely to the payment of the cost of the acquisition, extension, improvement or equipment of such utility, including all engineers', architects' and attorneys' fees and similar incidental expenses reasonably incurred in connection with such acquisition, extension, improvement or equipment and in connection with the authorization and issuance of such bonds. Any holder of the said bonds or coupons may either at law or in equity, by suit, action, mandamus or other proceeding enforce and compel performance of all duties required by this section to be performed by the City of Mackinac Island, its council or any officers thereof, including the making and collection of reasonable and sufficient rates or charges lawfully established for the services and commodities furnished by said utility, the segregation of the income and revenues of said utility and the accumulation and application of the respective funds created pursuant to the provisions of this section. If there be any default in the payment of the principal of or interest on any of such bonds the holders of a major part of the bonds so in default shall be entitled to have an administrator or receiver appointed by any court having jurisdiction to administer and operate said utility in behalf of the City of Mackinac Island and all the bond and coupon holders, with power to charge and collect rates sufficient to provide for the payment of operation and maintenance expenses as hereinabove defined, and to pay any bonds or interest coupons outstanding payable from the revenues of such utility, and to apply the income and revenues thereof in conformity with the provisions of this section and the proceedings authorizing the issuance of said bonds.

The council is authorized to enter into an agreement or agreements with the purchaser or purchasers of any bonds issued hereunder under the terms of which the council shall agree to keep all of the utility which is of an insurable nature and of the character usually insured by private companies operating similar properties insured with insurers of good standing against loss or damage by fire, water and flood, and also from any other hazards customarily insured against by such private companies, and to carry with insurers of good standing such insurance covering the use and occupancy of said property as is

customarily carried by private companies operating similar properties. The cost of such insurance shall be budgeted as maintenance and operation expense.

The council is hereby granted full power and right of eminent domain in accomplishing the purposes of this section and full power to condemn all necessary property, franchises, leases and contracts, which power shall be exercised in the manner provided by the charter of the City of Mackinac Island and the laws of Michigan for the exercise of eminent domain and particularly by Act No. 149 of the Public Acts of Michigan approved March 25, 1911, as now or hereafter amended [MCL 213.21 et seq.], and by such other appropriate provisions therefor as exist or shall be made by law for the purpose of instituting and prosecuting such condemnation proceedings.

Before a public utility shall be acquired under the provisions of this section, the proposition of the acquisition of such public utility shall be first submitted to the vote of the qualified electors of the City of Mackinac Island at a general election or at a special election to be called by the council for such purpose in the manner required by the constitution and laws of Michigan, and particularly Section 25 of Article VIII of the Constitution of Michigan and such utility shall thereafter be acquired only after such proposition receives the affirmative vote of such majority of the electors voting thereon as is required by the constitution and laws aforesaid. Any election held for such purpose shall be held in the manner provided by the charter of the City of Mackinac Island and the general laws of the State of Michigan for the holding of other municipal elections, and such notice thereof shall be given as may be directed by the council. The proposition of the acquisition of such utility may be submitted to the electors at the same election at which this charter amendment is submitted to the electors, and if this charter amendment is adopted by said electors the action of the council in submitting at the same election the proposition to acquire such utility is hereby ratified, confirmed and validated. In submitting the proposition of the acquisition of a utility it shall not be necessary to specify the manner in which the utility is to be acquired, and if the proposition carries, the city shall be authorized to acquire such utility in whole or in part through purchase, condemnation, construction, lease or any other means.

Any ordinance or resolution adopted by the council authorizing the issuance of bonds under the provisions hereof shall be once published in a newspaper published or having general circulation in the City of Mackinac Island. For a period of twenty days from the date of such publication any person in interest shall have the right to contest the legality and regularity of said ordinance or resolution, or of the proceedings incident to the election at which the acquisition of such utility was authorized, or of the acquisition of said utility, or of the bonds to be issued pursuant to said ordinance or resolution. After the expiration of said twenty days no one shall have any right of action to contest the validity of such bonds, and all such bonds shall be conclusively presumed to be legal. Bonds issued hereunder shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof and shall be incontestable in the hands of the holders thereof for value.

The provisions of this section shall constitute a contract between the City of Mackinac Island and the holder or holders of any bonds or coupons issued hereunder and after the issuance of such bonds no amendments shall be made hereto which shall in any manner impair the rights of the holders of the bonds and coupons then outstanding.

The council shall have no authority to borrow money or incur obligations payable out of the revenues of such utility, except as in this section provided, and in no event shall the council have authority to issue bonds hereunder which shall constitute a debt of the City of Mackinac Island or which shall constitute an obligation upon the general credit of said city, it being the intention hereof that all bonds issued hereunder shall be payable solely from the revenues to be derived from such utility, and shall be beyond the general limit of bonded indebtedness prescribed by law and the charter of the City of Mackinac Island.

This section, without reference to other provisions of the charter of the City of Mackinac Island and the general laws of Michigan, shall constitute full authority for the authorization and issuance of bonds hereunder and for the accomplishment of all things herein authorized to be done, and no proceedings, notice or publication relating to the authorization or issuance of such bonds or the doing of such things shall be necessary except such as are herein required, and no other provisions of the charter of the City of Mackinac Island or the laws of the State of Michigan (unless expressly made applicable by the terms of such laws of the State of Michigan), either now in force or hereafter adopted, pertinent to the authorization or issuance of bonds, the acquisition and operation of public utilities, the adoption of

proceedings by the council, the calling of elections, and the right of the qualified electors of the city to request a referendum on ordinances and resolutions, or in anywise impeding or restricting the carrying out of the acts by this section authorized to be done, shall be construed as applicable to any proceedings had hereunder or acts done pursuant hereto. This section being necessary for and intended to secure the safety, convenience and welfare of the City of Mackinac Island, shall be liberally construed to effectuate the purposes hereof. If any paragraph or paragraphs, clause or clauses, or provision or provisions of this section shall be held unconstitutional or invalid for any reason, the remainder hereof shall not be affected, but shall remain in full force and effect, it being hereby expressly found and recited that the electors of the City of Mackinac Island in adopting this charter provision would have adopted the remainder hereof despite the invalidity of such part or parts.

(Amendment approved 12-3-1940)

CHARTER COMPARATIVE TABLE

This table shows the location of the sections of the amendments to the basic charter. The basic charter is derived from Michigan Local Act No. 437 of 1899.

Year	Local Act No.	Section	Section this Charter
1901	263	1	Ch. II, § 10
			Ch. III, § 8
			Ch. VII, § 6
			Ch. IX, § 5
			Ch. XIX, § 8
			Ch. XIX, § 14
			Ch. XXIV, § 11
			Ch. XXV, § 8
		2	Ch. XXIX, § 19
1913	417	1	Ch. III, § 8
			Ch. V, § 1

			Ch. V, § 11
Ref. of 12- 3-1940			Ch. XXXI, § 11

Chapter 1 - GENERAL PROVISIONS

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

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

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

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

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

Charter. The term "charter" means the charter of the city.

City. The term "city" means the City of Mackinac Island, Michigan.

City council. The term "city council" means the City Council of Mackinac Island, Michigan.

Code. The term "Code" means the Code of Ordinances, City of Mackinac Island, Michigan, as designated in section 1-1.

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

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

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

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

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

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

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

Gender. Words of one gender include all other genders.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature, subscription. The term "signature" or "subscription" includes a mark when the person cannot write.

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

Swear. The term "swear" includes affirm.

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

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

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

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

State Law reference— Definitions and rules of construction applicable to state statutes, MCL 8.3 et seq.

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

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

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

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

State Law reference— Catchlines in state statutes, MCL 8.4b.

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

(a) Unless specifically provided otherwise in this Code, the repeal of a repealing ordinance does not revive any repealed ordinance.

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

State Law reference— Effect of repeal of state statutes, MCL 8.4, 8.4a.

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

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

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

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

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

Charter reference— Ordinances, ch. VII.

Sec. 1-6. - Supplementation of Code.

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

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

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

(1) Arrange the material into appropriate organizational units.

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

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

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

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

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

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

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

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

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

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

(b) In this section the phrase "violation of this Code" includes causing, securing, aiding or abetting a violation of this Code as defined in subsection (a) of this section.

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

(d) All violations of this code shall be considered civil infractions, punished by a fine not to exceed $500.00, except violations of the following sections which shall be misdemeanors punished by a fine

not to exceed $500.00, imprisonment for a period of not more than six months, or both. Violations for the following sections shall be misdemeanors:

Section 38-1	Contributing to neglect or delinquent of children.
Section 38-3	Expectorating upon sidewalks.
Section 38-7	Fireworks.
Section 38-41	Stealing.
Section 38-43	Fraudulent schemes.
Section 38-44	Destruction of property.
Section 38-81	Discharge of firearms.
Section 38-82	Sale of weapons or noise making devices.
Section 38-111	Disorderly conduct.
Section 38-113	Unlawful disturbances.
Section 38-115	Begging.
Section 38-116	Loitering.
Section 38-172	Indecent exposure.
Section 38-173	Voyeurism.
Section 38-174	Controlled substances.
Section 38-202	False report of crime.
Section 38-203	Interference with police or fire department.
Section 38-204	Assisting persons in custody of police.
Section 38-205	False impersonation of officers.

Section 38-206	Escapes from jail; furnishing contraband to prisoners.

Chapter 66, Article II, being Sections 66-31 through 66-97 — Motor vehicles.

Chapter 66, Article XI, being Sections 66-461 through 66-499 — Ferry Boats.

(e) Except as otherwise provided by law or ordinance:

(1) As to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.

(2) As to other violations, each violation constitutes a separate offense.

(f) Unless stated otherwise in this Code, a person who commits a violation of this Code that is a municipal civil infraction is responsible for a fine not exceeding $500.00.

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

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

(Ord. No. 420, 6-23-2004; Ord. No. 497, 6-10-2015, eff. 6-30-2015; Ord. No. 575, § 1, 12-30-2019)

Charter reference— Penalty for ordinance violations, ch. VII, § 2.

State Law reference— Municipal civil infractions, MCL 117.41, 600.8701 et seq.

Sec. 1-8. - Severability.

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

State Law reference— Severability of state statutes, MCL 8.5.

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

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

State Law reference— Similar provisions as to state statutes, MCL 8.3u.

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

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

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

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

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

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

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

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

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

(5) Making or approving any appropriation or budget.

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

(7) Granting any right or franchise.

(8) Adopting or amending a comprehensive plan.

(9) Levying or imposing any special assessment.

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

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

(12) Dedicating, accepting or vacating any plat.

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

(14) Granting a tax exemption for specific property.

(15) Not codified in this Code:

a. Prescribing traffic regulations for specific locations; or

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

(16) Rezoning property or amending the zoning map or otherwise relating to zoning.

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

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

(19) The purpose of which has been accomplished.

Chapter 2 - ADMINISTRATION[1]

Footnotes:

--- (**1**) ---

Cross reference— Any ordinance authorizing or approving any contract, deed or agreement saved from repeal, § 1-11(4); law enforcement, ch. 34; administration and enforcement of sign regulations, § 46-81 et

seq.; utilities, ch. 70; administration of sewer use requirements and restrictions, § 70-141 et seq.; administration and enforcement of zoning regulations, app. A, § 21.01 et seq.

ARTICLE I. - IN GENERAL

Secs. 2-1—2-30. - Reserved.

ARTICLE II. - CITY COUNCIL[2]

Footnotes:

--- (**2**) ---

Charter reference— City council, ch. VI.

Secs. 2-31—2-60. - Reserved.

ARTICLE III. - OFFICERS AND EMPLOYEES[3]

Footnotes:

--- (**3**) ---

Charter reference— City officers, ch. V.

Cross reference— Any ordinance providing for salaries or other employee benefits not codified in this Code saved from repeal, § 1-11(6); fly control officer, § 26-184; officers of the fire department, § 30-31; zoning administrator, app. A, § 21.01; officers of board of zoning appeals, app. A, § 22.02.

DIVISION 1. - GENERALLY

Sec. 2-61. - Salary; night watchman.

The city marshall shall receive such monthly salary as the common council of the city shall by resolution direct. However, the city marshall shall perform the duties of night watchman from October 1 until the first Monday in May next under the direction of the mayor.

(Ord. No. 47, § 1, 4-22-1914)

Charter reference— City marshal, ch. V, § 16 et seq.

Secs. 2-62—2-80. - Reserved.

DIVISION 2. - REMOVAL OF ELECTED OFFICIALS (CITY COUNCIL EXCEPTED)[4]

Footnotes:

--- (**4**) ---

Charter reference— Authority to remove officers, ch. VI, § 17.

Sec. 2-81. - Definitions.

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

Habitual drunkenness means repeated public intoxication which impairs an officer's ability to fulfill the duties of the position to which he was elected.

Officer means any person elected to an office of the city except members of the city council.

Official misconduct means behavior which undermines the authority of the office to which the person was elected, acts performed in an officer's official capacity which affect the performance of his duties as an officer, conviction of a felony, conviction of a misdemeanor resulting in incarceration for more than 15 days or the improper use of one's office for personal advancement or profit. Examples of official misconduct include embezzlement, perjury, solicitation or acceptance of a bribe, extortion, etc.

Willful neglect of duty means failure to perform the duties of the office to which one was elected to the detriment of the public and/or the government of the city. Willful neglect of duty does not include failure to perform duties as a result of ignorance, inexperience, illness or other excusable neglect.

(Ord. No. 299, § I, 12-13-1989)

Cross reference— Definitions generally, § 1-2.

Sec. 2-82. - Authority.

The city council is authorized to remove elected city officers, other than city council members, from office as set forth in this division.

(Ord. No. 299, § II, 12-13-1989)

Sec. 2-83. - Complaint.

(a) A signed complaint for the removal of an elected city officer, other than a city council member, may be filed with the mayor, or the mayor pro tem, alleging that the officer is guilty of one or more of the following offenses:

(1) Official misconduct.

(2) Willful neglect of duty.

(3) Habitual drunkenness.

(b) The complaint must set forth with reasonable specificity the actions which form the basis for the complaint.

(c) The complaint must be signed by the person filing it.

(Ord. No. 299, § III, 12-13-1989)

Sec. 2-84. - Notice; scheduling of hearing.

Upon receipt of a complaint for the removal of a city officer, as described in section 2-83, the mayor or the mayor pro tem shall:

(1) Serve a copy of the complaint on the officer complained of by certified mail or by personal delivery, together with a notice which advises the officer of his rights under this division, and a notice of the hearing scheduled under subsection (2) of this section.

(2) Schedule the complaint for a hearing before the city council to take place not less than 21 days from the date of the service of the complaint on the officer.

(3) Notify the person filing the complaint of the date set for the hearing on the complaint.

(Ord. No. 299, § IV, 12-13-1989)

Sec. 2-85. - Response.

The officer complained of under this division may file a written response with the mayor or mayor pro tem at or before the hearing on the complaint.

(Ord. No. 299, § V, 12-13-1989)

Sec. 2-86. - Hearing.

(a) The hearing on a complaint for the removal of an elected city officer shall be closed pursuant to the Michigan Open Meetings Act, if the officer so requests.

(b) At the hearing on a complaint for the removal of an elected city officer, the person filing the complaint shall have the burden of proving to the satisfaction of the city council the facts stated in the complaint and that the officer is guilty of one or more of the grounds set forth in section 2-83(a).

(c) The officer may be represented by counsel and may present documentary evidence and the testimony of witnesses in defense of the complaint.

(d) All witnesses, including the person filing the complaint, shall testify under oath. The presiding officer of the council shall administer the necessary oaths.

(e) The mayor or the mayor pro tem may issue subpoenas to compel the attendance of persons and the production of books and papers before the council.

(f) The city clerk shall record all of the proceedings.

(g) A hearing on a complaint for removal of a city officer may be held in conjunction with a regularly scheduled city council meeting if the proper notices have been given.

(Ord. No. 299, § VI, 12-13-1989)

Sec. 2-87. - Decision.

After the presentation of all evidence, the city council shall decide a complaint for the removal of an elected city officer by a resolution; provided, however, that no officer shall be removed unless two-thirds of the city council members elected to office vote in favor of the removal.

(Ord. No. 299, § VII, 12-13-1989)

Sec. 2-88. - Resignation.

An officer who is the subject of a complaint for removal pursuant to this division may voluntarily resign his position at any time prior to the council's vote on the complaint.

(Ord. No. 299, § VIII, 12-13-1989)

Sec. 2-89. - Appeal.

The decision of the city council on a complaint under this division may be appealed to the circuit court for the county.

(Ord. No. 299, § IX, 12-13-1989)

Secs. 2-90—2-110. - Reserved.

DIVISION 3. - MAYOR'S ADMINISTRATIVE ASSISTANT

Sec. 2-111. - Position created.

The position of mayor's administrative assistant is hereby created.

(Ord. No. 319, § 1, 3-9-1994; Ord. No 414, § 2, 9-17-2003)

Charter reference— Authority to appoint officers, ch. III, § 2.

Sec. 2-112. - Appointment.

The mayor shall have the option of appointing a mayor's administrative assistant, with the consent of the city council. Any such appointment shall be on the first Monday of May of each year or as soon thereafter as is feasible.

(Ord. No. 319, §§ 2, 3, 3-9-1994; Ord. No 414, § 3, 9-17-2003)

Sec. 2-113. - Supervision.

The mayor's administrative assistant shall be under the direct supervision and control of the mayor and be subject to the mayor's orders.

(Ord. No. 319, § 4, 3-9-1994; Ord. No 414, § 4, 9-17-2003)

Sec. 2-114. - Duties and responsibilities.

The mayor's administrative assistant shall have the following duties and responsibilities which shall pertain to the operations of the city and not the department of public works:

(1) Serve as the mayor's liaison between the various elected officials of the city, the various boards, subcommittees, commissions, authorities and departments of the city.

(2) Serve as the mayor's liaison between the city and the various local, county, state and federal governments and agencies.

(3) Conduct research and prepare recommendations on programs, projects and services for the betterment of the city, under the direction of the mayor, and report on the same to the mayor.

(4) Prepare and assist with the budgetary functions of the city.

(5) Keep the mayor advised on all municipal activities and functions.

(6) Serve in other capacities as directed by the mayor.

(Ord. No. 319, § 5, 3-9-1994; Ord. No 414, § 5, 9-17-2003)

Sec. 2-115. - Salary.

The salary of the mayor's administrative assistant shall be set each year by city council.

(Ord. No. 319, § 6, 3-9-1994; Ord. No 414, § 6, 9-17-2003)

Secs. 2-116—2-140. - Reserved.

DIVISION 4. - PUBLIC SAFETY COORDINATOR

Sec. 2-141. - Appointment.

(a) The mayor shall, by and with the consent of the city council, appoint a public safety coordinator.

(b) Appointment of a public safety coordinator shall be made on the first Monday of each May of each year, or as soon thereafter as may be.

(Ord. No. 301, §§ 1, 2, 3-7-1990)

Charter reference— Authority to appoint officers, ch. III, § 2.

Sec. 2-142. - Supervision.

The public safety coordinator shall be under the control of the mayor and city council and subject to their orders.

(Ord. No. 301, § 3, 3-7-1990)

Sec. 2-143. - Definitions.

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

Public safety agencies include the city police department, the city fire department, and the city EMT corps.

(Ord. No. 301, § 4, 3-7-1990)

Cross reference— Definitions generally, § 1-2.

Sec. 2-144. - Duties and responsibilities.

The public safety coordinator shall:

(1) Supervise and coordinate planning in and among the public safety agencies, including preparation of a public safety budget covering all of the public safety agencies;

(2) Monitor budget compliance by the public safety agencies throughout the year;

(3) Coordinate the delivery of public safety services by the public safety agencies to avoid duplication and to ensure prompt, efficient handling of public safety issues and problems;

(4) Supervise the preparation and filing of reports and documentation required by local ordinance of state law to be filed by the public safety agencies;

(5) Monitor and supervise the training of public safety personnel to ensure compliance with all applicable state and local requirements;

(6) Serve as the administrative liaison between the public safety agencies and the city council;

(7) Serve as the liaison and coordinator on all public safety matters involving the city, the city council, or the public safety agencies and the city medical center, the planning commission, the building official, the city department of public works, the state department of public health and any other state or local agency relating to the delivery of public safety services;

(8) Advise the mayor and city council on matters relating to public safety; and

(9) Perform such other and additional duties and responsibilities as may be directed by the mayor and the city council relating to public safety needs and concerns.

(Ord. No. 301, § 5, 3-7-1990)

Sec. 2-145. - Salary.

The salary of the public safety coordinator shall be set each year by the council.

(Ord. No. 301, § 6, 3-7-1990)

Secs. 2-146—2-170. - Reserved.

ARTICLE IV. - FINANCE[5]

Footnotes:

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Charter reference— Finance and taxation, ch. XXVIII.

Cross reference— Any ordinance promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instrument of indebtedness saved from repeal, § 1-11(3); any ordinance making or approving any appropriation or budget saved from repeal, § 1-11(5).

State Law reference— Revised Municipal Finance Act, MCL 141.2101 et seq.; Uniform Budgeting and Accounting Act, MCL 141.421 et seq.; depositories of public funds, MCL 129.11 et seq.

DIVISION 1. - GENERALLY

Secs. 2-171—2-190. - Reserved.

DIVISION 2. - INVESTMENT OF FUNDS[6]

Footnotes:

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State Law reference— Investments of surplus funds of political subdivisions, MCL 129.91 et seq.; adoption of investment policy, MCL 129.95.

Sec. 2-191. - Purpose.

It is the policy of the city to invest its funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow needs of the city and complying with all state statutes governing the investment of public funds.

(Ord. No. 356, § 1, 9-23-1998)

Sec. 2-192. - Scope.

The investment policy of the city applies to all financial assets of the city. These assets are accounted for in the various funds of the city and include the general fund, special revenue funds, debt service funds, capital project funds, enterprise funds, internal service funds, trust and agency funds and any new fund established by the city.

(Ord. No. 356, § 2, 9-23-1998)

Sec. 2-193. - Objectives.

The primary objectives, in priority order of the city's investment activities, shall be:

(1) *Safety.* Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.

(2) *Diversification.* The investments will be diversified by security type and institution in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.

(3) *Liquidity.* The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.

(4) *Return on investment.* The investment portfolio shall be designed with the objective of obtaining a rate of return throughout the budgetary and economic cycles, taking into account the investment risk constraints and the cash flow characteristics of the portfolio.

(Ord. No. 356, § 3, 9-23-1998)

Sec. 2-194. - Authority to make investments.

Authority to manage investment programs is derived from Charter chapter VI, section 11, which provides that the city council shall have control of the finances, and all property of the city corporation, except as may be otherwise provided by law. Management responsibility of the investment program rests with the city council, which shall establish written procedures and internal controls for the operation of the investment program consistent with this investment policy and ordinance. Procedures shall include references to safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, collateral/depository agreements and banking service contracts. No person may engage in an investment transaction except as provided under the terms of this division and the procedures established by the city council. The city council shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

(Ord. No. 356, § 4, 9-23-1998)

Sec. 2-195. - Authorized investments.

The city is limited to investments authorized by Public Act No. 20 of 1943 (MCL 129.91 et seq.) and may invest in the following:

(1) U.S. treasury bills.

(2) U.S. treasury notes.

(3) U.S. treasury bonds.

(4) U.S. treasury STRIPS (Separate Trading or Registered Interest and Principal of Securities).

(5) TINTS (Treasury Interest Securities).

(6) CUBES (Coupons Under Book Entry System).

(7) U.S. government agency obligations.

(8) Certificate of deposit (CD).

(9) Savings deposit receipt.

(10) Savings account.

(11) Commercial paper.

(12) Repurchase agreement.

(13) Banker's acceptance.

(14) Investment pools.

(Ord. No. 356, § 5, 9-23-1998)

Sec. 2-196. - Safekeeping and custody.

All security transactions, including collateral for repurchase agreements and financial institution deposits, entered into by the city shall be on a cash (or delivery vs. payment) basis. Securities may be held by a third party custodian designated by the city council and evidenced by safekeeping receipts as determined by the city council.

(Ord. No. 356, § 6, 9-23-1998)

Sec. 2-197. - Prudence.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

(Ord. No. 356, § 7, 9-23-1998)

Sec. 2-198. - Notification to financial intermediary, broker or dealer.

(a) Before the execution of any order to purchase or trade the public funds of the city, the financial intermediary, broker or dealer shall be provided with a copy of the ordinance from which this division is derived, as may be amended from time to time, and shall do the following on a form so approved by the city council:

(1) Acknowledge receipt of the investment policy and ordinance.

(2) Agree to comply with the terms of the investment policy and ordinance regarding the buying or selling of securities.

(b) The content of such form, as described in subsection (a) of this section, shall be consistent with statute and this division and will be similar to the following:

ACKNOWLEDGEMENT OF RECEIPT OF INVESTMENT ORDINANCE AND POLICY OF THE CITY OF MACKINAC ISLAND, MICHIGAN AND AGREEMENT TO COMPLY

I have read and fully understand Public Act No. 20 of 1943 (MCL 129.91 et seq.), and the Investment Ordinance and Policy of the City of Mackinac Island, Michigan.

Any investment advice or recommendation given by _____, representing _____, to the City of Mackinac Island shall comply with the requirements of Public Act No. 20 of 1943 (MCL 129.91 et seq.), and the Investment Ordinance and Policy of the City of Mackinac Island. Any existing investment not conforming with the statute or the ordinance and policy will be disclosed promptly.

By:_____

Title:_____

Date:_____

(Ord. No. 356, § 8, 9-23-1998)

Secs. 2-199, 2-200. - Reserved.

DIVISION 3. - BUDGET

Sec. 2-201. - Title.

This ordinance may be known and cited as the City of Mackinac Island Budget Ordinance.

(Ord. No. 399, § 1, 3-6-02)

Sec. 2-202. - Fiscal year.

The fiscal year of the City of Mackinac Island shall begin on April 1 in each year and close on the following March 31.

(Ord. No. 399, § 2, 3-6-02)

Sec. 2-203. - Chief administrative officer and fiscal officer.

The mayor shall be the chief administrative officer referred to in this ordinance and shall be responsible for the performance of the duties of that officer enumerated in this ordinance. The mayor may appoint a fiscal officer and delegate to that officer any or all of the budgeting duties specified in sections 5 through 8. The fiscal officer shall be responsible to the chief administrative officer for the performance of budgetary duties.

(Ord. No. 399, § 3, 3-6-02)

Sec. 2-204. - Budget policy statement.

No later than September 15 of each year, the chief administrative officer shall send to each officer, department, commission and board of the city a budget policy statement for the use of those agencies in preparing their estimates of budgetary requirements for the ensuing fiscal year.

(Ord. No. 399, § 4, 3-6-02)

Sec. 2-205. - Budget estimates required.

Any officers, elected or appointed, departments, commissions and boards of the city financed in whole or in part by the city shall, on or before November 1 of each year, transmit to the chief administrative officer their estimates of the amounts of money required for each activity in their agencies for the ensuing fiscal year. They shall also submit any other information deemed relevant by the chief administrative officer.

(Ord. No. 399, § 5, 3-6-02)

Sec. 2-206. - Budget forms.

The chief administrative officer shall prescribe forms to be used in submitting budget estimates and shall prescribe the procedures deemed necessary for the guidance of officials preparing such budget estimates. The chief administrative officer may also require a statement of the purposes of any proposed expenditure and a justification of the services financed by any expenditure.

(Ord. No. 399, § 6, 3-6-02)

Sec. 2-207. - Department budget review.

The chief administrative officer shall review the department estimates with a representative from each department. The purpose of this review shall be to clarify the estimates, ensure their accuracy, and determine their adherence to the policies enumerated by the chief administrative officer pursuant to section 2-204.

(Ord. No. 399, § 7, 3-6-02)

Sec. 2-208. - The budget document.

The chief administrative officer shall prepare a budget, which shall present a complete financial plan for the ensuing year, utilizing those estimates received from the various agencies. The budget will be prepared in such a manner that shall assure that the total estimated expenditures including an accrued deficit in any fund does not exceed the total of expected revenues including an unappropriated surplus. The budget shall consist of the following parts:

(a) Detailed estimates of all proposed expenditures for the ensuing fiscal year for each department and office of the city showing the expenditures for corresponding items for the current and last preceding fiscal 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) An estimate of the amount of surplus expected in the current fiscal year.

(d) An estimate of all anticipated revenues of the city which will be necessary to meet the proposed expenditures and commitments during the ensuing fiscal year. This should include:

1. Sources other than taxes.
2. Income from borrowing.
3. Current and delinquent taxes.
4. Bond issues.

Included in this estimate shall be corresponding figures for the current and preceding fiscal year.

(e) Such other supporting schedules as the council may deem necessary.

(f) An informative summary of projected revenues and expenditures of any special assessment funds, public improvement or building and site funds, intragovernmental service funds or enterprise funds, including the estimated total cost and proposed method of financing each capital construction project, and the projected additional annual operating cost and the method of financing the operating costs of each capital construction project for three years beyond the fiscal year covered by the budget.

(Ord. No. 399, § 8, 3-6-02)

Sec. 2-209. - Transmittal of budget to city council.

No later than February 15 of each year, the chief administrative officer shall transmit the budget to the council. The budget shall be accompanied by:

(a) A draft general budget resolution for adoption by the council, consistent with the budget, which shall set forth the anticipated revenue and requested expenditure authority for the ensuing fiscal year in such form and in such detail deemed appropriate by the chief administrative officer, provided that it is consistent with the uniform chart of accounts prescribed by the state of Michigan. No budget resolution shall be submitted to the council in which estimate total expenditures, including an accrued deficit, exceed estimated total revenues, including an available surplus.

(b) A budget message which shall explain the reason for increases or decreases in budgeted items compared with the current fiscal year, the policy of the chief administrative officer as it relates to important budgetary items, and any other information that the chief administrative officer determines to be useful to the council in its consideration of the proposed budget.

(Ord. No. 399, § 9, 3-6-02)

Sec. 2-210. - Consideration of budget by council.

The council shall fix the time and place of a public hearing to be held on the budget and proposed budget resolution. The clerk shall then have published in a newspaper of general circulation within the city, notice of the hearing and an indication of the place at which the budget and proposed budget resolution may be inspected by the public. This notice must be published at least seven days before the date of the hearing.

The council may direct the chief administrative officer to submit any additional information it deems relevant in its consideration of the budget and proposed budget resolution. The council, or a committee of the council, may conduct budgetary reviews with the chief administrative officer for the purpose of clarification or justification of proposed budgetary items.

The council may revise, alter or substitute for the proposed general budget resolution in any way, except that it may not change it in any way that would cause total appropriations, including an accrued deficit, to exceed total estimated revenues, including an unappropriated surplus. An accrued deficit shall be the first item of expenditure in the general appropriations measure.

(Ord. No. 399, § 10, 3-6-02)

Sec. 2-211. - Passage of the budget resolution.

No later than March 15 the council shall pass a general budget resolution providing the authority to make expenditures and incur obligations on behalf of the city. The budget resolution shall provide for expenditures from the general fund at the functional level and expenditures within other funds at their respective activity levels.

The council may authorize transfers between appropriation items by the chief administrative officer within limits stated in the resolution. In no case, however, may such limits stated in the resolution or motion exceed those provided for in Section 16 of this ordinance.

The city budget may include information concerning the amount of tax levy expected to be required to raise those sums of money included in the budget resolution. In conformance with state law, the council shall order to be raised by taxation those sums of money necessary to defray the expenditures and meet the liabilities of the city for the fiscal year. The council may take such action after the value of the property in the city as finally equalized has been determined.

(Ord. No. 399, § 11, 3-6-02)

Sec. 2-212. - Procedure for disbursements.

No money shall be drawn from the city treasury unless the council has approved the annual budget.

Each warrant, draft, or contract of the city shall specify the fund and appropriation, designated by number assigned in the accounting system classification established pursuant to law, from which it is payable and shall be paid from no other fund or appropriation.

Expenditures shall not be charged directly to any contingent or general account. Instead, the necessary amount of the appropriation from such account shall be transferred pursuant to the provisions of this ordinance to the appropriate general appropriation account and the expenditure then charged to the account.

(Ord. No. 399, § 12, 3-6-02)

Sec. 2-213. - Limit on obligations and payments.

No obligation shall be incurred against, and no payment shall be made from, any appropriation account adopted by resolution unless there is a sufficient unencumbered balance in the account and sufficient funds are or will be available to meet the obligation.

(Ord. No. 399, § 13, 3-6-02)

Sec. 2-214. - Periodic finance reports.

The chief administrative officer may require the appropriate agencies to prepare and transmit to the chief administrative officer a report of city financial obligations, including, but not limited to:

(a) A summary statement of the actual financial condition of the general fund at the end of the previous month.

(b) A summary statement showing receipts and expenditures and encumbrances for the previous month and for the then current fiscal year to the end of the previous month.

(c) A detailed listing of the expected revenues by major sources as estimated in the budget, actual receipts to date for the current fiscal year, the balance of estimated revenues to be collected in the current fiscal year and any revisions in revenue estimates occasioned by collection experience to date.

(d) A detailed listing for each organizational unit and activity of the amount appropriated, the amount charged to each appropriation in the previous month and for the current fiscal year to date, and the unencumbered balance of appropriations, and any revisions in the estimate of expenditures.

The chief administrative officer shall transmit the above information to the council on a monthly basis.

(Ord. No. 399, § 14, 3-6-02)

Sec. 2-215. - Transfers.

Transfers of any unencumbered balance, or any portion, in any appropriation amount to any other appropriation account may not be made without amendment of the budget resolution as provided in this ordinance, except that transfers within a fund and department may be made by the chief administrative officer within limits set by the budget resolution with the consent of the council.

(Ord. No. 399, § 15, 3-6-02)

Sec. 2-216. - Supplemental appropriations.

The council may make supplemental appropriations by amending the original budget resolution as provided in this ordinance, provided that revenues in excess of those anticipated in the original resolution become available due to:

(a) An unobligated surplus from prior years becoming available.

(b) Current fiscal year revenue exceeding original estimates in amounts great enough to finance the increased appropriations.

The council may make a supplemental appropriation by increasing the dollar amount of an appropriation item in the original budget resolution or by adding additional items. At the same time, the estimated amount from the source of revenue to which the increase in revenue may be attributed shall be increased or a new source and amount added in a sum sufficient to equal the supplemented expenditure amount. In no case may such appropriations cause total estimated expenditures, including an accrued deficit, to exceed total estimated revenues, including an unappropriated surplus.

(Ord. No. 399, § 16, 3-6-02)

Sec. 2-217. - Appropriation adjustment required.

Whenever it appears to the chief administrative officer or the council that actual and probable revenues in any fund will be less than the estimated revenues upon which appropriations from such fund were based, the chief administrative officer shall present to the council recommendations which, if adopted, will prevent expenditures from exceeding available revenues for the current fiscal year. Such recommendations shall include proposals for reducing appropriations, increasing revenues, or both.

Within 15 days of receiving this information, the council shall amend the budget resolution by reducing appropriations or approving such measures as are necessary to provide revenues sufficient to equal appropriations or both. The amendment shall recognize the requirements of state law and collective bargaining agreements. If the council does not make effective such measures within this time, the chief administrative officer shall, within the next five days, make adjustments in appropriations in order to equalize appropriations and estimated revenues and report such action to the council.

(Ord. No. 399, § 17, 3-6-02)

Secs. 2-218—2-220. - Reserved.

ARTICLE V. - BOARDS AND COMMISSIONS[7]

Footnotes:

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Charter reference— Board of cemetery trustees, ch. XIII, § 3 et seq.; board of public works, ch. XXVI.

Cross reference— Construction board of appeals, § 10-51 et seq.; cemetery board, § 18-61 et seq.; sanitary sewer board of appeals, § 70-143; board of zoning appeals, app. A, § 22.01 et seq.

DIVISION 1. - GENERALLY

Secs. 2-221—2-240. - Reserved.

DIVISION 2. - RECREATION BOARD[8]

Footnotes:

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Cross reference— Parks and recreation, ch. 42.

Sec. 2-241. - Created.

The city board of recreation is created and established.

(Ord. No. 328, § 1, 1-17-1996)

Sec. 2-242. - Appointment; term of office; vacancies and removal.

(a) There shall be five members appointed by the mayor, with the concurrence of the city council, who shall be electors of the city, who shall constitute a board of recreation. Members shall hold their office for a term of three years except as otherwise provided in subsection (b) of this section, and shall serve without compensation for the term of their office.

(b) Appointments to the board of recreation shall be made and become effective on the first Monday of May each year. At the first appointments made under this section, one member shall be appointed for a term of one year, two members for a term of two years, and two members for a term of three years. Annually thereafter, members shall be appointed for terms of three years. Appointments that may be made from the effective date of the ordinance from which this division is derived to the first appointments as described in subsection (a) of this section shall be for the period to the first Monday of May subsequent to the effective date of the ordinance from which this division is derived.

(c) Vacancies on the board of recreation may occur in any one of the following circumstances:

(1) Death, or debilitating illness rendering the member physically or mentally unable to faithfully and effectively perform his duties as described in this division.

(2) Written resignation of a member as made to and accepted by the city council.

(3) If a member ceases to be an elector of the city.

(4) Removal from office as provided for under this section.

(d) If a vacancy occurs on the board of recreation the mayor shall fill such vacancy by appointment within 20 days of such vacancy with the concurrence of the city council. Such appointment shall be for the unexpired term within which the vacancy occurred. However, should the unexpired term exceed a period of one year from date of appointment, such appointment shall be for that period until the next annual appointment day and appointments made on that day shall be for the remainder of the unexpired term originally created.

(e) The council may, by quorum present, and by a two-thirds vote of elected and seated members voting in the affirmative, remove any member so appointed to the board of recreation for inattention to their duties, want of proper judgment of skill, for the improper discharge of the duties required or for any other good cause.

(f) The resignation, or removal of a member of the board of recreation shall not exonerate such member from any liability incurred by him during the term or terms of their appointed office.

(Ord. No. 328, § 2, 1-17-1996)

Sec. 2-243. - Duties and responsibilities.

The board of recreation, by and through its members, shall purposefully, faithfully and with due diligence properly discharge their duties and responsibilities provided as follows:

(1) At the first meeting of the board, and, for the first meeting of the board occurring within ten days after the annual appointments thereafter, the board shall by its quorum appoint one of its members as chairperson and one as its recording secretary.

(2) It shall be the duty of the chairperson to preside over the meetings of the board as may be properly called and conducted upon a roll call of members present and of which constitutes a two-thirds majority quorum. The chairperson shall have all voting privileges as afforded to other members of the board.

(3) It shall be the duty of the recording secretary to properly record the proceedings of each public meeting of the board and to maintain all records of public meetings of the board as a public record. Further, in the absence of the chairperson, the recording secretary shall preside over the meeting as acting chairperson and may, in such event, select and direct another member of the board present to be acting recording secretary.

(4) In the absence of two members, the members present may elect by vote to adjourn until such time as four or all members are available to meet.

(5) All regular meetings of the board shall be open to the public and the rules of order of the board shall provide that citizens shall have a reasonable opportunity to address the board. Such meetings of the board shall be conducted no less than six times annually, or as often as necessary during reasonable days and times and conducted in compliance with provisions of the Open Meetings Act (MCL 15.261 et seq.). At its first meeting, the board shall develop and prescribe rules of order of which shall be written and available to the public.

(6) The board shall appoint a person having appropriate skills, knowledge, experience, training and education to the position of director of recreation for a term and consideration mutually agreed upon with approval from the mayor and city council as to the process.

(7) In addition to the provisions of this section, the board shall:

a. Ensure that recreational opportunities be developed, maintained and fostered for the enjoyment of all members of the community throughout the year.

b. Provide for the acquisition, maintenance, care and management of all city property, both real and tangible, for the purpose of enhancement of recreational opportunities and activities.

c. Present for adoption by the city council a recreation master plan which shall be reviewed at least annually and amended as deemed necessary and appropriate.

d. Present for approval by the city council a detailed and balanced budget to be concurrent with the city's fiscal year. Such budget must be submitted no less than three months prior to the commencement of the fiscal year.

e. Promulgate those written administrative rules for the conduct of recreation staff and director as may be needed to properly and effectively carry out and perform the duties of the board and staff and as may be directed by the mayor and the city council.

f. Perform those other duties and responsibilities as may be directed by the council from time to time and of which are recreationally oriented and appropriate.

(Ord. No. 328, § 3, 1-17-1996)

Sec. 2-244. - Director of recreation; duties and responsibilities.

(a) The director of recreation, appointed as provided for within this division, shall have the responsibility for the administration, management, superintendency and supervisory authority and responsibility for all recreational programs, functions and property, both real and tangible, as may be delegated or directed by the board of recreation. As such, the director shall report directly to the board. Such duties and responsibilities shall include:

(1) Preparation and presentation to the board those periodic reports or other information as required and requested, and attendance at all meetings of the board.

(2) Development and implementation of recreational opportunities and activities for the enjoyment of and availability to all members of the community throughout the year.

(3) Administration and management of the approved fiscal plan and assisting in the preparation of subsequent plans and amendments.

(4) Assurances that all recreational properties, both real and tangible, programs and activities are maintained, directed and used in the safest manner possible and to ensure that all hazards are abated and mitigated forthwith.

(5) Employing the services of a person, or persons, deemed appropriate and necessary to perform functions or activities to assist in the director's duties and responsibilities. Such employment shall be upon the expressed approval of the board. Further, the director shall ensure that persons so employed are properly trained and familiar with the functions and responsibilities of their position.

(6) Assisting the board in its preparation and development of the recreation master plan and its execution and implementation.

(7) Directing and supervising all programs and activities and performing superintendent control over properties of the city in order to ensure their efficiency, safety and security.

(8) Properly maintaining an inventory and accounting of all properties.

(9) Performing those other duties and responsibilities as may be directed by the board.

(10) Maintaining a cooperative and functional relationship with other city departments, boards or commissions as well as with other similar local, county, regional, area, district and state agencies, and organizations, including active membership in professional organizations to foster, enhance and support the community's recreation activities and functions.

(b) Such person employed as director is so retained and employed for public purpose and need, exclusively by and for the city. This does not preclude the provision of advisory services for those

organizations or services, with or without compensation, as may be specifically and expressly approved in writing by the board. Such allowance shall be in keeping with the public nature of the board and director's position of such that the city derives a direct benefit of such allowance.

(Ord. No. 328, § 4, 1-17-1996; Ord. No. 477, § 1, 6-12-2013)

Sec. 2-245. - Funding.

(a) The debts and obligations of the board of recreation, its director and all functions and activities shall operate in a sound and fiscally responsible manner within a plan approved by the board and adopted by the city council of which shall be incorporated within the city's financial records and activities, and further of which are segregated in a recreation fund. Such fund shall be detailed to include, as a minimum, the following activities:

(1) Revenues:

a. Fees, licenses, permits, concession sales.

b. Private donations.

c. State-funded grants or other appropriations.

d. Endowments, foundation funds.

e. Other revenue sources (identified).

f. Appropriation from the city's general fund.

(2) Expenditures:

a. Salaries, wages, fringe benefits.

b. Operating and office supplies.

c. Contracted services.

d. Maintenance and repairs.

e. Insurance.

f. Debt retirement.

g. Capital improvements.

h. Capital outlay.

(b) The board of recreation may assess and collect fees from the use of recreation properties and facilities, fees from other licenses or permits for recreation services as deemed reasonable and appropriate to help offset costs incurred in these provisions and availability. Such fees shall be approved and adopted by the city council.

(Ord. No. 328, § 5, 1-17-1996)

Sec. 2-246. - Rules; regulations; ordinances.

The board of recreation shall promulgate those rules, regulations for adoption as resolution by city council in ordinance deemed necessary to preserve the public peace and security on and within public facilities and grounds set aside and used for recreational functions and activities, and to protect all public properties from injury, damage or loss therein. Such ordinance shall not be contrary to or inconsistent with local ordinance or state law. Penalties prescribed within shall be by either civil liability or criminal sanction.

(Ord. No. 328, § 6, 1-17-1996)

Sec. 2-247. - Custodial care of public grounds and buildings.

The board of recreation shall assume the custodial responsibility, care, maintenance, management, preservation and enhancement of all publicly owned or leased grounds, parks or open spaces with any structures or utilities appurtenant to and thereon, which are deeded for, dedicated to, leased for or set aside for the public use and enjoyment and shall not, either expressed or implied, restrict or prohibit the public use thereof with regard to a person's race, sex, age, nationality or ethnic origin. Further, the board shall prepare and utilize those documents, leases, permits or use agreements designed to and used for the proper assurances of the foregoing in compliance with all other local ordinances, state law or code, and federal statute or regulation.

(Ord. No. 328, § 7, 1-17-1996)

Secs. 2-248—2-270. - Reserved.

DIVISION 3. - PARK AND HARBOR COMMISSION[9]

Footnotes:

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Cross reference— Parks and recreation, ch. 42; waterways, ch. 74.

Sec. 2-271. - Created.

There is created an agency of the city which shall constitute a part of the governmental and administrative machinery of the city and which shall be known as the park and harbor commission of the city.

(Ord. No. 87, § 1, 4-3-1941)

Sec. 2-272. - Members; appointment.

The park and harbor commission shall be made up of five active members and one advisory member. The active members shall be appointed by the mayor of the city for terms of six years. Vacancies in office, whether caused through expiration of term or otherwise, shall be filled by the mayor with the approval of the city council. The mayor of the city shall in due season, prior to the expiration of any term of office, appoint a successor member to take office on the succeeding May 1 but each member of the commission shall continue to hold office until his successor has been properly appointed and has qualified. Any member of the commission may succeed himself but no person who holds any other municipal office or who is an official or employee of the city may be appointed to the commission, nor may any member of the commission hold any other municipal office or employment during his term of office as a member of the commission.

(Ord. No. 87, § 2, 4-3-1941)

Sec. 2-273. - Officers; compensation of members.

The members of the park and harbor commission shall select one of their number as chairman and shall arrange for the appointment of a secretary and a treasurer or a combined secretary-treasurer. Such secretary and treasurer or secretary-treasurer may, but need not be a member of the commission. The members of the commission shall serve without compensation except that if any member of the commission is made secretary-treasurer a reasonable compensation may be paid such member for the additional services so required to be rendered. Actual expenses incurred by members of the commission in the conduct of the business and affairs of the commission may be paid by the commission out of any funds available for such purpose.

(Ord. No. 87, § 3, 4-3-1941)

Sec. 2-274. - Advisory member.

The sixth member of the park and harbor commission shall be an advisory member who shall be a member of the city state park commission. Such member shall also be appointed by the mayor but in making such appointment the mayor shall follow the recommendation of the chairman of the city state park commission and such appointment shall not be subject to ratification by the city council. The advisory member shall be notified of all meetings of the commission and shall be entitled to be present at such meetings and to take part in the discussions and deliberations of the commission, but shall have no vote.

(Ord. No. 87, § 4, 4-3-1941)

Sec. 2-275. - Members; oath; bond.

The members of the park and harbor commission shall qualify and take the oath of office required for other municipal officials by the constitution and the laws of the state but the members, other than the member who may be serving as treasurer, shall not be required to give bond. The treasurer of the commission shall give such bond for the faithful performance of his duties and the safeguard of the funds in his possession as may be required by the commission.

(Ord. No. 87, § 5, 4-3-1941)

Sec. 2-276. - Rules and regulations; quorum.

The park and harbor commission shall determine its rules of procedure and shall adopt such rules and regulations for the orderly conduct of its business and holding of its sessions as it may deem fit. Three members of the commission shall constitute a quorum for the transaction of business but the advisory member shall not be considered in determining whether a quorum is present and no order, resolution or motion shall be considered to have been adopted unless there shall have been cast in its favor the vote of not less than three members of the commission other than the advisory member. Meetings shall be held at such place in the city as may be determined by the commission.

(Ord. No. 87, § 6, 4-3-1941)

Sec. 2-277. - Supervision of waterfront property.

(a) There is transferred to and imposed in the park and harbor commission complete control and supervision over all waterfront property in the city which is authorized by law to be exercised by the city council and there is transferred to and imposed in the commission the right to control and operate all waterfront, park and recreational properties now or hereafter owned by the city to the same extent that such properties are subject to supervision and operation by the city council. The park and harbor

commission shall have authority to make such police regulations affecting waterfront property not owned by the city and to impose and prescribe such restrictions and regulations with respect to the erection of buildings, piers, docks, wharves, landing places and other structures on such property and to provide for such charges or license fees for the erection and use of such structures as it may consider advisable.

(b) In managing, operating and controlling all municipally-owned waterfront, park and recreational properties the park and harbor commission shall be free from interference of any kind by the city council and shall have full authority to enter into contracts, leases and agreements affecting such properties, to hire and discharge employees, to collect and expend all revenues derived therefrom, and in all other respects to manage and operate such properties with the powers and in the manner which would be enjoyed and exercised by private owners in the operation of similar properties.

(c) It is expressly understood and provided that the powers granted to the park and harbor commission by the provisions of this section are expressly made subject to all of the provisions, covenants and agreements contained in Ord. No. 86, adopted March 29, 1941, and that in its management and control of waterfront, park and recreational properties the park and harbor commission is to observe and enforce all of the provisions, covenants and agreements contained in such ordinance.

(d) Any person, firm or corporation who violates any of the rules and regulations adopted or hereafter to be adopted by the park and harbor commission pursuant to the authority granted by this section, shall be deemed guilty of a misdemeanor.

(Ord. No. 87, § 7, 4-3-1941; Ord. No. 93, § 1, 8-26-1941)

Secs. 2-278—2-300. - Reserved.

DIVISION 4. - PLANNING COMMISSION[10]

Footnotes:

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Cross reference— Zoning, app. A.

Sec. 2-301. - Creation.

There is created a city planning commission. The commission is created pursuant to the authority granted by, and subject to the powers, duties and limitations provided in Public Act No. 285 of 1931 (MCL 125.31 et seq.).

(Ord. No. 266, § 1, 3-19-1980)

State Law reference— Authority to create planning commission, MCL 125.32.

Sec. 2-302. - Membership.

The city planning commission shall consist of nine members, appointed by the mayor, subject to approval by a majority vote of the city council. Commission members shall represent, insofar as is possible, different professions and occupations, and shall hold no other municipal office.

(Ord. No. 266, § 2, 3-19-1980)

State Law reference— Planning commission membership, MCL 125.33.

Sec. 2-303. - Terms of office.

The term of each member of the city planning commission shall be three years and until their successors are appointed.

(Ord. No. 266, § 3, 3-19-1980)

State Law reference— Similar provisions, MCL 125.33(1).

Sec. 2-304. - Removal of members.

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

(Ord. No. 266, § 4, 3-19-1980)

State Law reference— Similar provisions, MCL 125.33(1).

Sec. 2-305. - Vacancies.

A vacancy occurring in the city planning commission, other than through the natural expiration of a term, shall be filled for the balance of the unexpired term by the mayor, subject to approval by a majority vote of the city council.

(Ord. No. 266, § 5, 3-19-1980)

State Law reference— Similar provisions, MCL 125.33(6).

Sec. 2-306. - Organization.

(a) At its first meeting the city planning commission shall elect a chairperson from the appointed members. The term of the chairperson shall be one year, with eligibility for reelection. The commission may create and fill such other offices as it may determine.

(b) The city planning commission shall adopt rules for the transaction of business and shall keep a record of its proceedings, resolutions, transactions, findings and determinations, which shall be a public record.

(c) The city planning commission shall hold at least one regular meeting in each month. All meetings of the commission shall be governed by the Open Meetings Act (MCL 15.261 et seq.).

(d) A majority of the members appointed and serving on the city planning commission shall constitute a quorum for the transaction of business.

(Ord. No. 266, § 6, 3-19-1980)

State Law reference— Meetings, MCL 125.34.

Sec. 2-307. - Compensation of members.

Members of the city planning commission shall serve without compensation therefor, but may be reimbursed for actual, reasonable and necessary expenses incurred in the discharge of their duties.

(Ord. No. 266, § 7, 3-19-1980)

State Law reference— Compensation of members, MCL 125.33.

Sec. 2-308. - Powers and duties.

The city planning commission shall perform such duties and shall have such authority concerning the preparing and adopting of a master plan, conducting surveys and studies, holding public hearings, making recommendations and reports to the city council and other public officials, publicizing and educating the public on matters within its province, approving plats, adopting regulations pertaining to the subdividing of lands, and such other rights, powers, duties and responsibilities as are provided under the provisions of Public Act No. 285 of 1931 (MCL 125.31 et seq.).

(Ord. No. 266, § 9, 3-19-1980)

State Law reference— Powers generally, MCL 125.36 et seq.

Sec. 2-309. - Appointments; contracts; expenditures.

(a) The city planning commission may contract with planners, engineers, architects and other consultants for such services as it may require. The commission may appoint such employees as it deems necessary for its work.

(b) All expenditures of the city planning commission, except for those funds received by the commission as gifts, shall be within the amounts appropriated for the commission by the city council.

(c) The city planning commission may accept and use gifts for the exercise of its functions.

(Ord. No. 266, § 8, 3-19-1980)

State Law reference— Similar provisions, MCL 125.35, 125.41.

Sec. 2-310. - Annual report.

The city planning commission shall, on or before March 31 of each year, make and file an annual report with the mayor and the city council. The report shall summarize the commission's operations and the status of planning and zoning activities, including recommendations regarding actions by the city council pertaining to planning, zoning and related concerns.

(Ord. No. 266, § 10, 3-19-1980)

Sec. 2-311. - Recommendations.

All recommendations made by the city planning commission to the city council must be in writing.

(Ord. No. 266, § 11, 3-19-1980)

Secs. 2-312—2-330. - Reserved.

DIVISION 5. - MUNICIPAL ORDINANCE VIOLATIONS BUREAU

Sec. 2-331. - Title.

This division shall be known and cited as the Mackinac Island Municipal Ordinance Violations Bureau Ordinance.

(Ord. No. 421, 6-23-2004; Ord. No. 496, 6-10-2015, eff. 6-30-2015)

Sec. 2-332. - Establishment, location and personnel of municipal ordinance violations bureau.

(a) *Establishment.* The City of Mackinac Island Municipal Ordinance Violations Bureau (hereafter "bureau") is hereby established pursuant to 1994 Public Act 12 (MCL 600.8396), as it may be amended from time to time, for the purpose of accepting admissions of responsibility for ordinance violations designated as municipal civil infractions, and to collect and retain civil fines/costs for such violations as prescribed herein.

(b) *Location.* The bureau shall be located at city offices or such other location in the city as may be designated by the city council.

(c) *Personnel.* All personnel of the bureau shall be city employees. The city council may by resolution designate a bureau clerk with the duties prescribed herein and as otherwise may be designated by the city council.

(Ord. No. 421, 6-23-2004; Ord. No. 496, 6-10-2015, eff. 6-30-2015)

Sec. 2-333. - Bureau authority.

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

(Ord. No. 421, 6-23-2004; Ord. No. 496, 6-10-2015, eff. 6-30-2015)

Sec. 2-334. - Ordinance violation notice requirements admission/denial of responsibility.

(a) *Ordinance violation notice requirement.* Municipal civil infraction violation notices shall be issued and served by authorized city officials as provided by law. A municipal ordinance violation notice shall include, at a minimum, all of the following:

(1) The violation:

(2) The time within which the person must contact the Bureau for purposes of admitting or denying responsibility for the violation;

(3) The amount of the scheduled fines/costs for the violation;

(4) The methods by which the violation may be admitted or denied;

(5) The consequences of failing to pay the required fines/costs or contact the bureau within the required time;

(6) The address and telephone number of the bureau;

(7) The days and hours that the bureau is open.

(b) *Denial of responsibility.* Where a person fails to admit responsibility (without explanation) for a violation within the jurisdiction of the bureau and pay the required civil fines/costs within the designated time period, the bureau clerk or other designated city employee(s) shall advise the complainant to issue and file a municipal civil infraction citation for such violation with the court having jurisdiction of the matter. The citation filed with the court shall consist of a sworn complaint containing, at a minimum, the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation. 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 shall thereafter be processed in the manner required by law.

(Ord. No. 421, 6-23-2004; Ord. No. 496, 6-10-2015, eff. 6-30-2015)

Sec. 2-335. - Schedule of civil fines/costs.

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

1st violation within 2-year period * $100.00

2nd violation within 2-year period * 200.00

3rd violation within 2-year period * 500.00

* determined on the basis of the date of violation(s).

In addition to the above-prescribed civil fines, costs in the amount of $10.00 shall be assessed by the bureau if the fine and costs are paid within ten days of the date of service of the municipal ordinance violation notice. Otherwise, costs of $20.00 shall be assessed by the bureau.

(Ord. No. 421, 6-23-2004; Ord. No. 496, 6-10-2015, eff. 6-30-2015)

Sec. 2-336. - Records and accounting.

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

(Ord. No. 421, 6-23-2004; Ord. No. 496, 6-10-2015, eff. 6-30-2015)

Sec. 2-337. - Availability of other enforcement options.

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

(Ord. No. 421, 6-23-2004; Ord. No. 496, 6-10-2015, eff. 6-30-2015)

Sec. 2-338. - Severability.

The provisions of this division are hereby declared to be severable and if any part is declared invalid for any reason by a court of competent jurisdiction it shall not affect the remainder of the division which shall continue in full force and effect.

(Ord. No. 421, 6-23-2004; Ord. No. 496, 6-10-2015, eff. 6-30-2015)

Secs. 2-339—2-350. - Reserved.

DIVISION 6. - MARINE RESCUE DEPARTMENT[11]

Footnotes:

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Editor's note— Ord. No. 559, adopted June 6, 2018, added provisions to the Code, but did not specify manner of inclusion. Therefore, at the discretion of the editor, said provisions have been included as Div. 6, § 2-351, as set out herein.

Sec. 2-351. - Purpose.

Whereas, Mackinac Island is a historic island community that maintains a busy commercial and recreational harbor and is surrounded by beautiful waters that are frequented by commercial and recreational powerboats, sailboats, kayaks and other water sports. Mackinac Island has limited access to the mainland communities and has a public purpose to provide emergency response and transportation for goods and personnel in emergencies. This ordinance is enacted to provide for the health, safety, and welfare of the community both on the island and those enjoying our navigable waters.

Now, therefore, be it ordained and enacted, the creation of a Mackinac Island Marine Rescue Department by the Council of the City of Mackinac Island in a meeting assembled and is hereby ordained and enacted by the authority of the same as follows:

(1) *Officers.*

a. The marine rescue department shall consist of a commander, coxswains, navigators, and deckhands, as the commander may deem necessary for the effective operation of the department.

b. The commander of the marine rescue department shall be appointed by the mayor, by and with the consent of the council. The commander shall be the officer in charge and shall be technically qualified by training and/or experience. The commander may be removed consistent with the terms provided in chapter V, section 3 of the City of Mackinac Island Charter.

c. The commander of the marine rescue department shall be accountable to the city council and shall make written and verbal reports as the city council may require.

d. A coxswain of the marine rescue department shall serve as the officer in charge in the absence of the commander.

(2) *Duties of the commander.*

a. The commander of the marine rescue department shall formulate a set of rules and regulations to govern the department and shall be responsible to the city council for the personnel, morals and general efficiency of the department.

b. The commander of the marine rescue department 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 request for service.

c. The commander of the marine rescue department shall conduct training as required by applicable regulatory local, state, and federal agencies.

d. The commander of the marine rescue department shall see that complete records are kept of all responses, inspections, vessels and minor equipment, personnel and other information about the work of the department. It shall also be the responsibility of the commander to submit all recommendations pertaining to marine rescue department operations to the city council.

e. The commander of the marine rescue department shall report every year to the city council a complete annual report of the prior season service requests and operations.

(3) *Marine rescue personnel.*

a. The personnel of the marine rescue department shall consist of such persons as may be appointed by the commander of the marine rescue department.

b. Any member of the marine rescue department may be suspended or discharged from the department by the commander of the department, at any time that they may deem such action necessary for the good of the department. On written request of such member to the city council, they shall be given a public hearing on the charges.

(4) *Equipment.*

a. The marine rescue department shall be equipped with such vessels and other equipment as may be required from time to time and to maintain its efficiency to properly protect life and property as determined by the city council.

b. Recommendations of vessels and equipment shall be made by the marine rescue department, and after approval by the city council shall be purchased in such a manner as may be designated by the city council.

c. All equipment of the marine rescue department shall be safely and conveniently housed in such place as may be designated by the city council.

(5) *General regulations.*

a. The marine rescue department shall maintain training and operate watercraft for the City of Mackinac Island to mitigate marine based hazards and respond to marine emergencies.

b. The marine rescue department shall assist the Mackinac Island Police Department, Fire Department and EMS personnel as requested by providing a marine platform to safely carry out their duties.

c. The marine rescue department shall assist neighboring agencies as requested under any of the City of Mackinac Island's police, fire or EMS mutual aid agreements.

d. The marine rescue department may provide nonemergency transport of goods or personnel that is in the best interest of the city as authorized by the mayor or their designee.

e. All members shall comply with departmental policies. Members failing to maintain the minimum requirements will be subject to dismissal by the commander.

f. The coxswain on any Mackinac Island Marine Rescue vessel has the responsibility for the safety of the vessel and its crew. They shall take steps necessary to reduce risk, up to and including delaying response to any request for service, should they believe the risks of the mission outweigh the potential benefits of executing the mission. The coxswain shall have the final authority regarding the safe operation of the vessel.

(Ord. No. 559, 6-6-2018)

Chapter 6 - ANIMALS[1]

Footnotes:

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Charter reference— General authority relative to animals, ch. IX, § 1(32), (34), ch. XIV, ch. XX, § 14.

Cross reference— Environment, ch. 26; confining animals in offensive ways prohibited, § 26-33; horse-drawn vehicles for hire, § 66-291 et seq.; horse rentals, § 66-431 et seq.

State Law reference— Crimes relating to animals, MCL 750.49 et seq.

ARTICLE I. - IN GENERAL

Sec. 6-1. - Livestock at large.

It shall be the duty of all owners or keepers of horses, mules, cows, bulls, steers, calves, sheep, oxen and other cattle to prevent them from running at large within the limits of the city.

(Ord. No. 58, § 1, 6-5-1916)

Charter reference— Authority to prohibit livestock at large, ch. XX, § 14.

Sec. 6-2. - Horseshoe specifications.

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

Horse includes all animals of the equine and bovine species.

In harness includes all horses engaged in pulling or pushing a cart, carriage, coach, dray, surrey, taxi, wagon or any other such vehicle.

Pony means a horse which is less than 48 inches at the withers.

(b) It shall be unlawful to drive or permit to be driven any horses within the limits of the city, except such as are shod in conformity with the following:

(1) From April 1 to November 1 of each year all horses in harness, within the city limits, shall be shod with nonmetallic shoes, with the exception of ponies and where icy conditions prevail. Other horses not in harness, may be shod with metallic shoes and borium. The borium shall be not less than one inch wide and not more than one-quarter-inch thick at the toe and not less than one inch wide and not more than one-quarter-inch thick at the heel of the shoe.

(2) All horses may be shod with metallic shoes and borium during the period of November 1 to April 1. The borium shall be not more than 1½ inches wide and three-eighths-inch thick at the toe and one inch wide and three-eighths-inch thick at the heel of the shoe.

(Ord. No. 122, §§ 1, 2, 5-1-1951)

Sec. 6-3. - Disturbing or frightening horses.

(a) No person shall, with or without intent, conduct any activity in a negligent, careless or reckless manner that either results in the endangerment of persons or property, or would likely endanger persons or property by the disturbing or frightening of horses or livestock.

(b) No person shall strike at or hit a horse, whether by use of a hand, stick, bull whip or other object.

(c) No person shall crack a bull whip in such manner as to create a loud noise within 100 feet of a horse or upon any street or sidewalk in the city.

(d) This section shall not be construed to prohibit conduct of a person directed at a horse which is owned or under the control and direction of such person, as long as such conduct would not also constitute a violation with respect to a horse which is not under the person's ownership, control or direction.

(e) Any person violating any provision of this section shall be guilty of a misdemeanor punishable by a fine not to exceed $500.00, imprisonment for a period of not more than 30 days, or both.

(Ord. No. 240, § 3(a)—(d), 6-6-1978; Ord. No. 561, § 1, 11-19-2018)

Editor's note— Ord. No. 561, § 1, adopted Nov. 19, 2018, amended § 6-3 and in so doing changed the title of said section from "Molesting or frightening horses" to "Disturbing or frightening horses," as set out herein.

Sec. 6-4. - Stables near dwellings.

It shall be unlawful to construct and use as a stable nor shall any existing building be converted for use as a stable which building is within a radius of 100 feet of any existing dwelling place.

(Ord. No. 127, § 1, 5-26-1952)

Secs. 6-5—6-30. - Reserved.

ARTICLE II. - DOGS[2]

Footnotes:

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Charter reference— Power relative to dogs, ch. IX, § 1(32).

State Law reference— Dog Law of 1919, MCL 287.261 et seq.; municipal animal control ordinances, MCL 287.290.

Sec. 6-31. - Definitions.

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

Dog means a domesticated carnivorous mammal (species canis familiaris), bred, born and raised in captivity as a pet, for the purpose of human companionship or sporting purposes, male or female, sexed or neutered, excluding hybrids with wolves, coyotes or jackals.

Dog running at large means every instance in which a dog is not under the reasonable restraint and control of the owner, or other person, and not on the owner's premises. A dog is deemed to be at large when it is found off the premises of its owner or other person responsible therefor and not under reasonable restraint and control by physical restraint such as a leash, lead, rope or cord held by a person capable of maintaining control and restraint.

Owner, as applied to the proprietorship of a dog, means every person having a right of property in a dog and every person who keeps or harbors a dog or has it in an enclosure or cage, and every person who permits the dog to remain on or about any premises occupied by him. A dog shall be deemed to be harbored if it is fed or sheltered and allowed or permitted to remain on or about a person's premises for three consecutive days or more.

Reasonable restraint and control means the keeping of a dog on one's own premises by training or by a suitable leash or lead, fence or other physical restraints; or the keeping of a dog off one's premises on a suitable leash, or the confinement of a dog in a vehicle, cage or other enclosure. For purposes of this section, the term "suitable leash or lead" shall be a length of cord, rope or other means of restraint not harmful or injurious to the dog and held by a person capable of physically restraining the dog.

(Ord. No. 365, § 2, 4-22-1999)

Cross reference— Definitions generally, § 1-2.

Sec. 6-32. - Violations.

Violations of this article are a municipal civil infraction.

(Ord. No. 365, § 11, 4-22-1999)

Sec. 6-33. - Impoundment; release to owner; release to animal control authority.

A peace officer may take into temporary custody and control and impound any unrestrained dog that is running at large, or otherwise represents an immediate threat to the public health, safety and welfare. At such time that a dog is so impounded:

(1) The peace officer shall immediately make every reasonable and diligent effort in identifying the dog's owner and so inform the owner of the action taken and actions required of the owner in obtaining release and custody of the dog. Such effort and actions shall be documented and recorded on forms prescribed and maintained by the city police department.

(2) Prior to releasing the dog so impounded to the owner, or other person expressly authorized by the owner to do so, the peace officer shall ensure through evidence and proof of proper documentation that the dog is inoculated for rabies and is currently licensed as so specified within section 6-38. Further, an impound fee in that amount established by action of the city council is paid in full.

(3) In addition to, or in lieu of, impounding a dog found unrestrained and running at large, a peace officer may issue to the dog's owner or person responsible for the control of the dog, an appearance citation for violation of this section.

(4) If the peace officer is unsuccessful in identifying and locating the dog's owner, or the owner so notified fails to claim such dog, after a period of eight hours from the date and time of impoundment, the dog shall be released to the proper custody of the county animal control officer.

(5) The owner of an impounded dog may also be proceeded against for violation of this section.

(Ord. No. 365, § 8, 4-22-1999)

Charter reference— Pounds, ch. XIV.

Sec. 6-34. - Running at large prohibited; restraint.

(a) No person shall permit, allow or enable any dog to run at large anywhere out of doors within the city limits.

(b) No person shall fail to exercise care, reasonable restraint and control of any dog to prevent the dog from becoming a public nuisance.

(c) No person having custody or control of any female dog shall permit the dog to be in any street, alley, or public place while it is in heat, but shall keep the dog confined so that it cannot come in contact with another dog whether on public or private property except for breeding purposes within a building.

(Ord. No. 365, § 3, 4-22-1999)

Sec. 6-35. - Public nuisance.

Any dog that unreasonably annoys humans, endangers the life or health of other persons, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property shall constitute a public nuisance and shall be abated immediately. The term "public nuisance" shall mean and include, but is not limited to, any dog that:

(1) Is repeatedly found running at large.

(2) Damages the property of anyone other than its owner.

(3) Molests or intimidates pedestrians, passersby or horses.

(4) Chases horse-drawn vehicles, bicycles or snowmobiles.

(5) Excessively makes disturbing noises, including, but not limited to, repeated howling, loud or habitual barking, whining, yelping or other utterances or noises that unreasonably disturbs the peace, quiet or repose of a person or persons of ordinary sensibility.

(6) Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or other persons in close proximity to the premises where the dog is kept or harbored.

(7) Causes unsanitary conditions in enclosures or surroundings where the dog is kept or harbored.

(8) Is offensive or dangerous to the public health, safety or welfare by virtue of the number of dogs maintained or harbored on a premises.

(9) Attacks other domestic animals.

(Ord. No. 365, § 4, 4-22-1999)

Cross reference— Nuisances, § 26-31 et seq.

Sec. 6-36. - Dog bites; reporting required; quarantine.

(a) At any time when a dog bites any person, whether or not the skin of that person is broken by the bite, the incident shall promptly be reported to a peace officer.

(b) Upon receipt of such report, the peace officer shall investigate the incident and shall file a report of the incident with the appropriate health official or agency responsible for maintaining information on such incidents on those forms prescribed or required.

(c) The dog owner shall maintain the dog in quarantine for a period of not less than ten days from the date and time of the incident. The place of quarantine shall be in a place capable of keeping the dog confined and isolated from persons and other dogs and from straying from the owner's premises, or in any other area as may be approved by the county animal control officer.

(d) The dog shall not be released from quarantine until it can be verified that the dog poses no risk to the health, safety and welfare of the public. Additionally, such release shall not occur unless proof of proper rabies inoculation and licensure is presented to a peace officer. Such verification may include written documentation as to the health of the dog as prepared by a licensed veterinarian.

(Ord. No. 365, § 5, 4-22-1999)

State Law reference— Dangerous animals, MCL 287.321 et seq.; dogs attacking or biting persons, MCL 287.286a, 287.288, 287.351.

Sec. 6-37. - Removal of excrement.

(a) Any person who, while walking or escorting a dog under reasonable restraint and control, allows such dog to deposit excrement on any public or private property, other than the dog's owner or the property of the person walking or escorting the dog, shall promptly remove and properly dispose of such excrement.

(b) Any person owning a dog, whether or not under the person's reasonable restraint and control, which deposits excrement on public or private property other than the property of the dog's owner or his designee shall, upon being made aware of such fact, promptly remove and properly dispose of such excrement.

(Ord. No. 365, § 6, 4-22-1999)

Sec. 6-38. - Rabies inoculation; license required.

(a) No person shall keep, harbor, maintain care, custody or control over any dog six months of age or older unless such dog has been properly inoculated against rabies by a licensed veterinarian in accordance with state statute.

(b) No person shall keep, harbor, maintain care, custody or control over any dog six months of age or older unless such dog is licensed annually in accordance with ordinances and regulations as provided for under ordinance of the county. Further, such licensure shall be evidenced by a tag issued by the county treasurer for such dog which is securely attached to a collar worn by the dog.

(Ord. No. 365, § 7, 4-22-1999)

Chapter 10 - BUILDINGS AND BUILDING REGULATIONS[1]

Footnotes:

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Charter reference— General authority relative to buildings and construction, ch. IX, § 1(26).

Cross reference— Environment, ch. 26; fire prevention and protection, ch. 30; signs, ch. 46; solid waste, ch. 50; streets, sidewalks and other public places, ch. 54; subdivisions and other divisions of land, ch. 58; utilities, ch. 70; waterways, ch. 74; building, rebuilding structures; permission required, § 74-33; zoning, app. A; nonconforming uses and structures, app. A, § 5.01 et seq.

ARTICLE I. - IN GENERAL

Sec. 10-1. - Water closet or privy.

It shall be unlawful for the owner or occupants of any premises within the limits of the city to use or maintain upon such premises any water closet or privy not supplied with a good and sufficient flushing apparatus and properly connected with a suitable drain for the effectual drainage thereof and in such manner that the same will be free from stench and offensive smells. If the city, for the protection of the health of the inhabitants, shall incur any expense in removing or abating a water closet or privy used or maintained in violation of this section, the council may charge such expense, or such part thereof as they shall deem proper, upon the lot or premises upon which such water closet is located and cause the same to be assessed upon such lot or premises and collected as a special assessment.

(Ord. No. 35, §§ 1, 3, 6-1-1909)

Sec. 10-2. - Formula business.

(a) *Purpose.* The provisions of this section are intended to promote the public health, safety and general welfare of the citizens of Mackinac Island by preserving, maintaining and enhancing the unique character of the business community which is essential to the continuation and maintenance of the tourism industry.

(b) *Definitions.*

The following definitions shall be added:

Formula business. A retail store, restaurant, hotel or other establishment that is required by contractual or other arrangements to sell only standardized services or products, or adopt standardized methods of operation, décor, uniforms, signage, architecture or other features virtually identical to businesses located in other communities. Exempted from this definition are formula businesses which originated on Mackinac Island.

(c) *Prohibited businesses.* Formula businesses as defined in this section, created or established on Mackinac Island after the effective date of this article, are prohibited in all zoning districts.

(Ord. No. 442, 8-26-2009)

Editor's note— Ord. No. 442, §§ 1—3, adopted Aug. 26, 2009, amended Ord. No. 278. At the discretion of the editor, said provisions have been included herein as § 10-2. See also the Code Comparative Table.

Secs. 10-3—10-30. - Reserved.

ARTICLE II. - CONSTRUCTION CODE[2]

Footnotes:

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State Law reference— State construction code, MCL 125.1501 et seq.

DIVISION 1. - GENERALLY

Sec. 10-31. - Enforcing agency designated.

The building official of the city is designated as the enforcing agency to discharge the responsibilities of the city under Public Act No. 230 of 1972 (MCL 125.1501 et seq.). The city assumes responsibility for the administration and enforcement of the act throughout its corporate limits.

(Ord. No. 210, § 1, 10-24-1974)

State Law reference— Local enforcement of state construction code, MCL 125.1508b.

Sec. 10-32. - Adoption.

(a) *Inclusion and adoption of fire safety standards.* The city hereby includes and adopts by reference for purposes of providing fire safety standards and enforcement thereof, the International Fire Safety Code and all provisions of the National Fire Protection Association (NFPA).

(b) *Agency designated.* Pursuant to the provisions of the Michigan Fire Prevention Code, being Act 207 of the Public Acts of 1941, as amended, the City of Mackinac Island is hereby designated as the enforcing agency to discharge the responsibility of the city under Act 230 of Public Acts of 1972, as amended, by reference and inclusion of the International Fire Safety Code and all provisions of the National Fire Protection Association (NFPA), by adoption.

(Ord. No. 422, §§ 1, 2, 7-8-2004)

Secs. 10-33—10-50. - Reserved.

DIVISION 2. - CONSTRUCTION BOARD OF APPEALS[3]

Footnotes:

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Cross reference— Boards and commissions, § 2-221 et seq.

State Law reference— Construction board of appeals, MCL 125.1514.

Sec. 10-51. - Created; membership; term; removal.

(a) A construction board of appeals for the city is created.

(b) The construction board of appeals shall consist of three members, who shall be qualified by experience or training to perform duties of members of the board of appeals. A person may serve on the construction board of appeals for more than one governmental subdivision.

(c) The members of the construction board of appeals shall be appointed for two-year terms by the mayor of the city, except that one member of the first board of appeals to be appointed shall serve for a term of one year. All members shall hold office until their successors are appointed.

(d) Members of the construction board of appeals may be removed, after a public hearing, by the mayor for neglect of duty or malfeasance in office.

(Ord. No. 300, § II, 1-18-1990)

Sec. 10-52. - Organization.

(a) *Chairperson.* At its first meeting, the construction board of appeals shall elect a chairperson from the appointed members. The term of the chairperson shall be one year, with eligibility for reelection.

(b) *Rules.* The construction board of appeals shall adopt rules for the transaction of business and shall keep a record of its proceedings, resolutions, transactions, findings and determinations, which shall be a public record.

(c) *Meetings.* The construction board of appeals shall hold at least one regular meeting in each year. All meetings of the board of appeals shall be governed by the Open Meetings Act (MCL 15.561 et seq.).

(d) *Quorum.* A majority of the members appointed and serving on the construction board of appeals shall constitute a quorum for the transaction of business.

(Ord. No. 300, § III, 1-18-1990)

Sec. 10-53. - Procedure for appeals.

(a) *Appeal.* An interested person aggrieved by the city's refusal to grant an application for a building permit, or by any other decision pursuant to or related to the state construction code, may appeal in writing to the construction board of appeals within 30 days of the decision appealed from.

(b) *Time for decision.* The construction board of appeals shall hear an appeal, as described under subsection (a) of this section, and render and file its decision with a statement of reasons for the decision with the city clerk not more than 30 days after submission of the appeal. Failure by the construction board of appeals to hear an appeal and file a decision within the time limit shall be deemed a denial of the appeal for purposes of authorizing the appellant to appeal to the state construction code commission.

(c) *Service.* A copy of the decision and statement of reasons for making the decision, as described in subsection (b) of this section, shall be delivered or mailed, before filing with the city clerk, to the appellant.

(d) *Denial.* An appellant may appeal an adverse decision to the state construction code commission, as provided by law.

(Ord. No. 300, § IV, 1-18-1990)

Secs. 10-54—10-70. - Reserved.

ARTICLE III. - BOARDINGHOUSES OR ROOMINGHOUSES[4]

Footnotes:

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Cross reference— Businesses, ch. 14.

DIVISION 1. - GENERALLY

Sec. 10-71. - Definitions.

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

Dwelling means any house, building, structure, tent, shelter, trailer or vehicle, or portion thereof, which is occupied in whole or in part as the home, residence, living or sleeping place of one or more persons, either permanently or transiently.

Health officer means the director of the Luce-Mackinac-Alger-Schoolcraft District Health Department and/or his authorized representatives.

Nuisance means:

(1) A public nuisance as known in common law or inequity jurisprudence, and whatever is dangerous to human life or detrimental to health.

(2) A dwelling that is overcrowded with occupants or is not provided with adequate ingress and egress to or from the dwelling, or is not sufficiently supportive, ventilated, sewered, drained, cleaned or lighted in reference to its intended or actual use.

(3) Whatever renders the air or human food or drink unwholesome.

Roominghouse and/or boardinghouse means any dwelling occupied in such a manner that certain rooms, in excess of those used by the members of the immediate family and occupied as a home or family unit, are leased or rented to persons outside of the family. Cooking or kitchen accommodations for individuals leasing or renting rooms may be included. Tourist accommodations are excluded from this definition.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes.

Substandard dwelling means a dwelling which is not equipped so as to have each of the following items: running water, inside toilets, or a dwelling which has inadequate cellar drainage, defective plumbing, or an inside room with no windows, or other form of ventilation, improper exits, or defective stairways; or other conditions which create a hazard to the health and well-being of the occupants.

(Ord. No. 224, art. II, §§ 1—6, 6-2-1976)

Cross reference— Definitions generally, § 1-2.

Sec. 10-72. - Appeals.

(a) *Board of appeals.* The city council shall serve as the board of appeals for this article. The duty of such board shall be to consider and act on appeals arising from decisions of the officials charged with the enforcement of the regulations of this article and to determine in particular cases whether any deviation or variance from the strict enforcement of the regulations of this article will violate the intent of such regulations or jeopardize the health, safety or welfare of the public.

(b) *Appeals procedure generally.* Any person wishing to appeal from a notice or order shall appeal in writing to the city clerk within ten days of receipt of such notices or order. The city council shall hear the appeal, make further investigation if necessary, and either confirm, modify or reverse the action that is appealed.

(c) *Hearings; powers of board.* The board of appeals shall affix a reasonable time for hearings of an appeal under this section, give due notice thereof to interested parties, and decide the same within a reasonable time thereof. Within the limits of its jurisdiction, the described board shall have all powers of the official from whom such appeal is taken.

(d) *Decisions.* The decision of the board of appeals shall be binding except that such board or members thereof may be required under proper mandamus proceedings to show cause why certain actions were taken or decisions rendered. Further appeal by the person wishing to appeal must be in a civil court.

(e) *Rules of procedures; meetings; quorum.* The board of appeals shall adopt its own rules of procedures and keep a record of its proceedings, showing the action of the board. The presence of three members shall constitute a quorum. All meetings shall be open to the public.

(Ord. No. 224, art. IX, §§ 1—5, 6-2-1976)

Sec. 10-73. - Enforcement.

All dwellings affected by the requirements of the regulations of this article shall be subject to inspection by the health officer and/or the city police department.

(Ord. No. 224, art. III, § 1, 6-2-1976)

Sec. 10-74. - Right of access for inspection.

All dwellings affected by the requirements of this article shall be subject to inspection by the health officer and/or the city police department.

(Ord. No. 224, art. V, § 1, 6-2-1976)

Secs. 10-75—10-90. - Reserved.

DIVISION 2. - LICENSE

Sec. 10-91. - Required.

No person shall operate a boardinghouse and/or roominghouse in the city without obtaining a license therefor as provided in this division.

(Ord. No. 224, art. I, § 1, 6-2-1976)

Sec. 10-92. - Application.

(a) Before any license shall be issued for operating a boardinghouse and/or roominghouse, the person desiring to do the same, or his authorized agent, shall make application for a license to the city clerk. Such application shall be on forms furnished by the city.

(b) Upon receipt of every application to operate a boardinghouse and/or a roominghouse, it shall be the duty of the city clerk to inspect the application, and if properly filled out and signed, to approve the application as to form and content. If not properly filled out or signed, such application shall be returned to the applicant for completion.

(Ord. No. 224, art. IV, §§ 1, 2, 6-2-1976)

Sec. 10-93. - Investigation of premises.

After an application to operate a boardinghouse and/or a roominghouse has been approved as to form and content, the city clerk shall cause an investigation to be made of the premises described therein and of the other matters set forth in such application. After such investigation, the city clerk shall grant the license applied for provided that the granting of same shall not conflict with the laws of the state, or of this article, or of any other ordinance of the city.

(Ord. No. 224, art. IV, § 3, 6-2-1976)

Sec. 10-94. - Fees.

The council shall from time to time determine the fees to be charged for licenses required by this division. A written schedule of such fees shall be on file and open to public inspection in the office of the city clerk and no permit shall be granted until the fee set therefor has been paid.

(Ord. No. 224, art. IV, § 4, 6-2-1976)

Secs. 10-95—10-110. - Reserved.

DIVISION 3. - MINIMUM MAINTENANCE STANDARDS

Sec. 10-111. - Application of provisions.

The provisions of this division apply to roominghouses and boardinghouses.

Sec. 10-112. - Required equipment and facilities.

(a) *Water closet; lavatory basin; bathtub or shower.* At least one flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the health officer and in good working condition, shall be supplied for each eight persons or fraction thereof residing within a roominghouse, including members of the operator's family whenever they share the use of such facilities, provided:

(1) In a roominghouse where rooms are let only to males, flush urinals may be substituted for not more than half the required number of water closets and provided that there shall be at least one water closet.

(2) All such facilities shall be so located within the dwelling as to be reasonably accessible to all persons sharing such facilities and from a common hall or passageway and provided that such facilities are not located more than one floor above or below the rooming unit or units served.

(3) Every lavatory basin and bathtub or shower stall be supplied with heated and unheated water under pressure at all times.

(4) If the roominghouse has only one bathroom for use by the occupants of the rooming units, such bathroom shall not be located below grade.

(5) Every water closet must be located in a room, or stall in a room, that affords privacy, and every bathing facility must be located in a room that affords privacy.

(b) *Heating facilities.* Every dwelling used during the winter shall have heating facilities which are properly installed and maintained in a safe and good working condition and capable of heating all habitable rooms within the dwelling, under ordinary winter conditions, to at least 70 degrees Fahrenheit.

(c) *Windows.* Every habitable room of a dwelling shall have one or more windows with a minimum glass area equal to at least ten percent of the floor area of the room, with 45 percent of that minimum glass area capable of being opened. The windows shall face directly to the outdoors.

(d) *Means of egress.* Every dwelling unit shall have two safe, unobstructed means of egress leading to a safe and open space at ground level.

(Ord. No. 224, art. VI, §§ 1, 3—5, 6-2-1976)

Sec. 10-113. - Maintenance.

(a) *Foundation, walls, roof, etc.; screens.* Every foundation, floor, wall, window, ceiling and roof of a dwelling shall be reasonably watertight, weathertight and verminproof; shall be capable of affording privacy; and shall be kept in good repair. Screens shall be provided and kept in good repair, from April 1 to November 1, on all openable doors and windows.

(b) *Plumbing fixtures; pipes.* Every plumbing fixture of a dwelling, and water and waste pipe, shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstruction.

(c) *Maintain in satisfactory working condition.* Every supplied facility, piece of equipment or utility of a dwelling shall be so constructed and installed that it will function safely and effectively and shall be maintained in a satisfactory working condition.

(d) *Fitness for human occupancy.* No person shall occupy or let to any other occupant any dwelling unit unless it is clean, sanitary and fit for human occupancy.

(e) *Substandard dwellings prohibited.* No roominghouse and/or boardinghouse shall be a substandard dwelling, and no roominghouse and/or boardinghouse shall be permitted to continue in business with conditions present, as defined under section 10-71.

(Ord. No. 224, art. VI, § 6, art. VII, §§ 1—4, 6-2-1976)

State Law reference— Dangerous buildings, MCL 125.538 et seq.

Sec. 10-114. - Space, use and location.

(a) *Floor space; ceiling height; number of occupants.* Every rooming unit shall comply with all the requirements of the following pertaining to a habitable room:

(1) Every rooming unit occupied by one person shall contain at least 85 square feet of floor space; every rooming unit occupied by two to four persons shall contain at least 50 square feet of floor space per occupant; and every room unit occupied by five or six persons shall contain at least 70 square feet per occupant. No rooming unit shall contain more than six persons.

(2) At least half of every habitable room shall have a ceiling height of at least seven feet. No floor space in a habitable room that does not have at least five feet clear floor-to-ceiling height may be utilized in determining minimum floor space.

(b) *Cellar or basement space.* No cellar or basement space located partially or wholly under ground and having half or more than half of its clear floor-to-ceiling height below the average grade of adjoining ground shall be used as a dwelling unit unless:

(1) The floors and walls are impervious to leakage of underground and surface runoff water, and are insulated against dampness.

(2) The total window area in each room is equal to ten percent of the floor area of such room, with 45 percent of the minimum glass area capable of being opened. Such window area shall be entirely above the adjoining grade.

(Ord. No. 224, art. VIII, §§ 1, 2, 6-2-1976)

Secs. 10-115—10-130. - Reserved.

ARTICLE IV. - RENTAL HOUSING[5]

Footnotes:

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Editor's note— Ord. No. 429, § 1—8, adopted April 26, 2006, did not specifically amend the Code; hence, inclusion herein as Art. IV, was at the discretion of the editor. See also the Code Comparative Table.

Sec. 10-131. - Purpose.

The purpose of this article is to provide inspection, regulation and licensing of rental housing accommodations on Mackinac Island, intending to benefit the occupants thereof through better enforcement of building and life safety code requirements and by regulation of the activities that occur within such housing accommodations.

(Ord. No. 429, § 1, 4-26-2006)

Sec. 10-132. - Scope.

The inspection process provided herein shall be limited to a relatively brief visual inspection of each rental premise with the primary purpose of the inspection being the identification and/or correction of visible conditions that violate applicable city ordinances and present a danger to the health, safety and welfare of the occupants of the premises and the community in general. The city council shall approve an inspection checklist identifying specific areas of inspection which will identify the focus areas of the inspection process. The checklist shall be completed by the person(s) conducting the inspection.

(Ord. No. 429, § 2, 4-26-2006)

Sec. 10-133. - Definitions.

The following definitions shall apply in interpreting this article:

Rental unit. Any building, or portion thereof, which is occupied on a rental basis for the purpose of overnight sleeping accommodations by a person or persons who are not the owners of the building, including but not limited to hotels, bed and breakfasts, apartments, boarding houses, condominium units, single family residences, multiple family residences and any other housing unit, all of such terms being defined in the Mackinac Island Zoning Ordinance, being Ordinance No. 278, as amended.

Agent. Agent means a person designated by the owner to be in charge, care, control or management of a rental unit.

(Ord. No. 429, § 3, 4-26-2006)

Sec. 10-134. - Licensing.

(a) No owner, or owner's agent, shall allow another person to occupy a rental unit without a license to do so pursuant to this article.

(b) All rental unit licenses shall expire on May 1st of the calendar year following issuance of the license.

(c) Any owner desiring to utilize or operate a rental unit shall file an application for a license with the city clerk by way of a written application on a form approved by the city council and any said application shall be approved if all of the following apply:

(1) The inspector(s) have completed the inspection checklist adopted by the city council with a determination that the conditions covered by the checklist are satisfactory.

(2) The owner's previous license is not in a period of revocation pursuant to section 10-136.

(3) Owner has paid the appropriate license fee for each rental unit.

(4) The name, address and telephone number of a local designated agent who shall reside within the City of Mackinac Island on a year round basis.

(5) The appropriate city official(s) has inspected the premises and determined that all ordinances, laws, and building and life safety code requirements appear to be in compliance. The city official shall consist of the police chief, the fire chief and the building inspector, or their designees, or any combination thereof. Said determination will generally be made upon inspection of each rental

unit, but if the inspection cannot occur within a reasonable time due to the anticipated seasonal influx of applications, the city council may issue the license based on written representation by the owner that the unit is in compliance with all building and life safety code requirements and that said representation be based on credible information. In such cases, the inspection will be scheduled and completed as soon as possible with prior notice given to the owner of not less than 48 hours that the city inspection will take place. If the city inspection reveals code violations of a nature that the inspector believes could be life threatening, the license shall be immediately revoked, consistent with the procedure set forth in section 10-136 hereof. If the violations are not of a life threatening nature, the licensee shall be given a reasonable time period in which to correct the defects before revocation would occur.

(6) The owner has provided a copy of a floor plan on 8½ × 11 size paper depicting all relevant information for emergency evacuation, including but not limited to, rooms, stairways and path of egress, which will be displayed in every sleeping room.

(d) Any license issued pursuant to this article shall be nontransferable and shall expire upon any transfer of ownership.

(e) The rental unit shall be considered to include all units located on a contiguous parcel of land under common ownership and control.

(Ord. No. 429, § 4, 4-26-2006)

Sec. 10-135. - Rules of operation.

A licensee shall operate the licensed rental unit in accordance with the following rules:

(1) Noise from the licensed property shall be held to a minimum such that noise emanating from congregations of people, music, fireworks and other sources must be in keeping with residential neighborhoods.

(2) The licensed premises must be maintained free from litter and debris.

(3) That the premises be utilized only in compliance with the representations made by the owner on the application for license, including but not limited to the areas of the unit to be occupied and the number of occupants utilizing the unit.

(4) That the premises be utilized and maintained in compliance with all local ordinances, state and federal laws, specifically the NFPA Life Safety Code.

(5) Each licensed premises shall post a map showing all exit routes from the building on the inside of the door of each sleeping room.

(Ord. No. 429, § 5, 4-26-2006)

Sec. 10-136. - Penalty.

(a) In the event a licensee operates a rental unit without a license, the owner shall be responsible for a civil infraction and upon finding of responsibility by a court of competent jurisdiction, the violation shall be punishable by a fine of not more than $500.00 for each offense plus the costs of action, including all direct and indirect expenses incurred by the city in the administration of said action. Each day of operation without a license shall be considered a separate offense.

(Ord. No. 429, § 6, 4-26-2006)

Sec. 10-137. - Revocation.

(a) A license issued pursuant to this article shall be subject to revocation if any of the following occur:

(1) The owner fails to correct a violation of the rules of operation or a condition existing on the premises that is in violation of what is required for the issuance of a license within seven days of being notified of said violation and demand for abatement thereof.

(2) The owner being responsible for three or more violations as indicated in subsection (1) above within any twelve-month period.

(3) Any material misrepresentation provided in the application for the license.

(4) Refusal to allow an inspection of the rental premises authorized by this article.

(b) Procedure for revocation:

(1) Upon petition by an appropriate city official to the city council citing specific facts justifying revocation of the residential rental license, the city council shall hold a special hearing and provide written notice of said hearing to the owner's agent by first class mail to the agent's address provided in the application for license at least seven days prior to the hearing. At the hearing the city official shall be allowed to present evidence and argument to prove grounds for revocation and the licensee shall be allowed to present evidence and argument to rebut the same. The burden of proof will be with the inspector. Provided however, if the grounds for revocation involve conditions that the city official believes could be life threatening, the revocation shall be effective immediately upon providing notification of the immediate revocation to the licensee's agent. In such case, the licensee shall be entitled to a hearing before the city council within seven days of a written demand therefore, at which time the licensee shall be entitled to present evidence and argument to the council that the grounds for revocation are improper and/or the condition cited by the inspector are not of a life threatening nature.

(Ord. No. 429, § 7, 4-26-2006)

Sec. 10-138. - Disclaimer of liability.

A license issued pursuant to this article shall not be considered a warranty, or guarantee, that there are no defects in the unit, or that the premises are in compliance with all requirements contained in this article for issuance of a license. The inspection is limited to a relatively brief visual inspection. No licensee, or customer of the licensee, should rely on the license as a warranty by the city that the rental premises comply with all requirements of the ordinance. The City of Mackinac Island shall not be responsible for any errors or omissions in the inspection process or in the process of issuing the license.

(Ord. No. 429, § 8, 4-26-2006)

Secs. 10-139—10-150. - Reserved.

ARTICLE V. - HISTORIC DISTRICT[6]

Footnotes:

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Editor's note— Ord. No. 443, § 1—22, adopted Oct. 21, 2009, did not specifically amend the Code; hence, inclusion herein as Art. V, was at the discretion of the editor. See also the Code Comparative Table.

Cross reference— Zoning, App. A.

Sec. 10-151. - Short title.

This article shall be known as the "Historic District Ordinance of the City of Mackinac Island".

(Ord. No. 443, § 1, 10-21-2009)

Sec. 10-152. - Statement of purpose.

Historic preservation is hereby declared to be a public purpose and the City Council of the City of Mackinac Island 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 article is to:

(1) Safeguard the heritage of the City of Mackinac Island 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 Mackinac Island and of the State of Michigan.

The City of Mackinac Island 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 article.

(Ord. No. 443, § 2, 10-21-2009)

Sec. 10-153. - Definitions.

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

Alteration means work that changes the detail of a resource but does not change its basic size or shape.

Certificate of appropriateness means the written approval of a permit application for work that is appropriate and does not adversely affect a resource.

Commission means the Historic District Commission of the City of Mackinac Island.

Committee means a historic district study committee appointed by the city council.

Demolition means the razing or destruction, whether entirely or in part, of a resource and includes, but is not limited to, demolition by neglect.

Demolition by neglect means neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.

Denial means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.

Department means the department of history, arts and libraries.

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.

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.

Historic preservation means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering, or culture.

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 Mackinac Island, State of Michigan, or the United States.

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.

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.

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 article.

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.

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 article.

Resource means one or more publicly or privately owned historic or nonhistoric buildings, structures, sites, objects, features, or open spaces located within a historic district.

Smoke alarm means a single-station or multiple-station alarm responsive to smoke and not connected to a system. As used in this subdivision, a "single-station alarm" means an assembly incorporation 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.

Work means construction, addition, alteration, repair, moving, excavation, or demolition.

(Ord. No. 443, § 3, 10-21-2009)

Sec. 10-154. - 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:

(1) 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.

(2) Conduct basic research of each proposed historic district and historic resources located within that district.

(3) Determine the total number of historic and nonhistoric resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the committee shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR part 60, and criteria established or approved by the State Historic Preservation Office of the Michigan Historical Center.

(4) Prepare a preliminary historic district study committee report that addresses at a minimum all of the following:

a. The charge of the committee.

b. The composition of committee membership.

c. The historic district(s) studied.

d. The boundaries of each proposed historic district in writing and on maps.

e. The history of each proposed historic district.

f. 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.

g. 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.

h. Make copies of the preliminary report available to the public pursuant to Section 399.203 (4) of Public Act 169 of 1970, as amended.

(5) Not less than 60 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 14 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.

(6) 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:

a. 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).

b. 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 60 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.

(7) 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. No. 443, § 4, 10-21-2009)

Sec. 10-155. - Establishing additional, 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. No. 443, § 5, 10-21-2009)

Sec. 10-156. - The historic district commission.

Pursuant to Act No. 169, Public Acts of Michigan 1970, MCLA § 399.201 et seq., and Ordinance No. 443, a commission, to be known as the "Mackinac Island, Michigan Historic District Commission", is hereby created. The commission shall have the powers, duties and responsibilities as prescribed by the city council and Ordinance No. 443 now in effect or hereafter amended. Each member of the commission shall reside within the city limits. The commission shall consist of five 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 60 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.

The city council may prescribe powers and duties of the commission, in addition to those prescribed in this article, that foster historic preservation activities, projects, and programs in the local unit.

(Ord. No. 443, § 6, 10-21-2009; Ord. No. 451, § 1, 8-11-2010)

Editor's note— Ordinance No. 451, adopted August 11, 2010, did not specifically amend the Code. Therefore, at the editor's discretion, this ordinance has amended section 10-156 to create the "Mackinac Island, Michigan Historic District Commission."

Sec. 10-157. - 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. No. 443, § 7, 10-21-2009)

Sec. 10-158. - 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. No. 443, § 8, 10-21-2009)

Sec. 10-159. - Ordinary maintenance.

Nothing in this article 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 ordinance was enacted.

(Ord. No. 443, § 9, 10-21-2009)

Sec. 10-160. - Review by the 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. No. 443, § 10, 10-21-2009)

Sec. 10-161. - 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 complying with the requirements of the Stille-DeRossett-Hale single state construction code act 1972 PA 230, MCL 12.1501 to 125.1531.

(Ord. No. 443, § 11, 10-21-2009)

Sec. 10-162. - 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 inspector of buildings. Upon receipt of a complete application, the inspector of buildings 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 article. 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 proposed project completion date, a fire alarm system or a smoke alarm 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 inspector of buildings. A permit shall not be issued until the commission has acted as prescribed by this article. The commission's approval of a certificate of appropriateness or notice to proceed shall be valid for a period of one year from issuance or from the date of a required planning commission approval, whichever is later. If a building permit has not been obtained and onsite work activity actually commenced within the one year period, the approved certificate of appropriateness or notice to proceed shall be null and void.

The historic district commission, upon application by the owner, may grant an extension thereof for good cause for a period not to exceed one year; provided that if through no delay caused by the application additional time is required in order to commence the work, additional time may be granted by the commission.

(c) If an application is for work that will adversely affect the exterior of a resource the commission considers valuable to the City of Mackinac Island, 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 60 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 approval.

(e) The local unit may charge a reasonable fee to process a permit application.

(Ord. No. 443, § 12, 10-21-2009; Ord. No. 531, § 1, 6-8-2016)

Sec. 10-163. - Denials.

If a permit application is denied, the decision shall be binding on the inspector 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. No. 443, § 13, 10-21-2009)

Sec. 10-164. - 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:

(1) The resource constitutes a hazard to the safety of the public or to the structure's occupants.

(2) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.

(3) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other 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.

(4) Retaining the resource is not in the interest of the majority of the community.

(Ord. No. 443, § 14, 10-21-2009)

Sec. 10-165. - Appeal of a commission decision.

(a) An 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 60 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 organization in the City of Mackinac Island, 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 article may not appeal to the court without first exhausting the right to appeal to the state historic preservation review board.

(Ord. No. 443, § 15, 10-21-2009)

Sec. 10-166. - 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 Mackinac Island 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. No. 443, § 16, 10-21-2009)

Sec. 10-167. - 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:

(1) Require the owner of the resource to repair all conditions contributing to demolition by neglect.

(2) 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 Mackinac Island 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. No. 443, § 17, 10-21-2009)

Sec. 10-168. - 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 applications for permits within the proposed historic district be referred to the historic district commission as prescribed in section 10-162 of the ordinance. 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. No. 443, § 18, 10-21-2009)

Sec. 10-169. - 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 be resolution declare an emergency moratorium on all such work for a period not to exceed six months. The city council may extend the emergency moratorium for an additional 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. No. 443, § 19, 10-21-2009)

Sec. 10-170. - Penalties for violations.

(a) A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this ordinance is responsible for a civil violation and may be fined not more than $5,000.00.

(b) A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this ordinance may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated or demolished.

(Ord. No. 443, § 20, 10-21-2009; Ord. No. 523, § 1, 12-16-2015)

Sec. 10-171. - 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. No. 443, § 21, 10-21-2009)

Sec. 10-172. - 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 most suitable, the city council, if considered to be 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 in the property transfer documents, if appropriate.

(Ord. No. 443, § 22, 10-21-2009)

Chapter 14 - BUSINESSES[1]

Footnotes:

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Charter reference— General authority relative to businesses, ch. IX, § 1(9)—(16), (29), (39).

Cross reference— Boardinghouses or roominghouses, § 10-71 et seq.; emergency services, ch. 22; food wastes and garbage storage sites, § 26-195; telecommunications, ch. 62; horse-drawn vehicles for hire, § 66-291 et seq.; horse rentals, § 66-431 et seq.; utilities, ch. 70; bed and breakfast, app. A, § 2.045; boardinghouse/roominghouse/employee house, app. A, § 2.06; restoring unsafe buildings, app. A, § 4.04; HB hotel/boardinghouse, app. A, § 8.01 et seq.; C commercial, app. A, § 9.01 et seq.; H historic, app. A, § 10.01 et seq.; R-4 (planned unit development), app. A, § 13.01 et seq.

ARTICLE I. - IN GENERAL

Sec. 14-1. - Indebtedness to city.

(a) No license shall be granted to any person, firm, copartnership or corporation if at the time applying for such license such person, firm, copartnership or corporation is indebted to the city for any preceding licensing year for failure to procure and pay for any license required by ordinance of the city.

(b) No license necessary or related to the operation of a business shall be granted to any person, firm, copartnership or corporation if at the time of applying for such license such person, firm, copartnership or corporation is indebted on the rolls of the city treasurer for personal property taxes for any preceding licensing year. The city clerk shall prepare a list of license applicants annually, prior to the time set for annual license issuance or renewal, and provide the city treasurer with such list and the treasurer will return a sworn list indicating those applicants not satisfying the requirements of this section.

(Ord. No. 120, §§ 1, 3, 9-13-1950; Ord. No. 284, 1-1-1984)

Secs. 14-2—14-30. - Reserved.

ARTICLE II. - BUSINESS LICENSES[2]

Footnotes:

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Charter reference— Business licenses generally, ch. IX, §§ 2—4.

Cross reference— Compliance a prerequisite for business license for signs, § 46-83.

Sec. 14-31. - Definitions.

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

Hotel means one person engaging in business although various and sundry types of retail operations are conducted in such hotel; provided, however, any business operated within a hotel under a separate and distinct person shall be treated as a separate person engaging in business. Provided further, a hotel business operation in a separate and distinct building and/or location shall cause their operation to be treated as a separate location for reporting and licensing purposes.

Mall means a building consisting of several business units, not a hotel, with each unit representing itself to the public as a separate business or merchandising storefront. Each business unit shall be treated as a separate location for reporting and licensing purposes.

Person engaging in business means any person, firm, joint venture, partnership, association, corporation or other person acting on behalf of himself or the entity as owner, partner, agent, consignee or employee thereof, engaging in the retail sale of goods, wares and/or merchandise and/or providing any service for a fee within the city limits that meets any of the following definitions:

(1) *New business* means a person engaging in business that occupies, for the purpose of conducting such business, any building, structure, lot, boat, public or private room in hotels, lodginghouses, apartments, attics or shops, or other place within the city limits.

(2) *Off-island business* means any person engaging in business that does not have a physical business location within the city limits of Mackinac Island.

(3) *Renewal business* means any person engaging in business that was licensed pursuant to this article in the previous year and which involves an application containing information identical to the application information provided the previous year. Any application for a renewal business

license filed on or after June 1st of the year in which the previous license expired, shall not be considered a renewal business and instead will be treated and processed as a new business.

(Ord. No. 348, § 1, 5-7-1998; Ord. No. 490, § 1, 2-18-2015, eff. 3-3-2015; Ord. No. 533, § 1, 6-22-2016)

Cross reference— Definitions generally, § 1-2.

Sec. 14-32. - Violations.

Violations of this article are a municipal civil infraction.

(Ord. No. 389, § 8, 3-8-2001)

Sec. 14-33. - Licenses; expiration.

(a) It shall be unlawful for any person to engage in business within the city limits without first having obtained a license therefor.

(b) Annual relicensing of a license granted under this article is required on the third Monday in April of a given year.

(c) All licenses granted under this article shall expire April 30 of the next calendar year following the date of its issuance.

(d) Each person engaged in business shall be required to obtain a license for each location at which such business is conducted.

(Ord. No. 389, § 2, 3-8-2001)

Sec. 14-34. - Exceptions.

A person engaged in business shall be licensed under this article unless one of the following is applicable:

(1) The person is exempt by virtue of state or federal law.

(2) The person or particular business is already licensed and regulated by other local ordinance.

(3) The person is a nonprofit organization as determined and as approved by the city council.

(4) The person is selling or offering to sell merchandise through display at a hotel to persons attending a convention at that hotel.

(5) The person provides contracting services involving the use of no more than one person and who renders services pursuant to job contracts for less than $500.00.

(Ord. No. 348, § 3, 5-7-1998)

Sec. 14-35. - Application, filing.

Applicants for a license under this article shall cause to be filed with the city clerk a written application signed by the applicant if an individual, by a partner if a partnership, or by an authorized officer if a corporation. One application shall be filed for each separate person engaged in business. However, if a person engages in business at more than one location, he shall file an additional application

for each such location. Applications shall be on a form approved by the city council showing, but not by way of limitation therein, the following:

(1) Name of business.

(2) Address of business location.

(3) Name and address of owner of business. If an owner is a corporation or other nonpersonal entity, the name and address of the resident agent or other individual representing the entity shall be provided.

(4) A description of the business conducted.

(5) Business telephone number and business fax number.

(6) Proof of state license, if same is necessary for business conducted.

(7) State sales tax number.

(Ord. No. 348, § 4, 5-7-1998)

Sec. 14-36. - Criteria for issuance of license.

(a) A license pursuant to this article shall be issued to an applicant only upon receipt of a properly completed application.

(b) Compliance with the following matters as related to the proposed business, unless waived by the city council upon determination that such noncompliance is of a minor nature and not adverse to the intent and purpose of this article, shall be required:

(1) Property taxes are paid and current.

(2) All zoning requirements.

(3) All building department and building code requirements.

(4) All requirements of the department of public works.

(5) All other city ordinances.

(6) The operation of the business will not be to the detriment of the health, safety and welfare of the people of the city or its visitors.

(Ord. No. 348, § 5, 5-7-1998)

Sec. 14-37. - License and fee.

(a) Upon notification of approval of an application for a license under this article the city clerk may issue a business license. The clerk shall issue a license as directed by the city council for each location at which the licensee does business. The license issued shall be a new business license, a renewal business license, or an off-island business license as indicated by the application.

(b) No license shall be issued until the license fees as set forth by the council are received by the city clerk. A license fee will be required and paid for each business at each location.

(c) No license granted shall be assignable or transferable.

(d) The license shall be on a form approved by the city council and any special conditions of the license shall be typed on the license. A person licensed under this article shall post such license in a conspicuous place in the place where the business is conducted.

(e) No license fee shall be required from any person engaged in business exempt from payment of the fee by state or federal law. Such persons shall comply with all other provisions of this article. The city

clerk shall issue to such persons licenses which are clearly marked as to such exception and the reason therefor.

(Ord. No. 348, § 6, 5-7-1998)

Sec. 14-38. - Regulation and revocation.

Every licensee under this article shall operate its business in compliance with the following regulations and failure to do so will result in revocation of such license:

(1) No licensee shall operate a business to the detriment of the health, safety and welfare of the people of the city or its visitors.

(2) A licensee shall conduct only the business as stated on the application and no other.

(3) No licensee shall operate in such a fashion as to be in violation of any local ordinance, state law or regulation, or federal law or regulation.

(4) No licensee shall operate more than one place of business without having been issued a license for each place.

(5) Failure to post or keep on display the license as required in this article shall be deemed to be a prima facie violation of this article.

(6) Failure to comply with any of the provisions of this article shall result in revocation by action of the city council of any license granted under this article.

(Ord. No. 348, § 7, 5-7-1998)

Secs. 14-39—14-50. - Reserved.

ARTICLE III. - SEXUALLY ORIENTED BUSINESS[3]

Footnotes:

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Editor's note— Ord. No. 446, § 1—4, adopted April 20, 2010, did not specifically amend the Code; hence, inclusion herein as Art. III, was at the discretion of the editor. See also the Code Comparative Table.

Sec. 14-51. - Purpose.

An article to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the City of Mackinac Island, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City of Mackinac Island. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

(Ord. No. 446, § 1, 4-20-2010)

Sec. 14-52. - Definitions.

For purposes of this article, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

Adult bookstore or adult video store means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas".

A "principal business activity" exists where the commercial establishment:

(1) Has a substantial portion of its displayed merchandise which consists of said items,

(2) Has a substantial portion of the wholesale value of its displayed merchandise which consists of said items,

(3) Has a substantial portion of the retail value of its displayed merchandise which consists of said items,

(4) Derives a substantial portion of its revenues from the sale or rental, for any form of consideration of said items,

(5) Maintains a substantial section of its interior business space for the sale or rental of said items; or

(6) Maintains an "adult arcade", which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or specified "anatomical areas".

Adult cabaret means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.

Adult motion picture theater means a commercial establishment where files, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.

Characterized by means describing the essential character or quality of an item. As applied in this article, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

City means the City of Mackinac Island.

Employ, employee, and employment describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premise for repair or maintenance of the premises or for the delivery of goods to the premises.

Establish or establishment shall mean and include any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(3) The addition of any sexually oriented business to any other existing sexually oriented business.

Influential interest means any of the following: (1) the actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business; (2) ownership of a financial interest of 30 percent or more of a business or of any class of voting securities of a business; or (3) holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

Nudity or a state of nudity means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

Operate or cause to operate shall mean to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who operates the business or is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

Person shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.

Premises means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee as described in the application for a sexually oriented business license.

Regularly means and refers to the consistent and repeated doing of the act.

Semi-nude or state of semi-nudity means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

Sexual device means any three dimensional object designed and marketed for stimulation of the male or female human genitals, anus, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, an physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

Sexual device shop means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to their premises by reason of age.

Sexual encounter center shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.

Sexually oriented business means an "adult bookstore or adult video store", an "adult cabaret", an "adult motion picture theater", a "sexual device shop", or a "sexual encounter center".

Specified anatomical areas means and includes:

(1) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified criminal activity means any of the following specified offenses, as amended from time to time, for which less than eight years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

(1) Criminal sexual conduct (MCL 750.520a—750.520g), child sexually abusive activity (MCL 750.145c), computer crimes against children (MCL 750.145d(1)(a));

(2) Prostitution-related offenses (MCL 750.448—750.449a);

(3) Offenses related to obscenity (MCL 752.365) and material harmful to minors (MCL 750.142—750.143);

(4) Indecent exposure (MCL 750.335a);

(5) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses;

(6) Any offense in another jurisdiction that, had the predicate act(s) been committed in Michigan, would have constituted any of the foregoing offenses.

"Specified sexual activity" means any of the following:

(1) Intercourse, oral copulation, masturbation or sodomy; or

(2) Excretory functions as a part of or in connection with any of the activities described in (a) above.

Substantial means at least 30 percent of the item(s).

Viewing room shall mean the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.

(Ord. No. 446, § 2, 4-20-2010)

Sec. 14-53. - Location of sexually oriented businesses.

(a) Sexually oriented businesses shall not be required to obtain a conditional use permit or special use permit.

(b) It shall be unlawful to establish, operate, or cause to be operated, a sexually oriented business in the City of Mackinac Island in any zoning district other than the commercial district.

(c) No sexually oriented business may be established, operated, or maintained within the following areas:

(1) An area within 500 feet of a residential zoning district.

(2) An area within 500 feet of a building used for residential purposes.

(3) An area within 500 feet of a church.

(4) An area within 500 feet of a school.

(5) An area within 500 feet of a governmental building.

(6) An area within 500 feet of any other sexually oriented business.

(d) For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of any structure, including signs and roof overhangs, used in conjunction with the sexually oriented business to the closest point on a property boundary or right-of-way associated with any of the land use(s) or zoning district identified in subsection (c) above.

(e) No sexually oriented business may be established, operated, or maintained in the City of Mackinac Island if a person with an influential interest in the business has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this article.

(f) No sexually oriented business may be established, operated, or maintained in the City of Mackinac Island if a person with an influential interest in the business has, in the previous five years, had an influential interest in another sexually oriented business that (at a time during which the applicant had the influential interest in the other sexually oriented business) was declared by a court of law to be a nuisance.

(Ord. No. 446, § 3, 4-20-2010)

Sec. 14-54. - Unlawful activities; scienter required; penalty; equitable remedies.

(a) Nothing contained in this article is intended, or shall be construed, to permit or authorize activities which are unlawful under state law or municipal ordinance. It is unlawful and a violation of this article for an operator to knowingly or intentionally violate the provisions of this article or to allow, either knowingly or intentionally, an employee or a patron to violate the provisions of this article. It shall be a defense to prosecution that the person prosecuted was powerless to prevent the violation.

(b) No person shall knowingly or intentionally, in a sexually oriented business, appear before a patron or patrons in a state of nudity, regardless of whether such public nudity is expressive in nature.

(c) No employee shall knowingly or intentionally, in a sexually oriented business, appear within view of any patron in a semi-nude condition unless the employee, while semi-nude shall be and remain at least six feet from all patrons and on a fixed stage at least 18 inches from the floor in a room of at least 600 square feet.

(d) A sexually oriented business which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disk, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements: The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises has two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purposes from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by that operator station. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(e) Sexually oriented businesses that do not have stages or interior configurations which meet at least the minimum requirements of this section shall be given 180 days from the effective date of this article to comply with the stage and building requirements of this section. During said 180 days, any employee who appears within view of any patron in a semi-nude condition shall nevertheless remain, while semi-nude, at least six feet from all patrons.

(f) No employee who regularly appears within view of patrons in a semi-nude condition in a sexually oriented business shall knowingly or intentionally touch a patron or the clothing of a patron in a sexually oriented business.

(g) No operator shall allow or permit a sexually oriented business to be or remain open between the hours of 12:00 midnight and 6:00 a.m. on any day.

(h) No person shall knowingly or intentionally sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

(i) No person shall knowingly allow a person under the age of 18 years on the premises of a sexually oriented business.

(j) Scienter. This section does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this section. Notwithstanding anything to the contrary, for the purposes of this section, an act by an employee shall be imputed to the sexually oriented business for purposes of finding a violation of this section only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

(k) Sanctions; equitable remedies. Any person, business, or entity violating or refusing to comply with any provisions of this section shall be responsible for a municipal civil infraction. The sanction for a violation of this section which is a municipal civil infraction shall be a civil infraction.

Additionally, a violation of this article shall be considered a nuisance per se and subject to injunctive relief. Each day that a violation is permitted to exist or occur shall be considered a separate violation.

(Ord. No. 446, § 4, 4-20-2010)

Secs. 14-55—14-65. - Reserved.

ARTICLE IV. - SALE OF GOODS ON PUBLIC STREETS AND SIDEWALKS[4]

Footnotes:

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Cross reference— Streets, sidewalks and other public places, Ch. 54.

Sec. 14-66. - Purpose.

The City of Mackinac Island is a unique community in ways that include its general prohibition of motor vehicles and the resulting alternative uses which include horses, horse drawn vehicles and bicycles. The city further experiences a seasonal influx of visitors causing significant increases on the use of the public streets and sidewalks by the aforementioned animals and vehicles, and by large numbers of pedestrians. The resulting conditions create congestion and safety concerns, as well as conflicting uses of the streets and sidewalks which require the exercise of discretion in regulating such uses for the health, safety and welfare of the community for its residents and visitors. Additionally, the sale of goods within the city is being effectively accomplished by businesses operating from private property. If not prohibited, the actions prohibited by this ordinance would result in unfair competition, likely reducing property values and the tax base of the city.

(Ord. No. 459, § 1, 9-21-2011, eff. 10-19-2011)

Sec. 14-67. - Prohibition of merchandise sale.

Except as otherwise permitted in section 14-68, no person shall sell or offer to sell, or display or attempt to display for sale, goods, wares, produce, food, drinks, or merchandise within the right-of-way of any public street or sidewalk within the City of Mackinac Island.

(Ord. No. 459, § 2, 9-21-2011, eff. 10-19-2011)

Sec. 14-68. - Application.

(a) Charitable non-profit organizations or groups may apply for a permit to sell or offer to sell, or display or attempt to display for sale, goods, wares, produce, food, drinks, or merchandise within the right-of-way of any public street or sidewalk within the City of Mackinac Island. Application forms will be available at the office of the city clerk. A completed application shall be submitted to the city clerk for presentation to the city council.

(b) Approval and issuance of any such permit shall be determined by the city council, in consideration of the location of the proposed vending, the time and date of the proposed vending, the number of other permittees vending at the proposed time and location and the overall impact the vending will have on other uses of the public street or sidewalk. In the event the mayor determines that action is required on any application sooner than can be accommodated by the city council, said mayor is authorized to approve and cause issuance of the permit.

(Ord. No. 459, § 3, 9-21-2011, eff. 10-19-2011)

Sec. 14-69. - Violation.

A violation of any provision of this article shall be a civil infraction. A violation shall also be considered a nuisance per se.

(Ord. No. 459, § 4, 9-21-2011, eff. 10-19-2011)

Secs. 14-70—14-80. - Reserved.

ARTICLE V. - LIQUOR CONTROL

Sec. 14-81. - Purpose.

An ordinance to promote the health, safety and welfare of the citizens of the City of Mackinac Island, to reasonably regulate the operation of businesses which require licenses or permits from the Michigan Liquor Control Commission (MLCC). The intent of this article is to impose uniform regulations on all businesses licensed by the Michigan Liquor Control Commission that allow on-premise consumption of alcohol. It is not the intent of this article to be a land use or zoning ordinance.

(Ord. No. 489, § 1, 12-17-2014, eff. 1-6-2015)

Sec. 14-82. - Definitions.

Licensee. The individual or entity licensed by MLCC to conduct the license business.

Licenses premises. Any business that requires a license or permit from MLCC to allow on-premise consumption of alcohol.

(Ord. No. 489, § 1, 12-17-2014, eff. 1-6-2015)

Sec. 14-83. - Prohibited operations.

The following operations or activities are prohibited on or from any licensed premises.

(a) *Hours of operation.* No licensed premise shall provide alcohol for consumption after 2:00 a.m. except for New Years Day on which service of alcohol is allowed until 4:00 a.m.

(Ord. No. 489, § 1, 12-17-2014, eff. 1-6-2015)

Sec. 14-84. - Penalty.

Any person violating any provision of this article shall be deemed responsible of a civil infraction and shall be assessed a fine of not more than $500.00.

(Ord. No. 489, § 1, 12-17-2014, eff. 1-6-2015)

Secs. 14-85—14-90. - Reserved.

ARTICLE VI. - PRODUCTION AND SALES OF CUSTOMIZED APPAREL PRODUCTS[5]

Footnotes:

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Editor's note— Ord. No. 546, §§ 1—4, adopted April 26, 2017, added provisions to the Code, but did not specify manner of inclusion. Therefore, at the discretion of the editor, said provisions have been included as Art. VI, §§ 14-91—14-94, as set out herein.

Sec. 14-91. - Purpose.

The City of Mackinac Island has received a significant number of complaints from consumers who have agreed to purchase wearing apparel with customized features, usually alleging that the cost of such customization has been deceptive, or at least confusing. Said transactions have caused very negative experiences to the consumers. The City of Mackinac Island desires to protect the public from unclear, unfair or deceptive methods, acts or practices in the conduct of business on Mackinac Island and believes protection is essential to the health, safety and welfare of the community to its residents, visitors and the public. Therefore, the purpose of this ordinance is to require estimates, or quotes, for such customized clothing products in an effort to reduce consumer confusion.

(Ord. No. 546, § 1, 4-26-2017)

Sec. 14-92. - Definitions.

(a) *Customized product* Any clothing, covering, garment or similar accessory worn or designed to be worn upon the human body, including, but not limited to, shirts, t-shirts, sweatshirts and hats, offered for sale that requires assembly, labor, imprinting, embroidery, the creation of a design, print or text, or other processing prior to acceptance by its purchaser.

(b) *Customized product provider* An individual or entity that sells customized products within the city.

(Ord. No. 546, § 2, 4-26-2017)

Sec. 14-93. - Written cost estimates required.

(a) A customized product provider shall provide to its customer a written estimate providing the information listed below and have said estimate signed by the customer prior to the sale.

(1) Name and address of the business.

(2) Customer name.

(3) Product description, including the number of product items.

(4) Total cost of the product prior to Michigan Sales Tax.

(5) Customer signature.

Such notice shall be in English and shall contain text of at least 14 point font.

(b) A customized product provider shall not charge to a customer any costs or fees prior to its completion of a customized product.

(c) A customized product provider shall not charge any costs or fees for services done or supplied in excess of the estimate, or quote, required under subsection (a) above without the knowing written consent of the customer which shall be obtained immediately after it is determined that the estimate, or quote, is insufficient and before any such additional service is performed.

(d) All customized product providers shall post at eye-level, being measured from the floor with the bottom of the sign being at three feet and the top of the sign being at six feet, on a wall adjacent to any entrance to its business premises, the edge of said sign shall be no more than two feet from each entrance, and on a wall directly above or beside the area where custom work is performed, with the edge of said sign being no more than two feet from the work area and posted at eye-level as defined above, a sign provided by the city. Said sign shall measure 18 inches in height and 24 inches in width (text shall be in English and at least two inches in height) and state the following notice:

City ordinance requires a written statement of total cost prior to commencement of custom work.

(e) This section shall not be construed to require a customized product provider to give a written estimate, or quote, if actual services will not be provided.

(Ord. No. 546, § 3, 4-26-2017)

Sec. 14-94. - Penalty.

Any person violating any provision of this ordinance shall be deemed responsible of a civil infraction and shall be assessed a fine consistent with the city's schedule of fines for civil infractions.

(Ord. No. 546, § 4, 4-26-2017)

Chapter 18 - CEMETERIES[1]

Footnotes:

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Charter reference— Cemeteries, ch. XIII.

Cross reference— Streets, sidewalks and other public places, ch. 54.

ARTICLE I. - IN GENERAL

Secs. 18-1—18-30. - Reserved.

ARTICLE II. - CITY CEMETERY[2]

Footnotes:

State Law reference— Municipal cemeteries, MCL 128.1 et seq.

DIVISION 1. - GENERALLY

Sec. 18-31. - Definitions.

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

Authorized personnel means a person or persons appointed by the cemetery board.

Base means the lower or supporting portion of a monument or headstone. Bases are an optional addition.

Cemetery board and *board* mean as defined under section 18-61.

Foundation means a concrete slab that is poured to ground level and must be two inches wider and two inches longer than the base or headstone. Foundations are required and must be placed by cemetery personnel.

Headstone means the main, upright portion of a grave marker that represents a lot, which contains an inscription and protrudes above the foundation and base.

Lot, also referred to as "grave site" or "burial site," means an area of four feet by eight feet.

Monument means the main, upright portion of a grave marker that collectively represents a plot, which contains an inscription and protrudes above the foundation and base.

Plot means an area not to exceed 16 feet by 16 feet.

Plot member means a person who is included in a plot through the plot owner's discretion.

Resident means a person meeting any of the following definitions:

(1) A person who has resided a total of ten years on Mackinac Island for at least 273 days per calendar year, preceding the application for a right of burial.

The city cemetery board reserves the authority to make exceptions to this definition upon an applicant's disclosure showing unusual circumstances or personal connections to Mackinac Island as determined solely by the cemetery board.

Right of burial means the right to be buried in an assigned lot or plot, including the right to have the City of Mackinac Island provide for the perpetual care and maintenance of the cemetery and burial lot, and also including the placement of corner marker fees for each plot.

(Ord. No. 323, § 1, 11-21-1994; Ord. No. 491, §§ 1, 2, 2-18-2015, eff. 3-3-2015; Ord. No. 513, §§ 1, 2, 9-16-2015, eff. 10-6-2015; Ord. No. 585 , § 1, 8-26-2020)

Cross reference— Definitions generally, § 1-2.

Sec. 18-32. - Application of article.

The provisions of this article only apply to cemeteries that are owned, operated or maintained by the city.

(Ord. No. 585 , § 1, 8-26-2020)

Sec. 18-33. - Fund; report.

All monies raised for any cemetery of the city authorized, and all monies received from the sale of right of burial lots, shall be earmarked for cemetery use. Such funds shall not be applied to any other purpose except for the purpose of the cemetery. The cemetery board shall report to the city council annually on March 31, or more often when the council shall require, pertaining to the amount of all monies received into and owing the cemetery fund, from what source and the items and the purposes and amounts of all expenditures and such other matters as the council shall require to be reported.

(Ord. No. 323, § 6, 11-21-1994; Ord. No. 585 , § 1, 8-26-2020)

Sec. 18-34. - Entering upon cemetery grounds.

It shall be unlawful for any person to enter upon any cemetery grounds between dusk and dawn of each day.

(Ord. No. 323, § 7, 11-21-1994; Ord. No. 585 , § 1, 8-26-2020)

Sec. 18-35. - Destruction of property.

No person shall destroy, deface or in any manner or way injure any of the tombs, monuments, buildings, walls, fences or the appurtenances of the cemetery or burial grounds.

(Ord. No. 323, § 8, 11-21-1994; Ord. No. 585 , § 1, 8-26-2020)

Sec. 18-36. - Alcoholic beverages and containers prohibited.

No person shall consume any alcoholic beverage or possess a container, whether open or not, of alcoholic beverage in any cemetery or burial grounds.

(Ord. No. 323, § 9, 11-21-1994; Ord. No. 585 , § 1, 8-26-2020)

Secs. 18-37—18-60. - Reserved.

DIVISION 2. - CEMETERY BOARD[3]

Footnotes:

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Cross reference— Boards and commissions, § 2-221 et seq.

Sec. 18-61. - Appointment, term of office.

There shall be five members appointed by the mayor, with the concurrence of the council, who shall be electors of the city, who shall constitute a cemetery board. The five members shall hold their office for the term of three years and shall serve without compensation. The council may remove any members so appointed for inattention to their duties, want of proper judgment or skill or for the improper discharge of the duties required of them, or for any other good cause.

(Ord. No. 323, § 2, 11-21-1994; Ord. No. 585 , § 1, 8-26-2020)

Sec. 18-62. - Appointment of chairperson.

The cemetery board shall appoint one of its members as chairperson.

(Ord. No. 323, § 3, 11-21-1994; Ord. No. 585 , § 1, 8-26-2020)

Sec. 18-63. - Duties of board.

The cemetery board shall have the care and management of the city cemeteries, or any other burial place or places acquired or managed by the city, and shall direct the improvements and embellishment of the grounds, cause such grounds to be laid out into dimensional areas referred to as lots, avenues, and walks, lots to be numbered, and plots thereof to be recorded with the city clerk. The conveyances and rights of burial on such lots shall be executed on behalf of the city by the clerk and recorded in his office at the expense of the purchaser.

(Ord. No. 323, § 4, 11-21-1994; Ord. No. 585 , § 1, 8-26-2020)

Sec. 18-64. - Regulations.

The cemetery board is invested with the care, management and preservation of the cemetery grounds, the tombs, monuments thereon, buildings, wells and appurtenances thereof, and the board shall make regulations for the rights of burial, the care and protection of the grounds, monuments and appurtenances of the cemetery, and the orderly conduct of persons visiting the grounds. All regulations shall become effective when enacted into ordinance by the city council.

(Ord. No. 323, § 5, 11-21-1994; Ord. No. 585 , § 1, 8-26-2020)

Secs. 18-65—18-90. - Reserved.

DIVISION 3. - BURIALS

Sec. 18-91. - Application.

Application for right of burial shall be obtained through the city clerk. Only applicants who meet the definitional standards of a resident under section 18-31, or through the cemetery board's discretion under section 18-31, shall be granted burial rights.

Applicants requesting ownership of a right of burial to a plot shall supply a list of plot members. Said list shall consist of plot members' names and relations to plot owner. Said list shall be revocable and modifiable by plot owner or, in a case of said plot owner being deceased, by a majority of living plot members.

(Ord. No. 323, § 5(a), 11-21-1994; Ord. No. 585 , § 1, 8-26-2020)

Sec. 18-92. - Fees.

The purchase price of a right of burial on a lot in the city cemetery shall be established by ordinance, and shall include corner marker fees, all of which shall be due at the time application is made. The perpetual care fees are due at the time of interment. Such fees shall be reviewed and established annually.

(Ord. No. 323, § 5(b), (c), 11-21-1994; Ord. No. 491, § 3, 2-18-2015, eff. 3-3-2015; Ord. No. 513, § 3, 9-16-2015, eff. 10-6-2015; Ord. No. 585 , § 1, 8-26-2020)

Sec. 18-93. - City's rights.

If the City of Mackinac Island and an owner of a right of burial are in agreement, the city may buy back said owner's reserved plot or lot for the original purchase price.

(Ord. No. 585 , § 1, 8-26-2020)

Sec. 18-94. - Plot limitations.

No person shall be permitted to purchase more than one plot. A plot owner shall be permitted to include any person he or she so desires in said plot.

(Ord. No. 585 , § 1, 8-26-2020)

Sec. 18-95. - Notice of intent to inter.

Notification of intent to inter the remains of anyone in the cemetery shall be made to the city clerk no less than 24 hours prior to the time of interment. Before an interment can take place, the designated city official shall be presented with a copy of the right of burial and perpetual care certificate.

(Ord. No. 323, § 5(d), 11-21-1994; Ord. No. 585 , § 1, 8-26-2020)

Editor's note— Ord. No. 585 , § 1, adopted Aug. 26, 2020, added §§ 18-93 and 18-94 and in so doing renumbered §§ 18-93—18-95 as §§ 18-95—18-97, as set out herein.

Sec. 18-96. - Burial vaults.

All burials shall utilize burial vaults, with the exception of cremation, constructed of metal, concrete, fiberglass or similar non-disintegrating material.

(Ord. No. 323, § 5(e), 11-21-1994; Ord. No. 585 , § 1, 8-26-2020)

Editor's note— See editor's note in § 18-95.

Sec. 18-97. - Opening of graves; number of persons interred in burial lot.

Authorized personnel only shall be authorized to open graves. Not more than one person or casket can be interred in any one right of burial lot. Not more than three cremated remains can be interred in any one right of burial lot.

Up to two cremated remains may be interred on top of one person or casket.

(Ord. No. 323, § 5(f), 11-21-1994; Ord. No. 513, § 4, 9-16-2015, eff. 10-6-2015; Ord. No. 585 , § 1, 8-26-2020)

Editor's note— See editor's note in § 18-95.

Sec. 18-98. - Headstones.

Headstone height, which is considered to begin at the bottom of the base and end at the highest point of the headstone, shall not exceed 32 inches. Headstone width, which includes the base, shall not exceed 40 inches.

In cases in which an owner of a right of burial or a plot member wishes to place a headstone not accompanied by burial, the placement of the headstone shall serve as the use of one cremation right of burial.

(Ord. No. 585 , § 1, 8-26-2020)

Sec. 18-99. - Monuments.

Monument height, which is considered to begin at the bottom of the base and end at the highest point of the monument, shall not exceed three feet. Monument width, which includes the base, shall not exceed five feet.

(Ord. No. 585 , § 1, 8-26-2020)

Sec. 18-100. - Burial lots not transferable.

Right of burial lots are considered personal in nature and not transferable.

(Ord. No. 323, § 5(g), 11-21-1994; Ord. No. 585 , § 1, 8-26-2020)

Editor's note— Ord. No. 585 , § 1, adopted Aug. 26, 2020, added §§ 18-98 and 18-99 and in so doing renumbered §§ 18-96—18-98 as §§ 18-100—18-102, as set out herein.

Sec. 18-101. - Gravesites to be marked.

Each gravesite must be appropriately marked within 120 days after burial is completed.

(Ord. No. 323, § 5(h), 11-21-1994; Ord. No. 585 , § 1, 8-26-2020)

Editor's note— See editor's note in § 18-100.

Sec. 18-102. - Alterations to grave sites.

Any alterations to grave sites or plots, such as fences, cement, work, stone walls and the planting of trees, shrubbery and other plants, headstones, monuments and other types of decoration must have written authorization from the cemetery board prior to such placement. Any noted needs for repair or replacement of such must be made within 90 days of such notification by authorized personnel to the person who made such placement.

(Ord. No. 323, § 5(i), 11-21-1994; Ord. No. 585 , § 1, 8-26-2020)

Editor's note— See editor's note in § 18-100.

Sec. 18-103. - Violation.

Any person violating any provision of this article shall be deemed responsible of a civil infraction and shall be assessed a fine consistent with the city schedule of fines for civil infractions.

(Ord. No. 585 , § 1, 8-26-2020)

Chapter 22 - EMERGENCY SERVICES[1]

Footnotes:

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Cross reference— Businesses, ch. 14; fire prevention and protection, ch. 30; law enforcement, ch. 34.

State Law reference— Emergency management, MCL 30.401 et seq.

ARTICLE I. - IN GENERAL

Secs. 22-1—22-30. - Reserved.

ARTICLE II. - ALARM SYSTEMS[2]

Footnotes:

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State Law reference— Burglar alarm systems and contractors, MCL 338.1051 et seq.; fire alarm contractors, MCL 338.883f et seq.

Sec. 22-31. - Definitions.

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

Alarm system means a detection device or an assembly of equipment and devices arranged to signal the presence of a hazard or condition requiring the urgent response and/or attention to which emergency services personnel are expected to respond. Alarm systems shall include intrusion/burglary/holdup alarms, fire alarms and fire suppression alarm systems.

Alarm systems agent means a person employed by an alarm systems contractor whose duties include the altering, installing, maintaining, moving, repairing, replacing, selling, servicing, responding to or causing others to respond to an alarm system.

Alarm systems contractor means a person, firm, company, partnership or corporation engaged in the installation, maintenance, alteration or selling of alarm systems, but does not include a business which only sells or manufactures alarm systems unless the business services alarm systems, installs alarm systems, or monitors alarm systems at a protected premises.

Emergency services personnel means any employee of the city police, fire and emergency medical services agencies.

False alarm means an 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 employee or agent. False alarm does not include the alarm caused by severe weather or other violent condition beyond the control of the owner or lessee of an alarm system or of his employee or agent.

Fire alarm system means a detection device or an assembly of equipment and devices which indicates or provides a warning of a fire emergency.

Fire suppression alarm system means an integrated combination of a fire alarm system and fire suppression equipment which, as a result of predetermined temperature, rate of temperature rise, products or combustion, flame or human intervention will discharge a fire extinguishing substance over a fire area.

Intrusion/burglary/holdup alarm system means a detection device or an assembly of equipment arranged to signal the presence of a hazard or condition requiring the urgent response by law enforcement personnel, which are automatically or manually activated.

Protected premises means a lot or parcel of land and buildings, and includes a storage lot, airport, stockyard, junkyard, wharf, pier, dock and any other place or enclosure however owned, used or occupied.

(Ord. No. 305, § 1, 1-1-1991)

Cross reference— Definitions generally, § 1-2.

Sec. 22-32. - Fire and smoke detection devices.

Household fire or smoke detection devices installed within a single-family residence by the owner or resident of that residence are exempt from the provisions of this article, provided that the fire or smoke detection devices are installed pursuant to the requirements of section 22-35(b) and that the detection device activates an audible alarm at the protected premise only.

(Ord. No. 305, § 2(f), 1-1-1991)

Sec. 22-33. - Alarms not in city.

Any alarm systems contractor or agent installing or operating an alarm system within any protected premises in any area outside of the corporate limits of the city to which city emergency services personnel are expected to respond shall comply with those requirements contained under sections 22-34 and 22-35.

(Ord. No. 305, § 2(e), 1-1-1991)

Sec. 22-34. - Installation by licensed contractor or owner.

(a) An alarm system shall not be installed or operated within the corporate limits of the city unless the system is installed by:

  (1) An alarm systems contractor licensed under provisions of Public Act No. 330 of 1968 (MCL 338.1051 et seq.); or

  (2) The owner or occupant of a single-family residence in his residence.

(b) An alarm systems contractor or alarm systems agent shall not install or operate alarm systems until such time as the contractor or agent is licensed to operate a business within the corporate limits of the city as prescribed under the provisions of chapter 14, article II of this Code.

(Ord. No. 305, § 2(d), 1-1-1991)

Sec. 22-35. - Equipment and installation standards.

(a) An alarm system installed in a commercial or public building shall utilize equipment and methods of installation equivalent to or exceeding minimum underwriter's laboratory, American national standards institute or any other nationally recognized testing laboratory requirements for the appropriate installation.

(b) An alarm system installed in a residence shall utilize equipment equivalent to or exceeding minimum applicable underwriter's laboratory or American Standards Institute requirements for household alarm systems.

(Ord. No. 305, § 2(b), (d), 1-1-1991)

Sec. 22-36. - Automatic telephone dialing device.

Any alarm system which employs the use of an automatic telephone dialing device that when activated terminates on an emergency telephone line of the city police department shall not be installed without the prior written approval of the chief of police.

(Ord. No. 305, § 2(g), 1-1-1991)

Secs. 22-37—22-60. - Reserved.

ARTICLE III. - FALSE ALARM AND REGISTRATION[3]

Footnotes:

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Editor's note— Ord. No. 407, §§ 1—5, adopted Jan. 22, 2003, effective Feb. 21, 2003, amended the former Art. II, § 22-37, and enacted a new Art. III, §§ 22-61—22-65 as set out herein. The former Art. II, § 22-37 pertained to similar subject matter and derived from Ord. No. 305, § 3, adopted Jan. 1, 1991.

State Law reference— Correction of burglar alarms giving false alarms, MCL 338.1085.

Sec. 22-61. - Purpose.

An article to establish requirements intended to minimize the costs and danger resulting to the city from multiple false alarms. There has been a proliferation of alarm systems within the city and it is recognized that some false alarms are inevitable. However, excessive false alarms are avoidable. Excessive costs are incurred when the owner, or owner's agent, is not present in the community or readily accessible in the event of a false alarm. The diversion of emergency services to the false alarms render the city less able to respond to legitimate calls. The purpose of this article is to discourage excessive numbers of false alarms and reduce the cost of emergency service responses by providing civil infractions for excessive numbers of false alarms and requiring registration of information by the owner of the alarm system that would allow emergency service providers to more effectively and efficiently handle false alarms.

(Ord. No. 407, § 1, 2-21-2003)

Sec. 22-62. - Definitions.

Alarm system means a detection device or an assembly of equipment and devices arranged to signal the presence of a hazard or condition requiring the urgent response and/or attention to which

emergency services personnel are expected to respond. Alarm systems shall include intrusion/burglary/hold up alarms, fire alarms and fire suppression alarm systems.

Emergency services means any service provided by response or rescue personnel, including but not limited to fire vehicles and personnel, ambulance vehicles and personnel and police vehicles and personnel.

False alarm means an activation of an alarm system through mechanical failure, malfunction (including unexplained activation), improper installation or the negligence of the owner or lessee of an alarm system or his employee or agent when there is no problem or hazard which was the intended target of the alarm system.

(Ord. No. 407, § 2, 2-21-2003)

Sec. 22-63. - Registration.

The owner or lessee of every alarm system operating within the city shall complete a registration form which can be obtained from the city clerk immediately upon installation of the system and the registration shall be renewed on or before May 1 of each year thereafter. The registration form will require various information, including but not limited to, the following:

(1) The address of the property.

(2) The type of alarm systems.

(3) The approximate times of occupation of the building.

(4) The names, local addresses and local phone numbers of two individuals who reside the entire year on Mackinac Island who can be contacted in the event of a false alarm.

(5) Information showing the system is certified to meet minimum underwriter's laboratory, American National Standards Institute or any other nationally recognized testing laboratory requirements for the appropriate installation.

(Ord. No. 407, § 3, 2-21-2003)

Sec. 22-64. - Penalty and restitution.

(a) The owner or lessee of the alarm system from which a false alarm results, or is in violation of the registration requirements of this article, shall be responsible for a civil infraction with a civil fine of not more than $100.00 plus court costs.

(b) In addition to the civil fine and costs, the owner or lessee of the alarm system from which a false alarm results causing the dispatch of emergency personnel of the city, shall be responsible for restitution payable to the city in the amount of $500.00 per false alarm.

(Ord. No. 407, § 4, 2-21-2003)

Sec. 22-65. - Exemptions.

The following properties and services shall be exempt from the provisions of section 22-64.

(1) False alarms recorded within the first 30 days after installation of the alarm.

(2) False alarms involving municipal buildings, grounds and/or property.

(3) False alarms recorded as a result of storms, earthquakes or other violent conditions beyond the control of the owners or lessees.

(Ord. No. 407, § 5, 2-21-2003)

Chapter 26 - ENVIRONMENT[1]

Footnotes:

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Charter reference— Power to enact ordinances for public safety welfare, etc., ch. IX, § 1(40).

Cross reference— Animals, ch. 6; buildings and building regulations, ch. 10; parks and recreation, ch. 42; solid waste, ch. 50; streets, sidewalks and other public places, ch. 54; subdivisions and other divisions of land, ch. 58; utilities, ch. 70; waterways, ch. 74; zoning, app. A.

ARTICLE I. - IN GENERAL

Secs. 26-1—26-30. - Reserved.

ARTICLE II. - NUISANCES[2]

Footnotes:

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Charter reference— General authority relative to nuisances, ch. IX, § 1(3), ch. XII, § 4.

Cross reference— Animals as pubic nuisance, § 6-35.

State Law reference— Public nuisances, MCL 600.2801 et seq.; nuisance abatement, MCL 600.2940.

Sec. 26-31. - Costs of city in abating nuisance; special assessment.

If the city for the protection of the health of the inhabitants shall incur any expense in removing or abating any putrefying carcass, carrion, animal or vegetable offal, swill, slops, or unclean or nauseous water, or manure, or any other filthy or decaying matter, or offensive substance to the injury of the public health maintained in violation of this article, the council may charge such expense, or such part thereof as they shall deem proper, upon the lot or premises upon which such unhealthy matter is located, and cause the same to be assessed upon such lot or premises and collected as a special assessment.

(Ord. No. 36, § 5, 6-1-1909)

Sec. 26-32. - Offensive substances on private premises, streets prohibited.

(a) It shall not be lawful for any person to have, place or deposit, or cause to be placed or deposited on his premises or the premises of another, or in any street, lane, alley, park or common within the limits of the city, any putrefying carcass, carrion, animal or vegetable offal, swill, slops, or unclean or nauseous water, or any other filthy or decaying matter, or offensive substance to the injury of the public health.

(b) No person shall permit any excrement, unclean or nauseous water, garbage, or any filthy or offensive substance to remain on his premises, or the premises occupied by him, to the injury of the public health, or so as to become offensive to his neighbors.

(Ord. No. 36, §§ 1, 2, 6-1-1909)

Cross reference— Streets, sidewalks and other public places, ch. 54.

Sec. 26-33. - Confining animals in offensive ways prohibited.

No person shall collect or confine hogs, cows or cattle in herds, pens, enclosures, or otherwise, so as to be offensive to his neighbors, or the public in any locality within the limits of the city.

(Ord. No. 36, § 3, 6-1-1909)

Cross reference— Animals, ch. 6.

Secs. 26-34—26-70. - Reserved.

ARTICLE III. - OPEN BURNING[3]

Footnotes:

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Editor's note— Ord. No. 498, §§ 1—8, adopted June 10, 2015, repealed the former article III, §§ 26-71—26-77, and enacted a new article III as set out herein. The former article III pertained to similar subject matter and derived from Ordinance No. 427, §§ 2—8, 1-11-2006.

Charter reference— Authority to regulate open burning, ch. IX, § 1(25).

Cross reference— Fire prevention and protection, ch. 30.

Sec. 26-71. - Definitions.

Outdoor burning means any burning of flammable materials not within the confines of a building area enclosed on all sides of walls and covered by a roof, within or not within a burn barrel.

Recreational fire means outdoor burning, with a perimeter area not larger than four feet in diameter, either directly on the ground, or within an apparatus designed for burning, of natural wood materials for purposes of warmth, outdoor cooking and not for the purpose of eliminating wood refuse.

Outdoor cooking device means charcoal, wood or propane gas grills or pits utilized for outdoor cooking.

Ceremonial fire means outdoor fires, with a perimeter area not larger than four feet in diameter, associated with ceremonies which by way of example would include pep rallies, scout events and other events.

Burn barrel means a debris container constructed of metal or masonry with metal covering device with openings no larger than three-quarter inch.

Incineration means burning materials for the purpose of eliminating the materials and not for resource recovery.

Resource recovery means a result of burning that produces a functional use of the energy created, including but not limited to residential warming or cooking.

(Ord. No. 498, § 2, 6-10-2015, eff. 6-30-2015; Ord. No. 581 , § 1, 6-3-2020)

Sec. 26-72. - Permitted burning.

From and after the effective date of this ordinance, it shall be unlawful for any person, firm, partnership or corporation to cause or allow any burning, whether indoor, outdoor or incineration, of papers, cartons, trash, garbage, leaves, wood, grass or other refuse, other than the following:

(1) Burning of wood, pellets or other commercial products designed to be burned in an indoor fireplace or a stove designed for residential heat, provided that said burning produces resource recovery.

(2) Burning of recreational fires with a permit.

(3) Ceremonial fires with a permit.

(4) Outdoor cooking devices.

(5) Burning of paper products only, such as loose paper, cardboard and other paper products shall be allowed within a burn barrel between the dates of October 15th and April 15th only. Said burning shall only take place during a two-hour period between 5:00 p.m. and 7:00 p.m. and the fire shall be completely extinguished to eliminate any continuing smoke by the 7:00 p.m. deadlines. Said burning within burn barrels shall be allowed only within the yard curtilage of a one- and two-family dwelling, and the paper products burned in such fashion shall be limited to those produced from the one- or two-family dwelling served by the burn barrel. No such burn barrel shall be located closer than 15 feet from the nearest dwelling or accessory building and shall not be closer than ten feet from any property boundary. Until the burning within a barrel is completely extinguished, the barrel shall be physically attended by a person with an immediate means of extinguishment.

(Ord. No. 498, § 3, 6-10-2015, eff. 6-30-2015)

Sec. 26-73. - Permit process for recreational fires.

(a) Permits for recreational fires may be issued by the city for a specified time period when it is determined that the recreational fire does not pose a fire safety danger or an annoyance to neighbors or the public. Recreational fires burned within a commercially manufactured burning device which is "UL" approved at a specific location, may be permitted on an annual basis. All other recreational fires may be permitted only on a daily basis.

(b) An application for a permit shall be submitted with the appropriate fee. The permit shall be approved or denied by the chief of the fire department, or the chief's assign, according to the above stated criteria.

(c) Each permit shall be subject to being suspended whenever circumstances change that make the particular camp fire no longer in compliance with the criteria for issuance of the permit.

(Ord. No. 498, § 4, 6-10-2015, eff. 6-30-2015; Ord. No. 581 , § 2, 6-3-2020)

Sec. 26-74. - Permit process for ceremonial fires.

Permits for ceremonial fires may be issued by the city fire chief, or the chief's assign, upon application therefore, if it is determined that the fire poses no fire danger and does not create an annoyance to the neighbors or the public and is in fact for ceremonial purposes.

(Ord. No. 498, § 5, 6-10-2015, eff. 6-30-2015; Ord. No. 581 , § 3, 6-3-2020)

Sec. 26-75. - Permit process for burn barrels.

Permits for burning barrels may be issued by the city fire chief, or the chief's assign, upon application therefore, if it is determined that the fire poses no fire danger, does not create an annoyance to the neighbors or the public and that the burning barrel and its use complies with the criteria set forth in subsection 26-72(5). Permits shall be issued on a seasonal basis for the season set forth in subsection 26-72(5) authorizing the use only in the location set forth in the application.

(Ord. No. 498, § 6, 6-10-2015, eff. 6-30-2015; Ord. No. 581 , § 4, 6-3-2020)

Sec. 26-76. - Actual nuisance.

Any burning within the city, with or without a permit, which results in an actual nuisance based on variables such as wind direction, amount of smoke, proximity of dwellings and other factors, shall be considered an actual nuisance. If an authorized representative of the city determines that an actual nuisance exists as a result of burning, the person(s) who own the property where the burning exists, and those responsible for the burning, shall be notified to cease and desist all further burning and shall immediately extinguish the source of burning.

(Ord. No. 498, § 7, 6-10-2015, eff. 6-30-2015)

Sec. 26-77. - Penalty.

Any person violating any provision of this article shall be deemed responsible for a civil infraction punishable by a fine not to exceed $500.00. Any violation of this article shall also be considered a nuisance per se and subject to an order granting injunctive relief.

(Ord. No. 498, § 8, 6-10-2015, eff. 6-30-2015)

Secs. 26-78—26-100. - Reserved.

ARTICLE IV. - BLIGHT[4]

Footnotes:

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Cross reference— Solid waste, ch. 50.

Sec. 26-101. - Violations.

Violations of this article are a municipal civil infraction.

(Ord. No. 368, § 5, 5-20-1999)

Sec. 26-102. - Unlawful.

It shall be unlawful for any person, firm, corporation, or employees or agents thereof, to maintain any premises in a condition, or use of a premises, or of a building exterior, which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the

neighborhood in which such premises are located. This includes, but is not limited to, maintaining, keeping or depositing on or otherwise allowing on the premises any of the following:

(1) Lumber, junk, trash, or debris, except as permitted by chapter 50.

(2) Abandoned, discarded or unused objects or equipment such as snowmobiles, snowmobile parts, motor vehicles parts, furniture, stoves, refrigerators, freezers, can or containers.

(3) Any compost pile consisting of materials other than grass, leaves, or other organic plant material, provided the same is contained in an enclosure.

(4) Any exterior storage of building or construction material, unless there is a current building permit in effect for the construction or remodeling of a structure on the property where the materials are stored.

(5) Any dwelling, garage, accessory or outbuilding, or any factory, shop, store, office building, warehouse or other structure or part of structure which:

a. Because of fire, wind, other natural disaster, or physical deterioration, is no longer habitable as a dwelling or useful for the purpose for which it was originally intended;

b. Is partially completed and which is not presently being constructed under an existing, valid building permit issued by or under the authority of the City of Mackinac Island;

c. Is not structurally sound, weather-tight, waterproof or vermin-proof; or

d. Is not covered by a water-resistant paint or other waterproof covering so as to protect said structure from the adverse effects of the elements or from physical deterioration.

(Ord. No. 368, § 1, 5-20-1999; Ord. No. 441, § 1, 7-15-2009)

Sec. 26-103. - Keeping unsanitary matter on premises.

It shall be unlawful for any person to keep, or permit another to keep, upon any premises harmful or septic material, unless such material is retained in containers or vessels which deny access to humans, flies, insects, rodents and animals.

(Ord. No. 368, § 2, 5-20-1999)

Sec. 26-104. - Public nuisance; abatement.

Any condition that exists as specified within sections 26-102 and 26-103 shall be deemed to be a public nuisance and shall be abated immediately. Failure to do so upon notification from the city shall result in the action of the city to abate such nuisance and to assess the cost of such abatement upon the owner of record of the property. Failure to pay such assessment shall result in the cost being recorded as a lien upon the property upon approval of the city council who shall direct the city assessor to so enter the lien and assessment upon the tax rolls and assessment records of that property.

(Ord. No. 368, § 3, 5-20-1999)

Sec. 26-105. - Maintenance of private property.

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance or blight thereon, nor shall any person keep or maintain such premises in a manner causing diminution in the value of the other property in the neighborhood in which such premises are located.

(Ord. No. 368, § 4, 5-20-1999)

Secs. 26-106—26-140. - Reserved.

ARTICLE V. - WEED CONTROL[5]

Footnotes:

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State Law reference— Noxious weeds, MCL 247.61 et seq.

Sec. 26-141. - Violations.

Violations of this article are a municipal civil infraction.

(Ord. No. 369, § 6, 5-20-1999)

Sec. 26-142. - Prohibited growth.

It shall be unlawful for the owner and/or occupant of any lot or parcel of land within the city to allow or maintain any portion of such lot or land in such manner as to:

(1) Allow or maintain any growth of any noxious or poisonous weed which may create a condition detrimental to public health. For the purpose of this article, the term "noxious and poisonous weeds" shall include Canada thistles, milkweed, wild carrots, oxeyed daisies, goldenrod, burdock and poison ivy or other such noxious or poisonous weeds. Further, the term "noxious" shall be that of which is injurious to health.

(2) Allow or maintain any growth of high grasses exceeding a height above ground level of 12 inches.

(Ord. No. 369, § 1, 5-20-1999)

Sec. 26-143. - Cutting, removal and abatement.

The owner and/or occupant of any lot or parcel of land within the city shall cut down all noxious and poisonous weeds and tall grasses as enumerated within section 26-142 as frequently as necessary to comply with the provisions of this article. Further, the owner and/or occupant shall prevent such weeds and grasses from perpetuating themselves and to prevent them from becoming a detriment to public health and safety.

(Ord. No. 369, § 2, 5-20-1999)

Sec. 26-144. - Notice.

It shall be the duty of the city clerk to notify the owner by first class mail at the owner's address as indicated on the city tax records of any condition that violates this article and to further specify a date upon which the owner must comply, such date to be not less than ten days from the date of the letter. The notice shall further advise the owner that failure to comply within the specified time period shall cause the city to cut and destroy such weeds and grasses and to charge the expense thereof to the owner of the parcel of land pursuant to section 26-146.

(Ord. No. 369, § 3, 5-20-1999)

Sec. 26-145. - Destruction by the city.

Where it has been established that noxious and poisonous weeds and tall grasses are present on any lot or parcel of land within the city, and the owner and/or occupant has failed to comply with the provisions of this article, the city foreman shall assign employees to enter upon such lot or parcel of land for the purpose of cutting and destroying such weeds and tall grasses. The city foreman shall keep an accurate account of the expense incurred in this activity with respect to each lot or parcel of land entered upon and shall make a sworn statement of such account and deliver same to the city clerk.

(Ord. No. 369, § 4, 5-20-1999)

Sec. 26-146. - Assessment of costs.

(a) It shall be the duty of the city clerk to forthwith notify and certify to the city assessor any and all accounts delivered to the city clerk under this article. However, before such certifying, the city clerk shall submit same to the city council for its approval of such certification.

(b) Upon receiving certification as stated in subsection (a) of this section, the city assessor shall add to all such accounts so approved, ten percent of the total of each several accounts and shall cause all such expenditures, so approved, together with the additional ten percent to be severally levied on the land on which such expenditures were made, and the same shall become a lien upon such land and shall be collected in the same manner as other city taxes are collected.

(c) When the lien described in subsection (b) of this section is collected, it shall be paid into the general operating fund of the city to reimburse the outlay therefrom for the city's expense in cutting and destroying noxious and poisonous weeds and tall grasses.

(Ord. No. 369, § 5, 5-20-1999)

Secs. 26-147—26-180. - Reserved.

ARTICLE VI. - FLY CONTROL

Sec. 26-181. - Definitions.

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

Commercial stable means any building or structure used for shelter or feeding of horses or other large domestic animals that are used for commercial purposes such as renting or leasing for riding or pulling drays or carriages; and any building or structure that is used for rental of space for shelter or feeding of horses or other large domestic animals.

Fly trap means a method of trapping adult flies in an inverted, screened cone, typically using a yeast bait as an attraction agent, commonly known as a cone trap, or any other suitable trap approved by the city council.

Private stable means any building or structure used for housing one or more horses or any other large domestic animal.

(Ord. No. 277, art. II, § 2, 7-24-1982)

Cross reference— Definitions generally, § 1-2.

Sec. 26-182. - Violations.

(a) Violations of this article are a misdemeanor.

(b) Three or more violations of the same section of this article within a 30-day period shall result in revocation of the registration certificate and may result in future denial of application for registration certificate.

(Ord. No. 277, art. VI, § 2, 7-24-1982)

Sec. 26-183. - Rights of action.

Nothing in this article shall be construed as preempting any private or public right of action.

(Ord. No. 277, art. VI, § 3, 7-24-1982)

Sec. 26-184. - Fly control officer.

(a) The city council shall appoint at its annual appointment meeting, the first Monday in May, a fly control officer to work with horse owners and aid in the management and control of the fly population.

(b) The duties of the fly control officer shall include:

(1) Scheduled visits and recordkeeping of all private and commercial horse operations and refuse sites and visits to food waste and garbage storage sites.

(2) Assisting in fly control and management techniques as found in the various fly-producing situations.

(3) Giving to persons subject to this article a notice of noncompliance for violations of this article with a written recommendation for bringing the area into compliance.

(4) Reporting to the city police department violations and recommendations of this article.

(Ord. No. 277, art. IV, §§ 1, 2, 7-24-1982)

Cross reference— Officers and employees, § 2-61 et seq.

Sec. 26-185. - Enforcement.

(a) The enforcement agency for this article shall be the city police department.

(b) Except as specified in subsections (c) and (d) of this section, any person in violation of this article shall be given a notice of noncompliance by the fly control officer and given a period of 72 hours from the issuance of such notice to comply with this article without being subject to its penalties.

(c) When compliance with this article would require the purchase or construction of special equipment, such as concrete, asphalt or traps, the period for compliance shall be one week from the issuance of a notice of noncompliance.

(d) No notice of noncompliance need be given for subsequent violations of the same section of this article by the same person.

(Ord. No. 277, art. VI, § 1, 7-24-1982)

Sec. 26-186. - Persons responsible for compliance.

(a) Unless otherwise specified, the provisions of this article shall apply to any owner of a private or commercial stable, corral, manure wagon, and to any private or commercial owner of one or more horses or other large domestic animals commonly used for riding or pulling drays, carriages or other vehicles. Unless otherwise specified, in the case of an absentee owner, the provisions of this article shall apply to the person responsible for the day-to-day care, control and maintenance of such stable, corral, manure wagon or horses or other large domestic animals.

(b) Unless otherwise specified, the provisions of this article relating to food wastes and garbage storage apply to any owner, occupant or operator of private or commercial premises that generate food wastes or garbage that cannot be disposed of immediately.

(Ord. No. 277, art. II, §§ 1, 2, 7-24-1982)

Sec. 26-187. - Registration of stables.

(a) Every person subject to section 26-186 shall obtain from the city a registration by making and filing an annual application with the city clerk by June 15, or no later than one week following arrival or housing of their first horse or other large domestic animal in the subject stable or corral.

(b) The application required to be filed by this section shall require:

(1) Applicant's name, address and telephone number.

(2) Location of barn or horse site if different than stated in subsection (b)(1) of this section.

(3) Total number of horses or other large domestic animals housed at given location.

(4) Type of use, i.e., private or commercial.

(5) All other information requested by the city clerk that is reasonable and necessary for the enforcement of this article.

(c) Upon receipt of application and the payment, in advance, of the required registration fee, the clerk shall issue to the applicant the required registration certificate.

(d) The registration fee shall be as established by ordinance.

(e) Each registration certification shall be posted in a conspicuous place where horses or large domestic animals are kept, or within the possession of the owner and shall be produced upon demand by any officer authorized to enforce this article.

(Ord. No. 277, art. III, §§ 1—4, 7-24-1982)

Sec. 26-188. - Horse stalls.

(a) Manure and soiled bedding in horse stalls shall be removed regularly. Horse stalls shall be thoroughly cleaned before a weekly application of salt, lime or sodium borate is applied between floor boards, sidewall and floor edge cracks, and all other such cracks where fly pupa are found in amounts sufficient to prevent development of fly pupa.

(b) Accumulated feed and excess bedding, especially in and around the front of stalls and manger, shall be removed at least weekly.

(Ord. No. 277, art. V, § 1, 7-24-1982)

Sec. 26-189. - Manure wagons.

(a) Manure wagons shall be parked over a concrete or asphalt slab of sufficient size to contain spillage and to prevent mixing of manure and soil and to facilitate cleaning. The duty of providing such a slab shall rest with:

(1) For a private stable, corral, manure wagon, horse or other large domestic animal, the duty shall rest with the owner only and not the person responsible for the day-to-day care, control and maintenance.

(2) For a commercial stable, the duty shall rest with the operator or owner.

(b) Wagons containing manure shall be covered with a tightfitting tarp or black plastic, thus reducing fly feeding and breeding sites and sufficiently heating the manure to bake developing flies. Wagons that are emptied daily are excepted from this subsection.

(c) After each emptying of a manure wagon, it shall be thoroughly swept, and salt, lime, or sodium borate shall be applied around the interior cracks and edges of the wagon base in amounts sufficient to prevent the development of fly pupa.

(Ord. No. 277, art. V, § 2, 7-24-1982)

Sec. 26-190. - Manure boxes.

(a) Manure boxes shall be constructed on a concrete or asphalt slab of sufficient size to contain spillage and to prevent mixing of manure and soil and to facilitate cleaning.

(b) Manure boxes shall be constructed so as to be flyproof. Boxes shall have tightfitting doors and screens covering other openings larger than one-eighth inch square.

(c) All manure boxes shall be thoroughly cleaned a minimum of every seven days, especially along the edges where fly pupa collect, and salt, lime or sodium borate shall be applied around the base and floorwall edges of manure boxes when emptied, in amounts sufficient to prevent the development of fly pupa.

(Ord. No. 277, art. V, § 3, 7-24-1982)

Sec. 26-191. - Manure hauling.

Manure and other organic waste accumulated from private horse barns and stables and also from commercial horse operations shall be hauled to the landfill site a minimum of once in seven days, and more often if fly breeding conditions demand.

(Ord. No. 277, art. V, § 4, 7-24-1982)

Sec. 26-192. - Horse corrals.

(a) Horses in corrals shall be fed from a manger or feed box located in a sunlit area on high ground; preferably away from the watering source.

(b) Feed shall be limited to what the horse or horses normally consume in a 24-hour period.

(c) Water carrying and storage systems shall be made leakproof.

(d) Trees shall be selectively cut to allow adequate sunlight to reach feeding and watering areas.

(e) Accumulated organic material shall be periodically removed if deemed a source of fly breeding.

(Ord. No. 277, art. V, § 5, 7-24-1982)

Sec. 26-193. - Fly trapping.

(a) Every person subject to section 26-186 shall be required to have a minimum of one fly trap for every ten horses.

(b) Fly traps shall be maintained in working order by keeping bait replenished, emptying the trap when full, and placing it in an optimum location to trap flies.

(Ord. No. 277, art. V, § 6, 7-24-1982)

Sec. 26-194. - Pesticide usage.

(a) Only on-site use of federally-approved pesticides shall be allowed.

(b) Strict adherence to application levels and amounts as stated on the pesticide label shall be followed.

(Ord. No. 277, art. V, § 7, 7-24-1982)

Sec. 26-195. - Food wastes and garbage storage sites.

(a) Food wastes and garbage shall be stored in clean and flyproof containers.

(b) Commercial food waste storage and garbage storage shall be constructed over a concrete or asphalt slab of sufficient size to contain spillage and to prevent mixing of organic wastes and the soil and to facilitate cleaning.

(c) Storage sites shall be cleaned at least weekly.

(Ord. No. 277, art. V, § 8, 7-24-1982)

Cross reference— Businesses, ch. 14; solid waste, ch. 50.

Sec. 26-196. - Cleaning of public garbage and refuse containers.

All public garbage and refuse containers shall be washed clean of debris and disinfected once every 14 days during the months of June through September.

(Ord. No. 277, art. V, § 9, 7-24-1982)

Secs. 26-197—26-230. - Reserved.

ARTICLE VII. - HAZARDOUS MATERIALS

DIVISION 1. - GENERAL

Sec. 26-231. - Violation.

It shall be unlawful for any person, corporation or other entity to transport, store or use any hazardous materials within the limits of the City of Mackinac Island, including dock areas extending into Lake Huron, unless in compliance with the requirements set forth herein.

(Ord. No. 419, § 1, 5-19-2004; Ord. No. 509, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 26-232. - Definitions.

Hazardous material means explosives, pyrotechnics, flammable gas, flammable compressed gas, non-flammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, irritating material, etiologic material, radioactive material, corrosive material, liquified natural gas (LNG) or liquified petroleum gas (LPG), excepting from this definition the following: (a) Containers of flammable compressed gas in cylinders of 20 pounds or less provided there are not more than four such cylinders being transported, used or stored in any given location; (b) gasoline containers of six gallons or less provided there are not more than four such containers being transported, used or stored in any given location; (c) fuel oil, diesel fuel or kerosene in containers of 50 gallons or less, provided there are not more than two such containers being transported, used or stored in any given location, and (d) aceteline in containers of 60 pounds or less, provided there are not more than two such containers being transported, used or stored in any given location.

(Ord. No. 419, § 2, 5-19-2004)

Sec. 26-233. - Transportation, storage and use.

No hazardous material shall be transported, stored, used or connected to distribution systems for use within the City of Mackinac Island except by persons certified to do so by the Michigan Propane Gas Association pursuant to the following standards:

(a) *Transportation.* No hazardous material shall be transported within the City of Mackinac Island except by vehicles complying with all requirements of the Michigan Fire Prevention Code, being Public Act 207 of 1941, MCL 29.1 et seq. or by horse drawn vehicle that is inspected and certified by a representative of the City of Mackinac Island certified as a fire inspector by the state fire marshall. Rules of operation during transportation of hazardous materials are:

(1) The driver of the horse drawn vehicle shall maintain physical control of the horses at all times that the hazardous material is on the vehicle or being loaded or unloaded therefrom.

(2) A certified person shall accompany the hazardous materials at all times.

(b) *Connections.* All connections of any hazardous material to a distribution system shall be performed by an individual certified by the Michigan Propane Gas Association.

(c) *Storage and use.* Hazardous materials shall not be manufactured, kept, sold, handled or disposed of in a manner, or by a method, that violates the provisions of the Michigan Fire Prevention Code, being Public Act 207 of 1941, MCL 29.1 et seq.

(Ord. No. 419, § 3, 5-19-2004; Ord. No. 509, § 3, 6-24-2015, eff. 7-14-2015)

Sec. 26-234. - Penalty.

Anyone in violation of this division shall be subject to a penalty of not more than 90 days in jail and/or a fine of not more than $500.00.

(Ord. No. 419, § 4, 5-19-2004; Ord. No. 509, § 4, 6-24-2015, eff. 7-14-2015)

Secs. 26-235—26-245. - Reserved.

DIVISION 2. - HAZARDOUS MATERIALS INCIDENT COST RECOVERY[6]

Footnotes:

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Cross reference— Fire prevention and protection, Ch. 30.

Sec. 26-246. - Purpose.

This division permits the City of Mackinac Island Fire Department and other city departments to obtain reimbursement for expenses incurred in response to incidents involving the release or threatened release of hazardous materials.

(Ord. No. 458, § 1, 7-27-2011)

Sec. 26-247. - Definitions.

Unless specifically defined below, words, or phrases used in this division shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Emergency response means providing, sending and/or utilizing of fire fighting, emergency medical and rescue services by the City of Mackinac Island, or by a private industrial entity or corporation operating at the request or direction of the City or State of Michigan, for an incident resulting in a hazardous materials release or threatened release.

Expenses of an emergency response means the direct and reasonable costs incurred by the City of Mackinac Island, or by a private person, corporation, or other assisting government agency, which is operating at the request or direction of the city, when making an emergency response to the hazardous materials incident, including the costs of providing fire fighting, rescue services, emergency medical services, containment, and abatement of all hazardous conditions at the scene of the incident. The costs further include all of the salaries and wages of the City of Mackinac Island personnel responding to the incident, as well as all of the salaries and wages of the City of Mackinac Island personnel engaged in the investigation, supervision and report preparation regarding said incident, at the request or direction of the City of Mackinac Island, and all costs connected with the administration of the incident relating to any prosecution of the appearance of witnesses at any court proceedings in relation thereto. Costs shall also include, but not be limited to, such items as disposable materials and supplies used during the response to said incident, the rental or leasing of equipment used forth specific response, replacement of equipment which is special technical services and laboratory cost, services and supplies purchased for any specific evacuation relating to said incident, and any other costs reasonably associated with emergency services clean up.

Hazardous material means explosives, pyrotechnics, flammable compressed gas, flammable liquid, combustible liquid oxidizing material, poisonous gas, poisonous liquid, poisonous solid, irritating material, etiological material, radioactive material, corrosive material, liquefied petroleum gas, or any other hazardous material as defined in MCL 299.501.

Owner means any person having a vested or contingent interest in the property, premises, container, or vehicle involved in the hazardous materials incident, including but not limited to any duly authorized agent or attorney, purchaser, devisee, or fiduciary of said person having said vested or contingent interest.

Premises means any lot or parcel of land, exclusive of buildings, and including an airport, wharf, pier, public roadway, body of water and any other place or enclosure, however owned, used or occupied.

Vehicle means any mode used as an instrument of conveyance, including but not limited to motor vehicles, boats, aircraft and snowmobiles.

(Ord. No. 458, § 2, 7-27-2011)

Sec. 26-248. - Duty to remove and clean up.

It shall be the duty of the owner, operator, occupant or other person responsible for the operation, maintenance and/or condition of any building, premises, property or vehicle regarding which an incident arises which involves the release or threatened release of hazardous materials on or about said building, premises, property and/or vehicle to immediately contain and control such hazardous material and undertake and complete a total cleanup of the area in such a manner as to insure that all leakage, spillage or other dissemination of hazardous material is fully removed and the area is fully restored to its condition prior to the placement, leakage, spillage, or other dissemination of such hazardous material.

(Ord. No. 458, § 3, 7-27-2011)

Sec. 26-249. - Failure to remove and clean up.

In the event the owner, operator, occupant, or other person responsible for the operation, maintenance and/or condition of any building, premises, property or vehicle regarding which an incident arises which involves the release or threatened release of hazardous material on or about said building, premises, property and/or vehicle, fails to remove in a timely manner, hazardous materials after an emergency response involving hazardous materials or comply completely with the above section, the City of Mackinac Island shall have the right to enter onto said property and remove and conduct a clean-up of all such hazardous materials either by governmental employees or by contractors and agents of said government. Prior to engaging in such clean up, the City of Mackinac Island shall make diligent efforts to notify the owner of its duty to abate said emergency. All costs associated with such containment, control, removal, and cleanup are in addition to the costs associated in the following sections and are to be reimbursed in like manner.

(Ord. No. 458, § 4, 7-27-2011)

Sec. 26-250. - Liability for expense of an emergency response.

(a) *Person(s) responsible.* The owner, operator, occupant, or other person responsible for the operation, maintenance and/or condition of any building, premises, property or vehicle regarding which an incident arises which involves the release or threatened release of hazardous materials on or about said building, premises, property and/or vehicle shall be required to reimburse the City of Mackinac Island for all expenses of an emergency response to said hazardous materials incident.

(b) *Charge against person.* The expense of an emergency response shall be a charge against the person or corporation liable for the expenses under this division. The charge constitutes a debt of that person or corporation and is collectible by the City of Mackinac Island in the same manner as in the case of an obligation under contract, express or implied.

(c) *Cost recovery schedule.* The City of Mackinac Island shall, by resolution, as soon as possible after an emergency response, adopt a schedule of the costs included within the expense of the emergency response. This schedule shall be available at the office of the city clerk for inspection by the public.

(d) *Billing.* The City of Mackinac Island may, within ten days of receiving itemized costs, or any part thereof, incurred for an emergency response, submit a bill for these costs by first class mail or personal service to the person or corporation liable for the expenses as enumerated under this division. The bill(s) shall require full payment within 30 days from the date of mailing or service of said bill upon the responsible person.

(e) *Failure to pay.* Any failure by the person or corporation described in this division as liable or responsible for expenses of an emergency response to pay said bill within 30 days of mailing or service

of the bill shall constitute a default on said bill. In the case of default, the City of Mackinac Island shall have the right and power to add all emergency response costs to tax roll as incident, and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against said property or premises. The City of Mackinac Island shall also have the right to bring action in a court of competent jurisdiction to collect said costs if the city deems such action to be necessary.

(Ord. No. 458, § 5, 7-27-2011)

Chapter 30 - FIRE PREVENTION AND PROTECTION[1]

Footnotes:

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Charter reference— Fire prevention, ch. IX, § 1(25).

Cross reference— Buildings and building regulations, ch. 10; emergency services, ch. 22; open burning, § 26-71 et seq.; fireworks, § 38-7.

State Law reference— State fire prevention code, MCL 29.1 et seq.; false fire alarms, MCL 750.240.

ARTICLE I. - IN GENERAL

Sec. 30-1. - Use of fire apparatus, equipment for private purpose.

No person shall use any fire apparatus or equipment for any private purpose, nor shall any person wilfully and without proper authority take away or conceal any article used in any way by the fire department.

(Ord. No. 209, § 4(E), 7-31-1974)

State Law reference— Destruction of fire department property, MCL 750.377b.

Sec. 30-2. - Entry.

No person shall enter any place where fire apparatus is housed or handle any apparatus or equipment belonging to the fire department unless accompanied by, or having the special permission of, an officer or authorized member of the department.

(Ord. No. 209, § 4(F), 7-31-1974)

Secs. 30-3—30-30. - Reserved.

ARTICLE II. - FIRE DEPARTMENT[2]

Footnotes:

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Editor's note— Ord. No. 502, § 1, adopted June 24, 2015, repealed the former article II, §§ 30-31—30-35, and enacted a new article II as set out herein. The former article II pertained to similar subject matter and derived from Ord. No. 209, §§ 1—5, 7-31-1974; Ord. No. 471, § 1, 8-8-2012, eff. 8-27-2012.

Charter reference— Fire department, ch. XXVII.

State Law reference— Firefighter Training Council Act of 1969, MCL 29.361 et seq.

Sec. 30-31. - Officers.

(a) The fire department shall consist of a chief, assistant chief and other officers as the chief may deem necessary for the effective operation of the department.

(b) The chief of the fire department shall be appointed as stated in the city Charter. The chief shall be technically qualified by training and/or experience and shall have the ability to command men and hold their respect and confidence. He shall be removed only for just cause and after a public hearing before the city council.

(c) The chief of the fire department shall be accountable to the city council only and shall make written and verbal reports thereto as the city council may require. All other department and company officers shall be accountable to the chief only.

(d) The assistant chief of the fire department and all other department and company officers shall be appointed by the chief. Such officers shall be accountable only to the chief and subject to removal by him. The assistant chief shall serve in the capacity of the chief in the absence of the chief.

(Ord. No. 502, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 30-32. - Duties of the chief.

(a) The chief of the fire department shall formulate a set of rules and regulations to govern the department and shall be responsible to the city council for the personnel, morals and general efficiency of the department.

(b) The chief of the fire department 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 of the fire department shall conduct training as required by applicable regulatory local, state and federal agencies.

(d) The chief of the fire department is required to 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 of the fire department or his representative is empowered 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 to abate any and all hazards to life safety that may be found.

(f) Any person served with a notice to abate any hazard shall comply therewith and promptly notify the chief of the fire department when the hazard is abated.

(g) The chief may act to protect the public or occupant and abate any hazard without notice should it be determined that a severe risk of a life hazard exists.

(h) The chief of the fire department shall see that complete records are kept of all fires, inspections, apparatus and minor equipment, personnel and other information about the work of the department. It shall also be the responsibility of the chief to submit all recommendations pertaining to fire department operations to the city council.

(i) The chief of the fire department shall report every year to the city council the number of requests for service during the period, the status of the department and number of active personnel.

(j) It shall be the duty of the chief of the fire department to furnish technical information on all unusual conditions discovered by the department and recommend measures to correct them.

(k) The chief or his designee shall utilize all applicable fire and building codes as well as technical experts to assist them to abate a known hazard. Included, but not limited to NFPA, International Fire Code, Michigan Residential Code and Michigan Building Code.

(Ord. No. 502, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 30-33. - Firefighting personnel.

(a) The fire fighting personnel of the fire department shall consist of such persons as may be appointed by the chief of the fire department, shall be able bodied individuals residing within, or outside, the City of Mackinac Island, and have communication devices available to them by which they can be contacted. The determination of whether candidates for appointment are able-bodied shall be made by the chief.

(b) Any member of the fire department may be suspended or discharged from the department by the chief of the fire department at any time he may deem such action necessary for the good of the department. On written request of such member to the city council he shall be given a public hearing on the charges by the chief.

(Ord. No. 502, § 1, 6-24-2015, eff. 7-14-2015; Ord. No. 532, § 1, 6-8-2016)

Sec. 30-34. - Equipment.

(a) The fire department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property.

(b) Recommendations of apparatus and equipment shall be made by the chief of the fire department, and after approval by the city council shall be purchased in such a manner as may be designated by the city council.

(c) All equipment of the fire department shall be safely and conveniently housed in such place as may be designated by the city council. Such places shall be heated during the winter season.

(d) Suitable arrangement of equipment shall be provided for notification of firefighters at time of alarm.

(Ord. No. 502, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 30-35. - General regulations.

(a) No personnel shall drive any vehicle over a fire hose except on specific orders from the chief of the fire department or other officer in charge where the hose is used.

(b) All appointed members of the fire department are given the necessary special police powers for the purpose of enforcing the provisions of this article.

(c) It is the special duty of the chief of police and/or other peace officers who may be on duty to respond to all fire alarms and assist the fire department in the protection of life and property in regulating order and in regulating traffic.

(d) All members shall comply with departmental policies. Members failing to meet the minimum requirements will be subject to dismissal by the Chief.

(Ord. No. 502, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 30-36. - Severability.

If any term or provision of this article or the application of any such term or provision to any circumstances shall, to the extent be invalid or unenforceable, the remainder of the ordinance shall not be affected thereby and each term and provision hereof shall be enforced to the fullest extent permitted by law.

(Ord. No. 502, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 30-37. - Penalty.

A person violating the provisions of this article or failure to comply with a notice to abate a hazard shall be guilty of a civil infraction punishable by a fine of not more than $500.00. Each day a violation exists shall be considered a separate offense. Violations of this article shall also be considered a nuisance per se.

(Ord. No. 502, § 1, 6-24-2015, eff. 7-14-2015)

Secs. 30-38—30-45. - Reserved.

ARTICLE III. - FIRE PREVENTION RAPID ENTRY REQUIREMENT[3]

Footnotes:

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Editor's note— Ord. No. 501, § 1, adopted June 24, 2015, amended article III in its entirety to read as herein set out. Former article III, §§ 30-46—30-53, pertained to similar subject matter, and derived from Ord. No. 472, §§ 1—8, 8-8-2012, eff. 8-27-2012.

Sec. 30-46. - Purpose.

Council of the City of Mackinac Island determined that the health, welfare and safety of the citizens of Mackinac Island are promoted by requiring certain structures to have a key lock box installed on the exterior of the structure to aid the Mackinac Island Volunteer Fire Department in gaining access to or within the structure when responding to calls for an emergency service, and to aid access into or within a building that is secured or is unduly difficult to gain entry due to being either unoccupied or the occupants are unable to respond.

(Ord. No. 501, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 30-47. - Key lockbox system.

(1) The following structures shall be equipped with a key lock box at or near the main entrance or such other location as required by the fire chief.

   (a) Commercial or industrial structures larger than 1,500 square feet, unless the building is staffed or open 24 hours per day 365 days per year.

   (b) Multi-family residential structures that have greater than three residential units.

   (c) Schools, whether public or private.

(d) Governmental structures and nursing care facilities unless the building is staffed or open 24 hours per day 365 days per year.

(e) Residential buildings with automated fire alarm systems connected with the telephone system to notify the fire department.

(2) All new construction subject to Section 2.1, shall have key lock installed and operational prior to the issuance of occupancy permit. All structures in existence on the effective date of this section and subject to Section 2.1 shall have twelve (12) months from enactment date of this ordinance to have a key lock box installed and operational.

(3) The type of key lock boxes to be implemented within the City of Mackinac Island shall be a Knox Box brand system or such other rapid entry system of comparable quality which has been specifically authorized in writing by the fire chief as being an acceptable substitution for the Knox Box brand system.

(Ord. No. 501, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 30-48. - Installation.

(1) All Knox Boxes or its approved substitute shall be installed to the right side of the main bus of the main business door.

(2) All Knox Boxes or its approved substitute shall be flush or surface mounted 60 inches from the ground to the center of the entry, if possible.

(3) In the event that the rapid entry box system cannot be installed at the location described and/or height, the fire chief may designate in writing a different location and installation specifications.

(4) All realty and/or property with a security gate shall have the Knox Box installed outside of the gate.

(5) The Mackinac Island Fire Chief must approve of any changes in the installation.

(Ord. No. 501, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 30-49. - Maintenance.

The operator of the building shall immediately notify the fire chief and provide the new keys when a lock box is changed or re-keyed. The key to such lock shall be secured in the Knox Box.

(Ord. No. 501, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 30-50. - Contents of lock box.

The contents of the lock box are as follows:

(1) Keys to locked points of ingress and egress, whether on the interior or exterior of such buildings.

(2) Keys to all mechanical rooms.

(3) Keys to all locked electrical rooms.

(4) Keys to elevator and their control rooms.

(5) Keys to the fire alarm panels.

(6) Keys (special) to re-set pull stations or other Fire Protection devices.

(7) Keys to any other areas as required by the fire chief.

(Ord. No. 501, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 30-51. - Fire department responsibilities.

(1) No fire department personnel shall carry a Knox Box Key.

(2) All Knox Box access keys shall be installed in a Knox Box key retention device installed in the fire apparatus.

(Ord. No. 501, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 30-52. - Exceptions to requirement to install a key lock box system.

The following structures are exempt from the mandate to install a key lock box system:

(1) Single family structures and multi-family structures that do not meet the definition set forth in subsection 30-47(1)(b).

(2) Structure that have 24 hours, 365 days on-site security personnel, or have other personnel on site.

(3) Businesses that are open and staffed 24 hours, 365 days per year (which may include but are not limited to, nursing homes, hospitals, police stations, etc.).

(4) Rental storage facilities where there is a single lock on the separated storage pods that are enter supplied; provided, however, the entry security gate(s) will require a Knox Box if electronically controlled, or locked with a master key issued by the landlord to all tenants.

(Ord. No. 501, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 30-53. - Penalties.

(1) Any person, entity or corporation who has violated any provisions of this article or who has failed to comply with any order issued by the fire chief or has failed to comply with any order issued pursuant to any section thereof, shall, upon conviction before the proper judicial authority, be punished by a fine of not more than $500.00. Each day a violation continues shall be considered a separate offense.

(2) If any sentence, clause, or section of this article is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, or sections of the same contained in this article. It is hereby declared as the intent of the council of the City of Mackinac Island that this article would have been adopted as such unconstitutionality, illegality, or invalidity sentence, clause or section thereof and not been included therein.

(3) That any ordinance or part of any ordinance conflicting with the provisions of this article, being the same, are hereby repealed to the extent of such conflict.

(Ord. No. 501, § 1, 6-24-2015, eff. 7-14-2015)

Chapter 34 - LAW ENFORCEMENT[1]

Footnotes:

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Charter reference— Police, ch. X.

Cross reference— Administration, ch. 2; emergency services, ch. 22; offenses and miscellaneous provisions, ch. 38; transportation, ch. 66.

State Law reference— Law enforcement officer employment standards, MCL 28.601 et seq.

ARTICLE I. - IN GENERAL

Sec. 34-1. - Residency requirements for police department employees.

(a) In this section the term "residency" shall be deemed to be the primary residency of the persons subject to this chapter at the time of their employment.

(b) It shall be required of every police department employee to establish and maintain their residency during the term of their employment within the city limits.

(c) Failure to comply with the residency requirements of this section shall constitute grounds for termination of employment.

(Ord. No. 291, §§ 1—3, 1-16-1985)

State Law reference— Residency requirements for appointed officers, MCL 15.601 et seq.

Secs. 34-2—34-30. - Reserved.

ARTICLE II. - STOLEN, LOST OR ABANDONED PROPERTY

Sec. 34-31. - Report, request to city council.

Whenever the city police or any official acting in conjunction therewith has recovered any stolen, lost or abandoned property, including money, which is unclaimed for 90 days after recovery, he shall report the fact to the city council, and request authority from the council to dispose of it as provided in this article.

(Ord. No. 286, § 1, 2-1-1984)

Sec. 34-32. - Notification of owner.

Upon the recovery of any stolen, lost or abandoned property, if the chief of police has reason to believe a certain person is the true and lawful owner of such property, then the chief of police shall contact that person by certified mail and inform him of the date of recovery and the possibility of impending sale or storage lien, if any, and the time limitation under section 34-36 or 34-37.

(Ord. No. 286, § 2, 2-1-1984)

Sec. 34-33. - Storage lien.

Any recovered property large enough in the chief of police's opinion to require storage facilities shall have attached to it a storage lien in the name of the city in the amount of $10.00 per month. Such lien shall not begin in effect until ten days after the recovery of subject property. In the event of notification under section 34-32, the lien shall not begin in effect until ten days after receipt of the notification.

(Ord. No. 286, § 3, 2-1-1984)

Sec. 34-34. - Notice of sale.

The city council shall act upon the request of the chief of police to dispose of recovered property within one month after the receipt of the request. If the council approves the request, the chief shall publish notice in a newspaper of general circulation in the county at least five days before the sale. The notice shall describe the property, including money, and shall state the time and place of the public sale at which the property may be purchased by the highest bidder. Until the date of the sale of the property, including money, the property, including money, may be claimed at the chief's office. If ownership is proven, the chief shall turn over the property, including money, to the owner after payment of the lien, if any, and cancel the sale insofar as the claimed property is concerned.

(Ord. No. 286, § 4, 2-1-1984)

Sec. 34-35. - Conduct, proceeds of sale.

The chief of police shall conduct such sale of recovered property and shall deposit the proceeds thereof, including any money mentioned in the notice described in section 34-34, with the city treasurer to be deposited in the general fund.

(Ord. No. 286, § 5, 2-1-1984)

Sec. 34-36. - Unclaimed property.

If within 90 days of the notification by the chief of police described in section 34-34 a claim is not made on the recovered property, or if claim is made but not to the satisfaction of the chief of police, then the title to such property shall be vested in the chief of police pending sale of the property.

(Ord. No. 286, § 6, 2-1-1984)

Sec. 34-37. - Property found by person other than city police.

If a person other than the city police or their associate agencies finds property either lost and/or abandoned and such person finding the property shall turn it over to the safekeeping of the chief of police, then the chief of police shall hold such property for a period of 90 days to allow claims to be made against the property. If ownership is proven the chief shall turn over the property to the owner. If no claim is made or ownership not proven, then at the end of the 90-day period the property shall be turned over to the finder who shall enjoy full title.

(Ord. No. 286, § 7, 2-1-1984)

Chapter 38 - OFFENSES AND MISCELLANEOUS PROVISIONS[1]

Footnotes:

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Charter reference— Police power, ch. IX, § 1(40).

Cross reference— Law enforcement, ch. 34; transportation, ch. 66.

ARTICLE I. - IN GENERAL

Sec. 38-1. - Contributing to neglect or delinquency of children.

(a) Any parent, legal guardian or other person having the care or custody of a minor child under the age of 17 years who shall by any act, or by any word, or by the failure to act, or by lack of supervision and control over such minor child, encourage, contribute toward, cause or tend to cause such minor child to become neglected or delinquent so as to come or tend to come under the jurisdiction of the juvenile division of the probate court as defined in section 2 of chapter XIIA of Public Act No. 288 of 1939 (MCL 712A.2), whether or not such child shall in fact be adjudicated a ward of the probate court, shall be guilty of a misdemeanor.

(b) Any parent, legal guardian or other person having the care or custody of any minor child under the age of 16 years who shall assist, aid, abet, allow, permit or encourage such minor to violate the provisions of section 1 or 2 of Public Act No. 41 of 1960 (MCL 722.751, 722.752) or this chapter either by overt act, by failing to act or by lack of supervision and control over such minor, is guilty of a misdemeanor.

(Ord. No. 238, § 2, 6-8-1978)

State Law reference— Contributing to the delinquency of a minor, MCL 750.145.

Sec. 38-2. - Assaults.

No person shall willfully assault or batter another.

State Law reference— Assaults, MCL 750.81 et seq.

Sec. 38-3. - Expectorating upon sidewalks prohibited.

It shall be unlawful for any person to expectorate upon any of the public sidewalks of the city.

(Ord. No. 16, § 1, 7-2-1901)

Sec. 38-4. - Posting items on poles, posts or sidewalks.

It shall be unlawful for any person to post any bills or notices on any telegraph poles, telephone poles, electric light poles, lampposts or sidewalks within the limits of the city.

(Ord. No. 2, § 1, 8-1-1900)

Cross reference— Streets, sidewalks and other public places, ch. 54.

Sec. 38-5. - Distribution of printed materials.

No person shall physically distribute leaflets, handbills or other similarly printed material by hand to a passerby in any location that is within any outdoor location that is within 20 feet from the curb, or pavement edge if there is no curb, of any public street.

(Ord. No. 240, § 3(e), 6-6-1978; Ord. No. 440, 7-15-2009)

Sec. 38-6. - Camping.

No person shall camp overnight on any land in the city. The term "camping" shall mean and include the use of temporary buildings or tents or other structures as living quarters for persons.

(Ord. No. 262, § 26, 8-14-1979)

Sec. 38-7. - Public urination or defecation.

(a) *Prohibition.* No person shall urinate or defecate in any of the following locations:

(1) A public street, highway, road, alley, sidewalk or other public place, except in designated restrooms.

(2) On any private property without the consent of the property owner or lawful occupant.

(3) On any private property in a location that is plainly visible from a public place or a private place that is open to the public.

(b) *Penalty.* Any person who violates this section shall be guilty of a civil infraction and liable for a fine not to exceed $500.00.

(Ord. No. 516, §§ 1, 2, 10-14-2015, eff. 11-5-2015)

Sec. 38-8. - Prohibited release of sky lanterns.

(a) *Purpose.* The City of Mackinac Island is an historic community in which there are many wooden structures. The City of Mackinac Island is also a unique community in that motor vehicles are generally prohibited and horses are used significantly for various transportation purposes. The release of sky lanterns and water lanterns, which are unattended by nature, present significant risk of fire as well as a threat of startling horses, both of which can have grave consequences to the health, safety and welfare of the community.

(b) *Definitions.*

Released. For purposes of this section, released means a sky lantern that is suspended or floating in the air, or a water lantern that is floating on the water.

Sky lantern. For purposes of this section, a sky lantern means a device that is free floating in the air, powered by a combustible source that is capable of producing an open flame.

Water lantern. For purposes of this section, a water lantern means a device that is free floating on the water with an open flame as a source of illumination.

(c) *Prohibited conduct.* No person, or entity, shall cause or allow a sky lantern or a water lantern to be ignited or released within the City of Mackinac Island.

(Ord. No. 480, §§ 1—4, 11-13-2013, eff. 12-11-2013)

Secs. 38-9—38-40. - Reserved.

ARTICLE II. - OFFENSES INVOLVING PROPERTY RIGHTS

Sec. 38-41. - Stealing.

No person shall take, steal or carry away any property of any kind whatsoever belonging to another.

(Ord. No. 262, § 7, 8-14-1979)

State Law reference— Larceny, MCL 750.356 et seq.

Sec. 38-42. - Taking of bicycles.

Any person who takes or uses without authority any bicycle without intent to steal the same, or who shall be a party to such unauthorized taking or using, shall, upon conviction thereof, be guilty of a misdemeanor. The provisions of this section shall also be construed to apply to any person or persons employed by the owner of such bicycle or anyone else who, by the nature of his employment, shall have the charge of or the authority to drive or use the bicycle if such bicycle is driven or used without the owner's knowledge or consent.

(Ord. No. 158, §§ 1, 2, 10-11-1961)

Sec. 38-43. - Fraudulent schemes.

No person shall engage in any fraudulent scheme, device or trick to obtain money or other valuable things from others.

(Ord. No. 262, § 8, 8-14-1979)

State Law reference— False pretenses, MCL 750.218 et seq.

Sec. 38-44. - Destruction of property.

No person shall willfully tamper with, injure, damage, destroy or deface any public property or private property belonging to another person.

(Ord. No. 262, § 16, 8-14-1979)

State Law reference— Malicious mischief, MCL 750.377a et seq.

Secs. 38-45—38-80. - Reserved.

ARTICLE III. - OFFENSES INVOLVING PUBLIC SAFETY

Sec. 38-81. - Discharge of firearms.

No person shall discharge any firearm, air rifle or air pistol in the city, except when in connection with a regularly scheduled educational or training program, or when done by law enforcement officers in performance of their duty. No person shall aid or abet another in violating this section.

(Ord. No. 156, § 1, 4-12-1961)

Charter reference— Authority to prohibit discharge of firearms, ch. IX, § 1(25).

State Law reference— Authority to prohibit discharge of firearms preserved, MCL 123.1104.

Sec. 38-82. - Sale of weapons or noisemaking devices.

(a) In this section:

Blowgun shall include any type of item of tubular construction, regardless of length, designed or converted for the purpose of launching or propelling any item through the tube into flight by means of forcing air through one end of the tube either mechanically or by human exhalation.

Disk stars means any disk shaped device having one point, or several points in a star shaped pattern, either made of metal or other hard material, whether promoted as a dart or as a martial arts weapon, also marketed as Oriental stars.

Noisemaking device shall include bull whips, crack whips, fireworks of any sort giving off a sharp report, blank cartridge pistols, operable toy cannons, toy guns in which explosives are used including those which utilize paper caps, and any other novelty item designed to make noise and/or give off a sharp report.

(b) It shall be unlawful to sell or offer to sell by retail a disk star, noisemaking device or blowgun within the city limits.

(c) It shall be unlawful for any person to possess a laser pointing device. It shall be unlawful to sell or offer to sell by retail laser pointing devices within the city limits.

(Ord. No. 282, §§ 1, 2, 6-22-1983; Ord. No. 362, 3-31-1999)

Sec. 38-83. - Abandoned refrigerators.

It shall be unlawful for any person to leave outside of any building or dwelling or in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight door or lock which may not be released for opening from the inside of the icebox, refrigerator or container, without first removing the snap lock or door from the icebox, refrigerator or container.

(Ord. No. 262, § 22, 8-14-1979)

State Law reference— Similar provisions, MCL 750.493d.

Sec. 38-84. - Open intoxicants in public places.

(a) *Prohibition.* No person shall possess open containers of alcohol beverages in or on any land in any location within the City of Mackinac Island that is either owned or used generally by the public, including but not limited to, any road, street, alley, school ground or sidewalk, unless such location is licensed to sell and serve alcoholic beverages pursuant to the Michigan Liquor Control Commission.

(b) *Penalty.* Any person who violates this section shall be guilty of a civil infraction and liable for a fine not to exceed $500.00.

(Ord. No. 515, §§ 1, 2, 10-14-2015, eff. 11-5-2015)

Secs. 38-85—38-110. - Reserved.

ARTICLE IV. - OFFENSES INVOLVING PUBLIC PEACE AND ORDER[2]

Footnotes:

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Charter reference— Authority to preserve public peace and order, ch. IX, § 1(1).

DIVISION 1. - GENERALLY

Sec. 38-111. - Disorderly conduct.

No person shall disturb, tend to disturb, incite or aid in disturbing the public peace by loud, violent, tumultuous, offensive or obstreperous conduct, or shall make or participate in making any improper noise or disturbance, riot or breach of the peace, or shall engage in any illegal or improper act, and no person shall knowingly permit any such conduct upon any premises owned or possessed by him or under his control.

(Ord. No. 262, § 2, 8-14-1979)

State Law reference— Disorderly conduct, MCL 750.167.

Sec. 38-112. - Jostling.

No person shall jostle or roughly crowd people unnecessarily in a public place.

(Ord. No. 262, § 3, 8-14-1979)

State Law reference— Similar provisions, MCL 750.167(1)(l).

Sec. 38-113. - Unlawful disturbances.

No person shall engage in any fight or quarrel, or other public disturbance.

(Ord. No. 262, § 4, 8-14-1979; Ord. No. 560, § 1, 10-10-2018)

Sec. 38-114. - Religious worship; disturbance prohibited.

It shall be unlawful for any person to disturb or disquiet any congregation or assembly met for religious worship by making any noise or making any profane discourse or engaging in any indecent behavior in or near the place of worship as to disturb the solemnity of the meeting.

(Ord. No. 262, § 21, 8-14-1979)

Charter reference— Authority to punish disturbances of religious meetings, ch. IX, § 1(9).

State Law reference— Disturbing religious worship, MCL 752.525.

Sec. 38-115. - Reserved.

Editor's note— Ord. No. 558, § 1, adopted May 23, 2018, repealed § 38-115 which pertained to begging and soliciting alms and derived from Ord. No. 262, § 6, adopted Aug. 14, 1979.

Charter reference— Authority to suppress begging, ch. IX, § 1(2).

Sec. 38-116. - Loitering.

No person shall loiter in the city. The following persons shall be deemed loiterers:

(1) Any person having no lawful means of employment and having no lawful means of support realized solely from lawful occupations or sources, or any person who lives idly and without visible means of support.

(2) Any person found loitering, strolling in, about or upon any street, alley or other public way or public place, or at any public gathering or assembly, or in or about any store, shop or business or commercial establishment, or on any private property or place without lawful business, or conducting himself in a lewd, wanton or lascivious manner in speech or behavior.

(3) Any person wandering abroad and occupying, lodging or sleeping in any vacant or unoccupied barn, garage, shed, shop or other building or structure, or in any automobile, truck or other vehicle, with or without permission of the owner or person entitled to the possession of the same, or sleeping in any vacant lot during the hours of darkness and not giving a satisfactory account of himself.

(4) Any person who frequents or loafs, loiters or idles in or around or is an occupant of, or is employed in any gambling establishment, or establishments where intoxicating liquor is sold without a license or where any illegal acts are being conducted.

(Ord. No. 262, § 9, 8-14-1979)

Secs. 38-117—38-140. - Reserved.

DIVISION 2. - NOISE[3]

Footnotes:

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Editor's note— Ord. No. 526, §§ 1—6, adopted January 6, 2016, amended division 2 in its entirety to read as herein set out. Former division 2, §§ 38-141—38-145, pertained to similar subject matter, and derived from Ord. No. 276, §§ 1—4, 6, 1-22-1985.

Sec. 38-141. - Definitions.

Ambient noise means the all-encompassing noise associated with a given environment being a composite of sounds from all sources.

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the a-weighted network as specified in the American National Standards Institute Standard S1.4-1983, or its successor provision. The sound pressure level so read is designated dB(A) or dBA.

C-weighted sound level means the sound level as measured using the "C" weighted network with a sound level meter meeting the standards set forth in American National Standards Institute Standard S1.4-1983 or its successor provision. The sound pressure level so read is designated dB(C). The "C" weighted network is more sensitive to low frequencies than is the "A" weighted network.

Decibel means a unit of sound pressure level on a logarithmic scale measured relative to the threshold of audible sound by the human ear, in compliance with the American National Standards Institute Standard S1.4-1983, or its successor provision.

(Ord. No. 526, § 1, 1-6-2016, eff. 1-26-2016)

Sec. 38-142. - Exceptions.

The prohibitions of this division shall not apply to:

(1) Any authorized emergency vehicle or to those activities of a temporary duration permitted by law, and for which a license or permit therefore has been granted by the city, including, but not limited to, parades and fireworks displays.

(2) Snowmobiles, as defined in article III of chapter 66; the noise emission levels from such vehicles being governed by section 15(f) of Public Act No. 74 of 1968, as if such section and act were incorporated in this division and made a part thereof.

(Ord. No. 526, § 2, 1-6-2016, eff. 1-26-2016)

Sec. 38-143. - Prohibitions.

(a) It shall be unlawful for any person or the owner or occupant of any premises within the city, including the waters within the jurisdiction of the City of Mackinac Island, between the hours of 10:00 p.m. and 7:00 a.m., to cause or permit any noise to be emitted from any equipment, including, by way of example only, radios, phonographs, magnetic tape players, musical instruments, television sets, sound amplifiers, electric motors, gasoline engines or other mechanical equipment owned by such person, or under the control of such person, or located upon the premises owned or under the control of such person, which noise exceeds either of the following (i) a sound level of 62 decibels in combination with and including ambient noise measured on a sound meter having characteristics defined by the American National Standards Institute S1.4-1983, or its successor provision, set on the A-weighted sound level, for a continuous period of not less than 30 seconds, or (ii) a sound level of 70 decibels in combination with and including ambient noise measured on a sound meter having characteristics defined by the American National Standards Institute S1.4-1983, or its successor provision, set on the C-weighted sound level, for a continuous period of not less than 30 seconds.

(b) It shall be unlawful for any person to make, or cause to be made, any noise or sound, whether measured or not, which creates a disturbance of the public peace, or which is of such a character as to be of actual physical discomfort to persons of ordinary sensibilities, taking into consideration the following factors:

(1) The volume of the sound;

(2) The intensity and frequency of the sound;

(3) Whether the nature of the sound is usual or unusual;

(4) Whether the origin of the sound is natural or unnatural;

(5) The volume and intensity of the ambient sound, if any;

(6) The proximity of the sound to residential sleeping facilities;

(7) The nature and zoning of the area within which the sound emanates or is received;

(8) The density and habitation of the area within which the sound emanates or is received;

(9) The time of day or night the sound occurs;

(10) The duration of the sound;

(11) Whether the sound is recurrent, intermittent or constant;

(12) Whether the sound is produced by a noncommercial or commercial type of activity; and

(13) Other appurtenant and applicable factors.

(c) It shall be unlawful for a person to use, operate or permit to be played any radio receiving set, musical instrument, television set, magnetic tape player, phonograph or other machine or device for the

production or reproduction of sound in such a manner as to disturb the quiet, peaceful comfort and repose of any person. The operation of any such set, instrument, phonograph or device within the public right-of-way within the city, and/or in such a manner as to be in violation of subsection (a) of this section shall be prima facie evidence of a violation of this section.

(Ord. No. 526, § 3, 1-6-2016, eff. 1-26-2016)

Sec. 38-144. - Measurement.

Noise levels shall be measured at a distance of not less than 20 feet from: (a) the noise source, if said noise source is located within a public right-of-way, or (b) the property line, if the noise source is located on private property, or public property other than a public right-of-way.

(Ord. No. 526, § 4, 1-6-2016, eff. 1-26-2016)

Sec. 38-145. - Temporary permits.

(a) Applications for a permit for relief from the noise level designated in this division on the basis of undue hardship may be made to the chief of police or his designated representative. Any permit granted by the chief of police shall contain all conditions upon which the permit is granted, and shall specify the time for which such permit is granted. The chief or his designated representative may grant such a permit if he finds:

    (1) The activity, operation or noise source will be of a temporary duration and cannot be done in a manner which will comply with the noise emission levels permitted by this division; and

    (2) No other reasonable alternative is available to the applicant.

(b) The chief of police or his designated representatives shall prescribe any conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

(c) Any temporary permit issued by the chief of police shall be issued without any fee being charged therefore.

(Ord. No. 526, § 5, 1-6-2016, eff. 1-26-2016)

Sec. 38-146. - Penalty.

Any person violating any provision of this division shall be deemed responsible for a civil infraction punishable by a fine not to exceed $500.00. Any violation of this division shall also be considered a nuisance per se and subject to an order granting injunctive relief.

(Ord. No. 526, § 6, 1-6-2016, eff. 1-26-2016)

Secs. 38-147—38-170. - Reserved.

ARTICLE V. - OFFENSES INVOLVING PUBLIC MORALS[4]

Footnotes:

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Charter reference— Authority to prohibit indecent conduct, ch. IX, § 1(1).

Sec. 38-171. - Gambling.

(a) No person shall engage in a game of chance prohibited by the statutes of the state.

(b) No person shall have in his possession any evidence of illegal gambling in the nature of policy or pool tickets, slips or checks, or memoranda of any combination or bet, or any policy, wheel, dice, implement, apparatus or material of any form of illegal gambling or illegal lottery.

(c) No person being the owner or person in control of the premises shall knowingly permit the use of occupancy thereof for gambling.

(Ord. No. 262, § 10, 8-14-1979)

State Law reference— Gambling, MCL 750.301 et seq.

Sec. 38-172. - Indecent exposure.

No person shall make any improper or indecent exposure of his person in any street, alley or public or private place.

(Ord. No. 262, § 12, 8-14-1979)

State Law reference— Indecent exposure, MCL 750.335a.

Sec. 38-173. - Voyeurism.

No person shall peep into an occupied dwelling of another person or go upon the land of another with the intent to peep into an occupied dwelling of another person. No person shall peep into an area where an occupant of the area can be reasonably expected to disrobe, including restrooms, baths, showers and dressing rooms without the consent of the other person.

(Ord. No. 262, § 13, 8-14-1979)

Sec. 38-174. - Controlled substances.

No person shall aid and abet another to manufacture, deliver, possess, use or sell a controlled substance in the city. The definition of a controlled substance shall be that set forth in part 71 of Public Act No. 368 of 1978 (MCL 333.7101 et seq.). However, this section shall not affect the manufacture, delivery, possession, use or sale of a controlled substance when done through and under a regular prescription or a legally licensed practicing physician or sold through a legally licensed establishment authorized to dispense controlled substances.

(Ord. No. 206, § 1, 6-26-1984)

Secs. 38-175—38-200. - Reserved.

ARTICLE VI. - OFFENSES INVOLVING GOVERNMENT OPERATIONS OR AUTHORITY

Sec. 38-201. - False alarms.

No person shall intentionally make, turn in or give a false alarm of fire, or of need for police or ambulance assistance.

(Ord. No. 262, § 18, 8-14-1979)

State Law reference— False fire alarms, MCL 750.240.

Sec. 38-202. - False report of crime.

No person shall intentionally make or file with the police department of the city any false, misleading or unfounded statement or report concerning the commission or alleged commission of any crime occurring within the city.

(Ord. No. 262, § 19, 8-14-1979)

State Law reference— Similar provisions, MCL 750.411a.

Sec. 38-203. - Interference with police or fire department.

No person shall resist any police officer or firefighter, any members of the police or fire departments, or any person duly empowered with police or firefighting authority while in the discharge or apparent discharge of his duty, or in any way interfere with or hinder him in the discharge of his duty.

(Ord. No. 262, § 20(A), 8-14-1979)

State Law reference— Obstruction of police, MCL 750.479; obstructing or resisting firefighters, MCL 750.241.

Sec. 38-204. - Assisting persons in custody of police.

No person shall offer or endeavor to assist any person in the custody of a police officer, a member of the police department, or a person duly empowered with police authority, to escape or to attempt to escape from such custody.

(Ord. No. 262, § 20(B), 8-14-1979)

Sec. 38-205. - False impersonation of officers.

No person, other than an official police officer of the city, shall wear or carry the uniform, apparel, badge, identification card or any other insignia of office like, or similar to, or a colorable imitation of that adopted and worn, or carried by the official police officers of the city.

(Ord. No. 262, § 20(C), 8-14-1979)

State Law reference— False impersonation of officers, MCL 750.215.

Sec. 38-206. - Escapes from jail; furnishing contraband to prisoners.

(a) No person shall assist or aid, or attempt to assist or aid, any person in the custody of, or confined under the authority of the city, to escape from jail, place of confinement or custody.

(b) No person shall, while a prisoner in the city jail, or at any other place where prisoners are confined, or otherwise in custody of and confined by the city, escape from such custody or confinement.

(c) No person shall make available to, present to, or place within the reach of any person confined under the authority of the city, any intoxicating or malt liquors or any tool, implement, or other thing calculated to aid in the escape of such person so confined, or any other person confined, under authority of the city.

(Ord. No. 262, § 20(D)—(F), 8-14-1979)

State Law reference— Escapes, rescues, etc., MCL 750.183 et seq.; liquor in jails, MCL 750.261 et seq.

Secs. 38-207—38-220. - Reserved.

ARTICLE VII. - WIND POWER GENERATING DEVICES[5]

Footnotes:

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Editor's note— Ord. No. 444, §§ 1—4, adopted Feb. 10, 2010, did not specifically amend the Code; hence, inclusion herein as Art. VII, was at the discretion of the editor. See also the Code Comparative Table.

Sec. 38-221. - Purpose.

The purpose of this article is to protect the natural beauty and historic appearance of Mackinac Island, and to eliminate the possible dangerous effects of wind power generating devices on horses. The natural beauty and historic appearance are features which contribute significantly to the tourism on Mackinac Island, which is the economic base of the city. Wind power generating devices are deemed by the city council to be incompatible with such features. The noise and moving shadows caused by the rotation of turbine blades are deemed to create an unreasonable risk of frightening horses which are a significant component of life on Mackinac Island. Accordingly, the city council believes prohibiting wind power generating devices is necessary for the health, safety and welfare of the city.

(Ord. No. 444, § 1, 2-1-2010)

Sec. 38-222. - Definitions.

A. As used in this article, *wind power generating devices* means any device used to generate electrical power by the use of wind, including, but not limited to, devices consisting of turbines, blades and a base, or tower.

(Ord. No. 444, § 2, 2-1-2010)

Sec. 38-223. - Prohibited use.

The installation or use of wind power generating devices are prohibited within the City of Mackinac Island.

(Ord. No. 444, § 3, 2-1-2010)

Sec. 38-224. - Penalty.

Violations of this article are deemed to be a misdemeanor punishable by a fine not to exceed $500.00, imprisonment for a period of not more than six months, or both.

(Ord. No. 444, § 4, 2-1-2010)

Secs. 38-225—38-230. - Reserved.

ARTICLE VIII. - FIREWORKS

Sec. 38-231. - Definitions.

(a) *Consumer fireworks* means devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling requirements promulgated by the U.S. Consumer Protects Safety Commission and that are listed in a specified American Pyrotechnic Association (APA) standard. Consumer fireworks do not include low-impact fireworks which are ground and handheld sparkling devices as that phase is defined under a specified APA standard.

(b) *Display fireworks* means large fireworks devices that are explosive materials intended for use and fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in federal regulations and an APA standard.

(c) All other terms used in this article shall be given the meaning provided in Act 256 of 2011, as amended (MCL 28.452).

(Ord. No. 514, § 2, 10-14-2015; Ord. No. 571 , § 2, 7-3-2019)

Sec. 38-232. - Regulation of consumer fireworks.

(a) No person shall ignite, discharge or use consumer fireworks except 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 to July 4 until 11:45 p.m. on each of those days.

(4) July 5, only if the date is a Friday or Saturday, until 11:45 p.m. on that date.

(5) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

(b) The permitted uses of consumer fireworks, as provided in the preceding paragraph (subsection 38-232(a)), are subject to the following prohibitions:

(1) A minor shall not possess, ignite, discharge or use consumer fireworks.

(2) A person shall not ignite, discharge or use consumer fireworks on public property, school property, church property, or the property of another person without the organization's or person's express permission to use those consumer fireworks on those premises.

(3) A person shall not ignite, discharge or use consumer fireworks or low impact fireworks while under the influence of alcohol, a controlled substance, or a combination thereof.

(4) A person shall not ignite, discharge or use consumer fireworks or low impact fireworks in a manner that is intended to harass, scare, or injure livestock.

(5) A person shall not ignite, discharge or use consumer fireworks if the environmental concerns based on the department of natural resources fire division criteria are evaluated to extreme fire conditions or if the environmental concerns based on the department of natural resources, fire division criteria, are elevated to very high for 72 consecutive hours and the commanding officer of the fire department, in consultation with the department of natural resources, enforces a no burning restriction that includes a ban on the ignition, discharge and use of consumer fireworks. If a no burning restriction is instituted under this section, the commanding officer of the fire department enforcing the restriction shall ensure that adequate notice of the restriction is provided to the public.

(Ord. No. 514, § 3, 10-14-2015; Ord. No. 571 , § 3, 7-3-2019)

Sec. 38-233. - Display fireworks.

No person shall ignite, discharge or use display fireworks unless they have obtained a permit from the City of Mackinac Island prior to any such ignition, discharge or use. Said permit may be issued by the city council in consideration of the following:

(1) Proof of financial responsibility by a bond or insurance in an amount, character and form considered necessary by the city council to satisfy claims for property damage or personal injury arising out of an act or omission of the person or the person's agent or employee and to protect the public.

(2) The purpose of the proposed display.

(3) The number of other permits that have been issued for the day requested.

(4) The proposed location.

(5) The experience of the company or individual who will conduct and oversee the display.

(6) Any other reason that affects the health, safety and welfare of the residents and visitors to Mackinac Island.

(Ord. No. 514, § 4, 10-14-2015; Ord. No. 571 , § 4, 7-3-2019)

Sec. 38-234. - Determination of violation; seizure.

If a law enforcement officer determines that a violation of this article has occurred, the officer may seize the consumer fireworks as evidence of the violation.

(Ord. No. 571 , § 5, 7-3-2019)

Sec. 38-235. - Local, state and federal requirements.

Nothing contained in this article shall be construed to relieve a person of any duties and obligations imposed under any local, state or federal laws, rules, regulations, licenses or permit requirements.

(Ord. No. 571 , § 6, 7-3-2019)

Sec. 38-236. - Penalty.

Any person violating the provisions of this article shall be responsible for a municipal civil infraction with a civil fine of $1,000.00 for each violation of the article. Five hundred dollars of the fine collected under the article shall be remitted to the local law enforcement agency responsible for enforcing this article.

(Ord. No. 514, § 5, 10-14-2015; Ord. No. 571 , § 7, 7-3-2019)

Editor's note— Ord. No. 571 , § 5, added a new § 38-234 and in so doing renumbered the former § 38-234 as § 38-236, as set out herein.

Secs. 38-237—38-240. - Reserved.

ARTICLE IX. - SMALL UNMANNED AIRCRAFT SYSTEM (DRONES)[6]

Footnotes:

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Editor's note— Ord. No. 535, §§ 1, 2, adopted July 6, 2016, added provisions to the Code, but did not specify manner of inclusion. Therefore, at the discretion of the editor, said provisions have been included as Art. IX, §§ 38-241, 38-242, as set out herein.

Sec. 38-241. - Purpose.

The City of Mackinac Island is a political subdivision of the State of Michigan that prohibits the operation of non-emergency motor vehicles. Instead of using motor vehicles, the City of Mackinac Island utilizes a significant number of horse-drawn vehicles for various personal and commercial transportation purposes. The horses are used in close proximity to pedestrians and bicyclists and are, by their nature, prone to behave unpredictably. The city believes it is necessary and proper to prohibit the knowing and intentional operation of a drone in a manner that would interfere with the safe use of a horse engaged in a commercial activity.

(Ord. No. 535, § 1, 7-6-2016; Ord. No. 572 , § 2, 7-3-2019)

Sec. 38-242. - Permit required.

No person shall operate, or use, a drone in the air space about the City of Mackinac Island without first having obtained a permit to do so from the city council. An application for such permit can be obtained from the city clerk's office and must be presented to the city council for its review prior to any issuance of a permit. The review of the city council shall be based on the following criteria:

(1) The location of the proposed use of the drone as it pertains to the safe use of a horse engaged in commercial activity.

(2) The time of the proposed use as it pertains to the likelihood of interference with the safe use of a horse engaged in commercial activity.

(3) A description of the drone, including its dimensions, weight, engine type and decibel level as it pertains to the likelihood of interference with the safe use of a horse engaged in commercial activity.

(4) The purpose of the proposed use.

(5) Whether the proposed use is in compliance with the regulations, authorizations or exemptions of the United States Federal Aviation Administration.

(6) The permitting process must allow for the operation of drones for any of the following purposes if the operation does not result in a knowing and intentional interference with the safe use of a horse engaged in a commercial activity.

a. News gathering by a Federal Communications Commission licensee.

b. Insurance purposes by an insurer or insurance adjuster.

c. Maintenance performed by a public utility or an independent transmission company.

d. Law enforcement.

(Ord. No. 535, § 2, 7-6-2016; Ord. No. 572 , § 3, 7-3-2019)

Sec. 38-243. - Revocability.

Any permit issued pursuant to this article is temporary and revocable. If the drone is being used or operated in an unsafe manner or in a manner inconsistent with provisions contained in the permit, the chief of police is authorized to immediately revoke the permit.

(Ord. No. 572 , § 4, 7-3-2019)

Sec. 38-244. - Violations.

Any person violating any provision of this article shall be deemed responsible of a civil infraction and shall be assessed a fine consistent with the city schedule of fines for civil infractions.

(Ord. No. 572 , § 5, 7-3-2019)

Secs. 38-245—38-250. - Reserved.

ARTICLE X. - MARIHUANA ESTABLISHMENTS[7]

Footnotes:

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Editor's note— Ord. No. 563, §§ 1, 2, adopted Dec. 5, 2018, added provisions to the Code, but did not specify manner of inclusion. Therefore, at the discretion of the editor, said provisions have been included as Art. X, §§ 38-251, 38-252, as set out herein.

Sec. 38-251. - Prohibition.

Marihuana establishments means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the Michigan Department of Licensing and Regulatory Affairs (LARA), all as defined in the initiative legislation (MRTMA) are prohibited within the boundaries of the City of Mackinac Island.

(Ord. No. 563, § 1, 12-5-2018)

Sec. 38-252. - Violation.

Any person violating any provision of this article shall be responsible for a civil infraction punishable by the schedule of fines set forth in the city's civil infraction ordinance.

(Ord. No. 563, § 2, 12-5-2018)

Chapter 42 - PARKS AND RECREATION[1]

Footnotes:

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Charter reference— General authority relative to parks, ch. XVIII.

Cross reference— Recreation board, § 2-241 et seq.; park and harbor commission, § 2-271 et seq.; environment, ch. 26; streets, sidewalks and other public places, ch. 54; waterways, ch. 74; ROS recreation/open space, app. A, § 12.01 et seq.

State Law reference— Public recreation systems, MCL 123.51 et seq.

Sec. 42-1. - Acts prohibited in Great Turtle Park.

(a) It is a misdemeanor for any person to do any of the following acts within the boundaries of Great Turtle Park:

(1) Litter by placing refuse in a place not so designated.

(2) To use or possess any type of glass container while in the park.

(3) To ignite, set, maintain or prepare any site for a fire outside of the area so designated, or to aid and/or abet any person in the act of igniting, setting, maintaining or preparing a site for a fire.

(4) To allow a horse under one's control, care or custody to be on the basketball court or baseball diamond.

(5) To allow a horse under one's control, care or custody to proceed at a pace faster than a walk in any area outside the horse ring.

(6) To be in the park past the hour of 10:00 p.m.

(b) Any person with two or more convictions for the violation of this section shall be banned from the grounds of Great Turtle Park for a period of not less than one year.

(Ord. No. 293, §§ 1, 2(b), 7-17-1985)

Chapter 46 - SIGN AND DISPLAY OF MERCHANDISE ORDINANCE[1]

Footnotes:

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Editor's note— Ord. No. 504, adopted June 24, 2015, repealed the former chapter 46, article I, §§ 46-1—46-8, article II, §§ 46-9—46-11, article III, §§ 46-12—46-16, and enacted a new chapter 46 as set out herein. The former chapter 46 pertained to similar subject matter. See Code Comparative Table for complete derivation.

Charter reference— Power to legislate for public health and welfare, ch. IX, § 1(40).

Cross reference— Buildings and building regulations, ch. 10; streets, sidewalks and other public places, ch. 54; zoning, app. A.

ARTICLE I. - IN GENERAL

Sec. 46-1. - Purpose.

(a) The regulations set forth in this chapter are adopted to promote and protect the social welfare and economic soundness of the city and its inhabitants by protecting the historic nature and enhancing the attractiveness of the city as a recreational resort, particularly in view of the following facts:

(1) One of the great scenic islands of the Great Lakes area lies within the borders of the city, rich in Indian lore and historic interest dating back to the year 1670.

(2) Because of the history and the natural beauty of the island, the city has become a world renowned recreational resort.

(3) The city is, in effect, the steward for mankind for the preservation of both its natural beauty and its historical monuments.

(b) The provisions of this chapter shall be held to be minimum requirements for the promotion of the public health, safety, general welfare of the community, and the preservation, maintenance and enhancement of the unique historic, resort and natural character of the city. Specifically, to achieve this purpose, this chapter has the following objectives:

(1) To keep the number and size of signs and sign messages to the lowest level reasonably necessary to identify a business and its products or services.

(2) To keep signs within a reasonable scale with respect to the building to which they relate.

(3) To allow the display of only those signs and display of merchandise which are generally compatible in design and appearance with the city's historical character.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

Sec. 46-2. - Definitions.

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

Area, or *other reference to sign size,* means an entire area within a square, rectangle, circle or oval, the perimeter of which encloses the extreme limits of the writing, representation, emblem or any other figure of similar character, together with any frame or other material or other color forming an integral part of the display or used to differentiate it from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, unless it is specifically provided to the contrary elsewhere in this chapter.

Awning means an overhang created by a structural extension from the face of a building, whether constructed of fabric or rigid material, including any valance thereon.

Awning sign means a sign that is printed or displayed on the side or front of an awning.

Building means any structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, garages, stables, or greenhouses.

Business means any legal use of a building, other than for a religious institution or residential purposes, by a person, firm or corporation. Although contained in the same building as another business and owned by the same person, an activity may be treated as a separate business if it is physically separated from, uses different personnel than, or provides different products or services than such other related business.

Commercial sign means a name, identification, description, device, structure, narrative, writing or illustration which is affixed to, or painted, or otherwise located or set upon or attached to the exterior of a building or structure, or the inside of a window thereof, or situated inside a building such that it would be viewed primarily from the exterior of the building, which directs attention from a public sidewalk or street to a business or profession conducted or to a commodity, product, service or activity sold or offered upon the premises or upon other business or professional premises. This definition does not include signs intended to be viewed primarily from the interior of a building, or primarily from the common area of a mall.

Freestanding sign means a sign that is supported by a frame that is freestanding and is not attached to a building.

Mall means one or more businesses situated in a manner that the entrance to each business is accessed from a private common area, including businesses entered from hotel lobbies. Any business with both an entrance from a private common area and its own separate entrance to a street or sidewalk shall not be considered part of the mall for purposes of signage.

Off-premise sign means a sign advertising a business, product, service or activity not sold, offered or conducted on the premises where the sign is located.

Projecting sign means a sign which is affixed to any building other than a marquee and projects in such a way that the message is not parallel to the wall to which it is attached.

Wall sign means a sign which is attached directly to or painted upon a building or wall which does not project from the building wall or window, or a sign situated inside a building such that it would be viewed primarily from the exterior of the building. The exposed face of the sign must be in a plane generally parallel to the building wall. The sign must not extend above the height of the wall on which the sign is placed.

Window sign means a sign etched or painted, or otherwise attached, directly to the glass surface of a single window, restricted to letters stating the name of the business and any product sold therein, together with a logo or decorative symbol, with subcopy.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

Sec. 46-3. - Permitted commercial signs.

(a) A commercial sign is prohibited unless the same is in compliance with the provisions of this chapter.

(b) The only commercial signs permitted on Mackinac Island are wall signs, projecting signs, awning signs, freestanding signs and window signs which meet the following requirements.

(1) *Wall signs.* The total surface area of all wall signs placed on, or in, a building (including the building's exterior porches, decks and patios) shall not exceed one-tenth of the area of the face of the wall (including doors and windows) or two square feet for each lineal foot of building frontage, whichever is less. Provided, however, this area requirement shall not apply to wall signs that are situated inside a building such that it would be viewed primarily from the exterior of the building and such signs shall not exceed four square feet in size.

(2) *Projecting signs.* A sign projecting out from the exterior of a building shall have a clearance of not less than eight feet from the ground, except projecting signs displayed on the side of a flexible valance of a canopy or awning shall have a clearance of not less than seven feet from the ground. The maximum area of a projecting sign shall be 16 square feet for a projecting sign with a clearance of not more than 16 feet. The maximum area of such sign shall be 28 square feet for a projecting sign with a clearance of more than 16 feet. A projecting sign with two identical sides shall be measured for area on only one side of the two faces, provided the two faces are not more than 18 inches apart at the furthest point.

(3) *Freestanding signs.*

a. A freestanding sign shall be allowed when all of the following conditions exist.

1. There is an area consisting of lawn, garden or other permeable surface without any improvement thereon extending not less than ten feet back from the sidewalk or street fronting the business premise.

2. The freestanding sign is permanently affixed to the ground not less than five feet from the sidewalk fronting the premises.

3. The freestanding sign may have two identical sides.

b. A freestanding sign with two identical sides shall be measured for area on only one side of the two faces, provided the two faces are not more than 18 inches apart at the furthest point.

c. The maximum area of a freestanding sign shall be as follows:

1. For businesses located on a lot(s), or other area under its exclusive control, which more than one acre in size, shall have a maximum area of 35 square feet.

2. For businesses located on a lot or contiguous lots that total less than one acre, the maximum area for a freestanding sign shall be one square foot of sign area per lineal feet of public road frontage along the side of the premises where the freestanding sign is placed.

3. The maximum allowable height of any freestanding sign, as measured to the top of any portion of the sign or its supporting structure, shall be eight feet.

(4) *Awning signs*.

a. An awning sign depicted on the front of an awning shall be not greater than 16 square feet in area. An awning sign on the side of an awning shall be not greater than nine square feet in area. Signage consisting of identical depictions on each side of an awning shall be considered to be one sign and the area of the sign shall be the area as measured on only one side of the two faces.

b. Awning signs shall meet the following requirements:

1. No lettering or other portion of the sign shall project above, below or beyond the physical dimensions of the awning.

2. Lettering or letters shall not be larger than nine inches as measured vertically.

c. Any previously permitted awning sign made nonconforming by this new section shall be allowed to continue until May 1st, 2010, at which time compliance with this section and all other provisions of this chapter shall be mandatory.

(5) *Window signs.* Each business may have not more than two window signs. Each sign shall have a maximum area not to exceed 20 percent of the area of the window. A window sign may also contain one line of lettering only (no logo or decorative symbol) with letters no larger than four inches in height that is below the name of the business on the same window. Such lettering shall be referred to as subcopy and the subcopy lettering will not be included in the calculation of area.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

Sec. 46-4. - Exemptions and exceptions.

Notwithstanding any other provisions in this chapter, the following signs shall be allowed and exempt from the permit process:

(1) Names of buildings.

(2) One temporary sign for purposes of special sales provided such signs are not larger than four square feet.

(3) One sign advertising "Help wanted," placed in a windows provided that such signs is not larger than one square foot in area.

(4) One sign stating "Open" placed in a window provided that any such sign is not larger than one square foot in area. If the business has more than one entrance used by the public, the business shall be allowed an additional sign of this type for each such additional entrance.

(5) One sign stating "Closed" placed in a window provided that any such sign is not larger than one square foot in area. If the business has more than one entrance used by the public, the business shall be allowed an additional sign of this type for each such additional entrance.

(6) One sign displaying store hours placed in a window provided that any such sign is not larger than one square foot in area. If the business has more than one entrance used by the public, the business shall be allowed an additional sign of this type for each such additional entrance.

(7) One sign devoted to community wide events placed in a window provided that any such sign is not larger than two square feet in area. If the business has more than one entrance used by the public, the business shall be allowed an additional sign of this type for each such additional entrance.

(8) Displays of credit cards recognized by the business may be placed in one window of the business provided the display of any one credit card is not larger than three inches by five inches in area. If the business has more than one entrance used by the public, the business shall be allowed an additional sign of this type for each such additional entrance.

(9) Signs depicting only business logos, without other symbols or lettering, provided each logo sign is not greater than 50 percent of the maximum allowable area of any such sign regulated and limited by this chapter.

(10) Displays providing pricing information for transportation services such as carriages, taxis, horses, bicycles and boats provided the total area of the one or more displays does not exceed 20 square feet in size.

(11) A total of not more than two displays on a food service establishment of a restaurant menu, menu summary, or daily special summary, provided each display does not exceed four square feet in size and is affixed to the wall or window of the building.

(12) Directional, safety and informational signs providing general information without a commercial message shall be allowed.

(13) Vending machine displays shall be allowed.

(14) Commercial signs may be allowed in association with special events with prior city council approval. Such signs shall not be allowed to remain more than 72 hours.

(15) A sign on the door of a business consisting of lettering bearing the name of the business and/or its logo.

(16) If a business has windows not being utilized for a window sign, lettering not taller than four inches, naming the products sold within, shall be allowed along the bottom of the window pane.

(17) a. "For sale" and "for rent" signs (and similar types of signs) advertising the sale or lease of real property in all zoning districts provided such signs meet the following criteria:

1. Such signs shall not exceed one square foot in size.
2. Such signs shall be freestanding unless the owner has no area to place a freestanding sign.
3. No freestanding sign shall have any portion thereof higher than three feet from the ground.
4. There shall be no more than one such sign on any premises.
5. Such sign shall be removed within five days after the closing of the sale or lease.

b. No permit shall be required for signs subject to this section except a realtor's sign in which case an annual permit shall be required authorizing the use of a sign. This sign may be used by the realtor on its various listed properties without further permit. All signs referenced in this section, whether or not a permit is required, must comply with all requirements of this chapter.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

Sec. 46-5. - Prohibited signs.

Notwithstanding any other provision in this chapter, the following signs are prohibited.

(a) Any sign placed on, upon or over the roof of a building.

(b) Any sign placed on or upon lampposts, utility poles, fire escapes, ladders, standpipes, tree shrubs or other foliage.

(c) Any sign which contains calcium fluoride (fluorite) or any other transparent crystalline mineral for the purpose of display of fluorescent character on any part of any sign.

(d) Any banner, pennants, propellers, balloons, pinwheels, searchlights, spinners, streamers, kites, animal characters or similar attention getting devices, freestanding logos (not displayed on a backdrop or substraight) or ornamentation.

(e) Any flag which advertises or promotes a commercial product or service.

(f) Any sign advertising a business that no longer exists.

(g) A sign exceeding four square inches which is attached, or related, to the price of an item of merchandise which is displayed in a way to be viewed through a front facing window of the business.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

Sec. 46-6. - Illumination of signs.

Illumination of signs shall only be by indirect light and no sign shall be self-illuminating or have illumination of a flashing, moving or intermittent type.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

Sec. 46-7. - Number of signs.

A business shall not have more than two commercial signs except and as clarified as follows:

(a) A projecting sign with two identical sides shall be counted as one sign. If the sides are not identical, each side shall be counted as a separate sign.

(b) Awning signs with identical messages on each side of an awning shall be considered one sign.

(c) Two window signs shall be counted as one sign, provided there are not more than two window signs for one business.

(d) If the premises are located on the corner of two public streets in which case the business shall be allowed two commercial signs along the frontage of each of the public streets from which the business has a public entrance.

(e) If the business is situated such that it has public entrances on two opposite sides of the building (not corner streets). In such case the business shall be allowed one additional sign along the front of the second entrance.

(f) If more than one commercial use exists on a premise, such as a mall, one permitted sign shall be allowed for the complex as a whole which may include the names of the individual businesses; and one sign shall be allowed for each of the businesses within, provided each additional signs does not exceed six square feet in area.

(g) For businesses located on a lot or contiguous lots that total more than one acre in size, the number of allowable commercial signs shall be four.

(h) If a business has an off premise sign allowed by this chapter, the off premise sign shall count as one of the two allowable commercial signs for the business where the off premise sign is located.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

Sec. 46-8. - Off premise signs.

Off premise signs shall be allowed provided said signs meet all the requirements of a commercial sign and shall be counted as one of the allowable signs of the business on the premises where the sign is located. In no event shall an off premise sign be allowed on premises where no business is conducted.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

ARTICLE II. - DISPLAY OF MERCHANDISE.

Sec. 46-9. - [Location of merchandise.]

Merchandise displayed or located on the exterior of a building, or anywhere on the ground outside of the building, is prohibited by this chapter unless specifically exempted hereafter. For purposes of this section, the exterior of the building includes the interior side of any door that is left in an open position so that the interior side of the door is exposed to the elements. Excepted from this prohibition are bicycles which are for sale or rent, displays of garden supplies and garden items if in conjunction with a garden shop, nursery or greenhouse, displays of postcards from an apparatus not exceeding 15 square feet in display area and not exceeding six inches in depth that is affixed to a building allowing visible display and secure containment of the postcards.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

Sec. 46-10. - Window display of merchandise.

In any business located in whole or in part on the first floor of a building, merchandise shall not be displayed in a window, or front of a building if the building has no permanent front wall, at a height greater than eight feet from the point where the foundation of the building intersects the sidewalk fronting the building. Displayed, for purposes of this section, shall mean placement within eight feet of a front window or front of a building. Merchandise displayed perpendicular to a front window, placed on or along a side

wall, and intended to be viewed primarily from the interior of a building shall be exempt from this regulation.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

Sec. 46-11. - Transparency requirement.

A minimum of 50 percent of any building window facing a street shall be transparent with no obstruction by merchandise or other item. Transparency obstructions for purposes of this section shall be considered any item placed within three feet of the interior side of the window.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

ARTICLE III. - ADMINISTRATION AND ENFORCEMENT.

Sec. 46-12. - Sign permit.

(a) No commercial signs, except those allowed under section 46-5, shall be erected, altered or relocated unless a permit for the sign is obtained from the city's building inspector in accordance with the provisions of subsection (b) of this section.

(b) An application for a sign permit shall contain the following information:

(1) Name, address and telephone number of the applicant and the property owner.

(2) Location of the building, structure or lot to which the sign is to be attached or erected, including the zoning district.

(3) Position of the sign in relation to nearby buildings, structures and property lines.

(4) A drawing of the proposed sign showing:

a. Height of the sign above the ground and support structure.

b. Area and dimension of the sign's surface.

c. Lettering of the sign drawn as it will appear on the erected sign. (Lettering need not be in the style of the finished sign but must be printed in the size and of the weight approximating that of the final constructed sign.)

(5) If deemed necessary by the building inspector, a copy of the stress sheets and calculations showing the structure as designed for deadload and wind pressure in accordance with the applicable building regulations.

(6) Name and address of the person, firm, corporation or association erecting the sign.

(7) Such other information as the building inspector may require to show full compliance with this and all other applicable laws of the city and the state.

(c) No permit shall be required for ordinary servicing, repainting or cleaning of an existing sign message. No permit shall be required for any change of the sign message.

(d) A permit fee shall be established by the city council and all permits issued for the erection of a sign shall become invalid unless the work authorized by it shall have commenced within one year after issuance.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

Sec. 46-13. - Sign variance.

(a) The city council shall have the power to authorize, upon appeal, specific variances from the various requirements specified in this chapter.

(b) Applications for appeals authorization as provided for in this section shall be submitted to the city clerk and shall be processed in the following manner:

(1) The city clerk shall forward the application and supporting data to the city council.

(2) The city council shall hold a public hearing or hearings on the subject application. The notice of public hearing shall be posted not less than ten days in advance in writing, by first class mail, to such property owners or occupants located within 300 feet of the property which is the subject of the application. After public hearing procedures, the city council may reject or grant approval of the application. Such approval or rejection shall be in writing setting forth any conditions or reasons therefore and shall be sent promptly to the applicant.

(3) No variance shall be granted by the city council unless the applicant clearly demonstrates the following:

a. The variance is not contrary to the public interest or the general intent and purpose of this chapter.

b. The variance will not cause substantial adverse effect to properties in the immediate vicinity or in the district where the authorized deviation is located.

c. There are exceptional or extraordinary circumstances or conditions which apply to the property in question.

d. Such deviation is necessary for the preservation of a substantial property right possessed by other properties within the same district.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

Sec. 46-14. - Nonconforming signs.

(a) Signs which do not conform to the requirements of this chapter or any amendment thereto, shall be removed and abated immediately unless otherwise stated in the ordinance.

(b) Any non-conforming sign which is allowed to continue for any period of time shall be subject to the following regulations:

(1) No nonconforming sign shall be changed to another nonconforming sign.

(2) No nonconforming sign shall have any change made in the words or symbols of the message displayed on the sign unless the sign is designed for periodic change or message.

(3) No nonconforming sign shall be structurally altered so as to prolong the life of the sign or to change the shape, size, type or design of the size except for safety reasons.

(4) No nonconforming sign shall be reestablished after the activity, business or usage to which it relates has been discontinued.

(5) No nonconforming sign shall be reestablished after damage or destruction if the estimated expense of reconstruction exceeds 25 percent of the appraised total replacement cost, as determined by the city.

(c) No new commercial sign, or increase in the size of an existing commercial sign, shall be permitted on a business premises containing any nonconforming signs unless a new or altered sign is conforming to the requirements of this chapter and changes or other reductions are made so that the net result of the new or altered sign provides less overall square footage of sign than existed prior to the new or altered sign.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

Sec. 46-15. - Compliance required for business license.

(a) No license to do business shall be granted to any business not in compliance with this chapter.

(b) Any violation of this chapter shall be grounds for revocation of any license to do business previously granted to the violating business.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

Sec. 46-16. - Violations.

Violations of this chapter shall constitute a municipal civil infraction. Each day that the violation exists shall be considered a separate offense. A continuation of such civil infraction shall be considered a nuisance per se.

(Ord. No. 504, 6-24-2015, eff. 7-14-2015)

Chapter 50 - SOLID WASTE[1]

Footnotes:

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Charter reference— General authority to legislate for public welfare and safety, ch. IX, § 1(40).

Cross reference— Buildings and building regulations, ch. 10; environment, ch. 26; blight, § 26-101 et seq.; food wastes and garbage storage sites, § 26-195; use drays for hauling refuse or trash, § 66-394; utilities, ch. 70.

State Law reference— Solid waste management, MCL 324.11501 et seq.; littering, MCL 324.8901 et seq.; authority to regulate solid waste disposal, MCL 324.4301.

Sec. 50-1. - Definitions.

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

Construction debris means nonrecyclable or noncompostable materials generated during the construction process, and shall not include clean, nonpressure treated wood which can be composted.

Department of public works means the city department of public works, acting through its authorized representatives.

Disposal site means a solid waste transfer facility licensed under part 115 of the Natural Resources and Environmental Protection Act (MCL 324.11501 et seq.), sanitary landfill, processing plant or other solid waste handling or disposal facility utilized in the disposal of solid waste, and includes the SWHF.

Dispose means the removal and deposit of waste from a site of generation.

Hazardous waste means hazardous waste as defined in part 111 of the Natural Resources and Environmental Protection Act (MCL 324.11101 et seq.) as identified in administrative rules promulgated from time to time pursuant to same by the director of the state department of natural resources.

Nonprocessable waste means all waste other than processable waste.

Processable waste means solid waste, source separated materials, yard clippings, and any other materials introduced into the waste stream which may be recycled or composted, in accordance with the city solid waste management plan, but shall not include construction debris, white goods, medical waste as defined in the Public Health Code, or hazardous waste.

Public area means any place or area within the City of Mackinac Island that is open to use by the general public, including but not limited to public streets, sidewalks, parks and private property or establishments that are open to the public.

Site of generation means any premises in or on which processable waste is generated by any person, and shall not include any portion of such premises that is not contiguous to the point of generation. If portions of the premises are separated by any public right-of-way, they shall not be considered contiguous.

Solid waste means garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, municipal and industrial sludges, solid commercial and solid industrial waste, and animal waste other than organic waste generated in the production of livestock and poultry, but does not include human body waste, liquid waste, hazardous waste or other waste regulated by statute.

Solid waste transfer facility means a tract of land, a building and any appurtenances, or a container, or any combination of land, buildings or containers that is used or intended for use in the rehandling or storage of solid waste incidental to the transportation of the solid waste, but is not located at the site of generation or the site of disposal of solid waste.

Source separated material means recyclable materials, including, but not limited to, glass, metal, wood, paper products, yard clippings or any other material that is separated at the site of generation for the purpose of conversion into raw materials or new products.

SWHF means the city solid waste handling facility operated by the city department of public works for the purpose of processing, recycling, composting and/or disposing of processable waste.

Tipping fee means the fee established by the city department of public works from time to time to be charged upon the delivery of processable waste to the SWHF.

Waste hauler means a person other than the city, which transports any type of processable waste or nonprocessable waste generated within the city, either for itself or for another, with or without compensation.

White goods means household and commercial appliances such as refrigerators, stoves, washing machines, dryers and the like.

Yard clippings means leaves, grass clippings, vegetable or other garden debris, shrubbery, or brush or tree trimmings less than four feet in length and four inches in diameter, that can be converted into compost humus. This term does not include stumps, agricultural wastes, animal waste, roots, sewage sludge or garbage.

(Ord. No. 316, § 3, 4-7-1993; Ord. No. 413, § 2, 6-25-2003)

Cross reference— Definitions generally, § 1-2.

Sec. 50-2. - Disposal of processable waste.

No person shall dispose of any processable waste within the city other than by means of delivery to a waste hauler duly licensed by the city for such purpose; however, a person may transport processable waste from his own premises and dispose of such processable waste at a disposal area approved by the department of public works. No person shall allow the accumulation of any solid waste on property within the city for a period of more than seven days. No person transporting any processable waste shall fail to tightly cover and secure the load so that no part of the load shall be lost while being transported.

(Ord. No. 316, § 4, 4-7-1993)

Sec. 50-3. - Disposal of nonprocessable waste.

No person shall dispose of any nonprocessable waste within the city other than by means of delivery to a waste hauler duly licensed by the city for such purpose; however, a person may transport nonprocessable waste from his own premises and dispose of such nonprocessable waste at a disposal area approved by the department of public works. Neither the department of public works nor licensed waste haulers will accept any nonprocessable waste that is excluded from the city solid waste management plan and otherwise regulated by part 115 of the Natural Resources and Environmental Protection Act (MCL 324.11501 et seq.).

(Ord. No. 316, § 5, 4-7-1993)

Sec. 50-4. - Solid waste haulers.

No person shall engage in the business of collecting, transporting, delivering or disposing of waste in the city without first obtaining a solid waste hauler license. Solid waste hauler licenses shall be issued upon application to the city clerk on forms provided by the clerk upon payment of such fees as shall be required by the city. It shall be an express condition of each license that the waste hauler shall comply with all provisions of this chapter.

(Ord. No. 316, § 6, 4-7-1993)

Sec. 50-5. - Penalties.

Any person who shall violate this chapter shall be responsible for a civil infraction with fines not less than $50.00 nor more than $500.00. Each separate dray load of processable waste which is delivered to a disposal site other than the SWHF shall be deemed a separate violation. Each day waste is stored or placed in a manner to violate the provisions of this chapter shall be considered a separate offense. A violation of any provision of this chapter shall be cause for suspension or revocation of a solid waste hauler license.

(Ord. No. 316, §§ 9, 10, 4-7-1993; Ord. No. 413, § 4, 6-25-2003)

Sec. 50-6. - Compliance with act.

Waste haulers shall comply with part 115 of the Natural Resources and Environmental Protection Act (MCL 324.11501 et seq.), the part 115 plan and all applicable federal and state laws, rules and regulations in the collection, transportation, delivery and disposal of processable waste. Waste haulers shall also comply with all rules and regulations of the department of public works for the administration and operation of the SWHF, including rules and regulations prohibiting delivery of loads consisting primarily of unacceptable waste as solely determined by the department of public works.

(Ord. No. 316, § 6, 4-7-1993)

Sec. 50-7. - Delivery of processable waste.

(a) Licensed waste haulers shall:

(1) Deliver to the SWHF all processable waste collected or transported from a site of generation in the city; and

(2) Pay the tipping fee for delivery of such processable waste at the SWHF, unless otherwise provided by contract between the city and the licensed waste hauler. No licensed waste hauler shall deliver processable waste collected or transported from a site of generation within the city to any disposal site other than the SWHF.

(b) Licensed waste haulers shall deliver to the SWHF all categories of processable waste regardless of whether the processable waste is transported in the same load or vehicle as nonprocessable waste. This requirement shall be absolute and unconditional unless the department of public works has made a prior written determination that a specific load of waste consists primarily of nonprocessable waste which could not be accepted for delivery at the SWHF.

(c) Licensed waste haulers shall not deliver medical waste, as defined in part 138 of the Public Health Code (MCL 333.1801 et seq.), or hazardous waste, to the SWHF.

(Ord. No. 316, § 7, 4-7-1993)

Sec. 50-8. - Tipping fees.

Tipping fees shall be established by the department of public works, with approval of the city council, on an annual basis or more often if necessary, and shall be listed on a schedule maintained by the city clerk.

(Ord. No. 316, § 8, 4-7-1993)

Sec. 50-9. - Storage and segregation of certain commercial processable waste.

The outside storage or placement of processable waste in the areas specified in subsection (d) of this section, prior to its delivery to a licensed waste hauler or disposal at an approved disposal area, shall meet the following requirements:

(a) Be kept on private property and not on any public street, public sidewalk or public way and be screened from view from any public area or neighboring property, except that processable waste may be placed at 9:00 a.m. and 4:00 p.m., on a public sidewalk or an unscreened area of private property adjacent to a public sidewalk pending pickup by a licensed solid waste hauler. The following items may be placed at times indicated:

9:00 a.m. pickup:

City blue bags, city compostable bags and waste grease.

4:00 p.m. pickup:

City blue bags, city compostable bags, waste grease, city clear recyclable bags, and bundled cardboard.

(b) The materials stored outside shall be separated so that materials that are compostable and recyclable are segregated from each other and from other types of processable waste.

(c) All processable waste placed outside whether stored in bags or otherwise shall be labeled sufficiently to identify the party responsible for the processable waste being delivered to the licensed waste hauler or the approved disposal area.

(d) These regulations shall apply to all properties and businesses that are located in the following area except those properties that are used exclusively as a single family residence (bed and breakfast not being considered single family residences for purposes of this section).

(1) Main Street from Windemere Point to City Water Plant.

(2) Market Street.

(3) All streets and alleys connecting Market Street to Main Street.

(4) Cadotte Avenue northward to the four corners, being the intersection of Cadotte Avenue and Annex/Huron Road.

(Ord. No. 413, § 3, 6-25-2003; Ord. No. 426, 1-11-2006; Ord. No. 510, 6-24-2015, eff. 7-14-2015)

Chapter 54 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES[1]

Footnotes:

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Charter reference— Markets, ch. XVII; public buildings, grounds and parks, ch. XVIII; streets and public grounds, ch. XX; sidewalks, ch. XXI.

Cross reference— Any ordinance levying or imposing any special assessment saved from repeal, § 1-11(9); any ordinance dedicating, naming, locating, relocating, opening, paving, widening, repairing or vacating any road, street, sidewalk or alley saved from repeal, § 1-11(10); any ordinance establishing the grade or any road, street or sidewalk saved from repeal, § 1-11(11); buildings and building regulations, ch. 10; cemeteries, ch. 18; environment, ch. 26; offensive substances on private premises, streets prohibited, § 26-32; posting items on poles, posts or sidewalks, § 38-4; parks and recreation, ch. 42; signs, ch. 46; subdivisions and other divisions of land, ch. 58; telecommunications, ch. 62; transportation, ch. 66; operation on sidewalk or dock prohibited, § 66-164; utilities, ch. 70; waterways, ch. 74; zoning, app. A.

ARTICLE I. - IN GENERAL

Sec. 54-1. - Street numbers.

(a) The principal building on each improved parcel of property within the city shall display a street number in accordance with the latest Mackinac County 911 map on file in the office of the city clerk, which map is hereby adopted and made a part hereof. The fire chief of the City of Mackinac Island shall designate in accordance with said map the appropriate street number for each new principal building hereafter constructed and such number shall be issued along with the building permit therefore. Each vacant, buildable parcel of land shall be taken into consideration in the street numbering within the city.

(b) Owners of principal buildings shall place and maintain the correct street number on each principal building or at street main entrance as required; said number, whether placed on the principal building or at the street main entrance, shall face the street listed for the building on the Mackinac County 911 map and be adjacent to the door to the building or the main street entrance in such a position as to be plainly visible from the street, and of color that contrasts with the background color of the surface where the numbers are to be mounted, the bottom of said numbers being not less than four feet above ground, and the numbers not less than three inches in height measured from the bottom of the number to the top of the number.

(c) Owners of property parcels with more than one building will number the buildings in alphabetical sequence beginning with the letter A. Each principle unit or dwelling unit within the building shall be numbered in numerical sequence with the first number representing the floor on which the main entrance door to the unit is located followed by a sequential number for each unit on that floor beginning with the number "01". For illustration, the first floor units for one building would be 101, 102, 103, etc. and the second floor units would be 201, 202, 203, etc. If there is more than one principal building in the parcel, the first floor unit of building A would be A-101, A-102, A-103, etc. and the second floor units would be A-201, A-202, A-203, etc.

If an owner desires a floor to be designated other than provided herein, such as basement (B), lower level (LL), ground (G), mezzanine (M), terrance (T) or some other designation, the same may be approved by action of the city council.

(Ord. No. 508, § 1.01, 6-24-2015, eff. 7-14-2015; Ord. No. 511, §§ 1, 2, 7-8-2015, eff. 7-28-2015)

Sec. 54-2. - Street names.

(a) All streets within the City of Mackinac Island shall be known and designated by the names applied thereto on the official map of the city, known as the street numbering map, which shall be on file in the city clerk's office of Mackinac Island. The naming of any new street or re-naming of any street shall be done by resolution of the Mackinac Island City Council, said resolution shall also amend said map.

(b) Portions of streets and alleys vacated by Mackinac Island City Council shall be eliminated from the official map of the city.

(c) As additional streets are established either by platting or otherwise and existing streets altered or renamed, it shall be the duty of the building inspector to add the same to the official map or to revise the same and to assign to the various blocks and parts of said streets appropriate names and numbers in accordance with established said map.

(Ord. No. 508, § 2.01, 6-24-2015, eff. 7-14-2015)

Sec. 54-3. - Enforcement.

(a) *Penalty.* Whoever shall fail to comply with the provisions of this article, or whoever shall affix to or display upon any house or building any such numbers other than those assigned to it, shall upon being found responsible of a civil infraction, shall be punished by a fine not to exceed $100.00. Each day that a violation exists shall be considered a separate violation subject to a separate $100.00 fine.

(b) *Authorized city official.* The city police are 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.

(Ord. No. 508, §§ 3.01, 6.01, 6-24-2015, eff. 7-14-2015)

Secs. 54-4—54-30. - Reserved.

ARTICLE II. - EXCAVATIONS

DIVISION 1. - GENERALLY

Secs. 54-31—54-50. - Reserved.

DIVISION 2. - PERMIT

Sec. 54-51. - Required.

It shall be unlawful for any person to dig up or tear up or excavate any of the public streets, alleys, parks or public spaces within the limits of the city without having first obtained a permit therefor from the city clerk or police department and without complying with the conditions of the permit.

(Ord. No. 303, § 1, 6-20-1990)

Sec. 54-52. - Application.

Application for an excavation permit shall be made on forms prescribed by the city council. The forms may require information concerning the following:

(1) Location of the proposed excavation.

(2) Size or area of the excavation.

(3) Time and manner by which repair will take place.

(4) Proposed date of commencing excavation.

(5) Proposed date of completing excavation.

(6) Reason or purpose for excavation.

(Ord. No. 303, § 2, 6-20-1990)

Sec. 54-53. - Issuance.

The issuance of an excavation permit may be conditioned upon submission by the applicant of a bond not less than $2,500.00 for the purpose of replacing the excavation, or other damage, should the applicant fail to repair the damage by the time specified on the permit. The permit may also contain other conditions or requirements deemed necessary by the city.

(Ord. No. 303, § 3, 6-20-1990)

Sec. 54-54. - City council approval.

The approval of the city council shall be required for all excavation permits issued pursuant to this division.

(Ord. No. 303, § 4, 6-20-1990)

Secs. 54-55—54-70. - Reserved.

ARTICLE III. - SIDEWALK AND CROSSWALK CONSTRUCTION OR REPAIR[2]

Footnotes:

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Charter reference— Sidewalks, ch. XXI.

DIVISION 1. - GENERALLY

Sec. 54-71. - Resolution to construct or repair.

Whenever it shall appear to the council by petition or otherwise that a sidewalk or crosswalk should be built, constructed or repaired upon either side of, on or across any of the streets, lanes or alleys within the limits of the city, the council may order by resolution the construction or repair thereof, and such walks

shall be constructed or repaired as provided in this article unless the council shall expressly direct its construction to be different.

(Ord. No. 22, § 1, 5-18-1902)

Sec. 54-72. - Supervision of work.

Sidewalks or crosswalks shall be constructed or repaired under the supervision of the street commissioner of the city unless otherwise directed by the council.

(Ord. No. 22, § 2, 5-18-1902)

Sec. 54-73. - Unoccupied property; serving notice.

If any lot or premises in front of or adjacent to which any sidewalk is ordered to be built or repaired shall be unoccupied and the owner or agent cannot be found in the city, the street commissioner may serve notice by posting the notice in some conspicuous position upon the lot or premises.

(Ord. No. 22, § 11, 5-18-1902)

Sec. 54-74. - Repair of sidewalks.

All sidewalks in the city shall be kept in good repair by the owner, agent or occupant of the house, lot or premises, adjoining or fronting on such, and whenever any sidewalk within the limits of the city shall require repairing, it shall be the duty of the street commissioner, whenever directed by the council or the committee on streets and sidewalks, to notify the owner, agent or occupant of such house, lot or premises, adjacent to or fronting on such parts of the sidewalk needing such repairs, to repair the sidewalk within five days from the date of service of such notice. If the person thus notified shall refuse or neglect to comply with the exigency of such notice, then the street commissioner shall cause such repairs to be made and shall report the making of the same, together with a detailed statement of the cost and expense of the making of such repairs, to the council. On receiving such report and statement from the street commissioner, it shall be the duty of the council to proceed to collect the expense therefor, or such part as the council shall have determined, from the owner, agent or occupant, in the manner prescribed by Charter chapter XXI, § 4.

(Ord. No. 22, § 10, 5-18-1902)

Secs. 54-75—54-90. - Reserved.

DIVISION 2. - CONSTRUCTION

Sec. 54-91. - Sidewalks; construction specifications.

All sidewalks shall be built of cement similar to those now in use in the city, unless the council shall otherwise by resolution direct, and of such width, grade and style as the council shall direct.

(Ord. No. 22, § 3, 5-18-1902)

Sec. 54-92. - Crosswalks; construction specifications.

All crosswalks shall be built of such width, grade and style as the council shall direct and be constructed of cement similar to those now in use in the city.

(Ord. No. 22, § 4, 5-18-1902)

Sec. 54-93. - Expense of crosswalks and sidewalks.

All crosswalks required to be built by the council shall be constructed and maintained at the expense of the city. All sidewalks shall be constructed and maintained at the expense of the owner or occupant of the lot or premises adjacent to and abutting upon such sidewalk, and shall be a charge upon the lot or premises adjacent to and abutting upon the sidewalk, unless the council shall otherwise by resolution determine.

(Ord. No. 22, § 5, 5-18-1902)

Sec. 54-94. - Building sidewalk in prohibited manner.

If any person shall violate any of the provisions of this division by building any sidewalk in any other manner than as prescribed in this division or as the council may direct, the council may order the street commissioner to tear up such sidewalk and build the same as directed in this division, unless the council shall otherwise direct, and the expense incurred thereby may be assessed and collected the same as though such sidewalk had been built in the first case by the street commissioner.

(Ord. No. 22, § 6, 5-18-1902)

Sec. 54-95. - Notice to build sidewalk; refusal.

Whenever the council shall order any sidewalk to be built, it shall be the duty of the street commissioner to notify the owner, agent or occupant of the lot or premises in front of or adjacent to which such sidewalk is to be constructed, to build the same within 15 days from the date of service of such notice. If such owner, agent or occupant shall refuse or neglect to build such sidewalk within the time specified in the notice, it shall be the duty of the street commissioner to cause the same to be done in the manner provided in this division, and the expense thereof shall be a lien upon the lot or premises in front of or adjacent to which such sidewalk is required to be built. The street commissioner shall file with the city clerk copies of all such notices served by him, with a certificate endorsed therein and signed by him, showing the date and mode of service.

(Ord. No. 22, § 7, 5-18-1902)

Sec. 54-96. - Bill; refusal to pay.

If any sidewalk shall be built by the street commissioner under this division, he shall keep an accurate account of the same, and after such sidewalk shall have been built he shall present to the owner, agent or occupant of the lot or premises in front of or adjacent to which such sidewalk shall have been built a copy of the bill of such cost and demand payment thereof. In case such owner, agent or occupant shall neglect or refuse to pay the same within 15 days from the time of such demand, it shall be the duty of the street commissioner to report the fact of such neglect or refusal to the council.

(Ord. No. 22, § 8, 5-18-1902)

Sec. 54-97. - Collection of cost.

Upon receiving a report from the street commissioner, as described in section 54-96, the council shall proceed to collect the cost and expense therefor or such part thereof as the council shall have determined in the manner prescribed by section 4, chapter 21 of the Charter of the city.

(Ord. No. 22, § 9, 5-18-1902)

Secs. 54-98—54-120. - Reserved.

ARTICLE IV. - PARADES AND COMPETITIVE EVENTS

DIVISION 1. - GENERALLY

Sec. 54-121. - Definitions.

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

Competitive event means any race or other form of competition on city streets or sidewalks. It includes competition by foot, bicycle, horse or snowmobile.

Parade means any procession of five or more persons or vehicles in city streets. It includes noncompetitive bikeathons, walkathons and foot races, but does not include funerals or picketing at a single location.

(Ord. No. 273, §§ 1, 2, 5-5-1981)

Cross reference— Definitions generally, § 1-2.

Sec. 54-122. - Enforcement regulations.

The city council may adopt regulations to facilitate the enforcement of this article.

(Ord. No. 273, § 8, 5-5-1981)

Secs. 54-123—54-140. - Reserved.

DIVISION 2. - PERMIT

Sec. 54-141. - Required.

No person shall organize, promote, stage or sponsor any parade or competitive event in the city streets or sidewalks without first obtaining a permit from the city clerk or police department and without complying with the conditions of the permit.

(Ord. No. 273, § 3, 5-5-1981)

Sec. 54-142. - Application and issuance.

(a) Application for a parade or competitive event permit shall be made on forms prescribed by the city council. The forms may require information on the event's location, time, medical facilities, safety equipment and such other information as the city council may need to determine whether a permit should be issued. No such permit shall be issued except upon a showing that:

(1) The conduct of the parade or competitive event will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.

(2) The conduct of the parade or competitive event will not require the diversion of so great a number of police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection.

(3) The conduct of such parade or competitive event will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto.

(4) The concentration of persons, animals and vehicles at assembly points of the parade or competitive event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.

(5) The conduct of such parade or competitive event will not interfere with the movement of firefighting equipment en route to a fire.

(6) The conduct of the parade or competitive event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.

(7) The parade or competitive event is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

(b) City council approval shall be required for all parade or competitive event permits.

(c) No permit for a parade shall be refused because of the political or religious beliefs of the participants.

(Ord. No. 273, §§ 4, 6, 7, 5-5-1981)

Sec. 54-143. - Conditions.

The granting of a parade or competitive event permit may be conditioned upon proof of insurance, protecting the city, agreements to indemnify the city, liability waivers, and payment of the costs of providing needed police assistance or other forms of city assistance.

(Ord. No. 273, § 5, 5-5-1981)

Secs. 54-144—54-160. - Reserved.

ARTICLE V. - PROHIBITED ACTIVITIES ON PUBLIC STREETS, SIDEWALKS AND OTHER PUBLIC GROUNDS[3]

Footnotes:

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Cross reference— Sale of goods on public streets and sidewalks, Ch. 14, Art. IV.

Sec. 54-161. - Definitions.

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

Frisbee means any saucer shaped disc used for skimming into the air.

Inline skate means any shoe or bootlike device with wheels attached in a series of one-behind-the-other manner, also commonly known as rollerblades.

Roller skate means any shoelike device with wheels attached.

Scooter means any surfboardlike object with wheels attached and an attached vertical steering device which allows the scooter to be steered and maneuvered by the hands of the operator.

Skateboard means any surfboardlike object with wheels attached.

(Ord. No. 326, § 3, 6-7-1995; Ord. No. 393, § 3, 5-17-2001)

Cross reference— Definitions generally, § 1-2.

Sec. 54-162. - Declaration of purpose.

The purpose of this article is to ensure the safe and convenient use of the public highways, streets, alleys, sidewalks and footpaths of the city, recognizing the congestion on city streets and the presence of horses and horse-drawn vehicles and the susceptibility of such animals to being frightened and reacting in ways that are dangerous to the public health, safety and welfare.

(Ord. No. 326, § 2, 6-7-1995)

Sec. 54-163. - Penalty.

Any person violating any provision of this article shall be deemed responsible for a municipal civil infraction for which the fine shall be no less than $25.00 and no more than $50.00.

(Ord. No. 326, § 5, 6-7-1995)

Sec. 54-164. - Use of skateboards upon public streets or sidewalks.

No person shall ride, or in any manner use a skateboard on public streets or sidewalks within the city.

(Ord. No. 326, § 4(a), 6-7-1995)

Sec. 54-165. - Use of skates or scooters upon public streets or sidewalks; exceptions.

No person shall ride, or in any manner use roller skates, inline skates or scooters on any public street or sidewalk within the city except for the following:

(1) Roller skates, inline skates and scooters shall be allowed on Highway M-185 westerly of the intersection of Highway M-185 and Mahoney Avenue and easterly of a stone monument along Highway M-185 near the city water plant designating the boundary of the state park commission property. Both of these points shall be marked by a yellow line painted on Highway M-185.

(2) The use of roller skates, inline skates and scooters shall be allowed on the public streets and sidewalks shown and depicted on the assessor's plat of Harrisonville, such plat being recorded at liber 4 of plats, pages 84—89 of county records.

(Ord. No. 326, § 4(b), 6-7-1995; Ord. No. 393, § 4, 5-17-2001)

Sec. 54-166. - Use of frisbees.

(a) No person shall throw, cause to be thrown, or participate in any manner in the throwing of a frisbee on a public highway, street, alley, sidewalk or footpath.

(b) No person shall throw, cause to be thrown, or participate in any manner in the throwing of a frisbee in such a manner as to interfere with the lawful use of a public highway, street, alley, sidewalk or footpath.

(c) This section shall not be construed to prohibit the use of frisbees in other areas, provided that such use does not interfere with the lawful use of a public highway, street, alley, sidewalk or footpath.

(Ord. No. 326, § 4(c)—(e), 6-7-1995)

Sec. 54-167. - Reserved.

Editor's note— Ord. No. 524, § 1, adopted January 6, 2016, repealed § 54-167, which pertained to open containers—alcoholic beverages and derived from Ord. No. 450, § 2, 6-30-2010, eff. 7-20-2010.

Sec. 54-168. - Sale of goods on public streets and sidewalks.

(a) *Purpose.* The City of Mackinac Island is a unique community in ways that include its general prohibition of motor vehicles and the resulting alternative uses which include horses, horse drawn vehicles and bicycles. The city further experiences a seasonal influx of visitors causing significant increases on the use of the public streets and sidewalks by the aforementioned animals and vehicles, and by large numbers of pedestrians. The resulting conditions create congestion and safety concerns, as well as conflicting uses of the streets and sidewalks which require the exercise of discretion in regulating such uses for the health, safety and welfare of the community for its residents and visitors. Additionally, the sale of goods within the city is being effectively accomplished by businesses operating from private property. If not prohibited, the actions prohibited by this section would result in unfair competition and likely reduce property values and the tax base of the city.

(b) *Prohibition of merchandise sale.* Except as otherwise permitted in subsection (c), no person shall sell or offer to sell, or display or attempt to display for sale, goods, wares, produce, food, drinks, or merchandise within the right-of-way of any public street or sidewalk within the City of Mackinac Island.

(c) *Application.*

a. Charitable non-profit organizations or groups may apply for a permit to sell or offer to sell, or display or attempt to display for sale, goods, wares, produce, food, drinks, or merchandise within the right-of-way of any public street or sidewalk within the City of Mackinac Island. Application forms will be available at the office of the city clerk. A completed application shall be submitted to the city clerk for presentation to the city council.

b. Approval and issuance of any such permit shall be determined by the city council, in consideration of the location of the proposed vending, the time and date of the proposed vending, the number of other permittees vending at the proposed time and location and the overall impact the vending will have on other uses of the public street or sidewalk. In the event the mayor determines that action is required on any application sooner than can be accommodated by the city council, said mayor is authorized to approve and cause issuance of the permit.

(d) *Violation.* A violation of any provision of this section shall be a civil infraction. A violation shall also be considered a nuisance per se.

(Ord. No. 499, §§ 1—4, 6-10-2015, eff. 6-30-2015)

Secs. 54-169—54-190. - Reserved.

ARTICLE VI. - SIDEWALK OBSTRUCTION

DIVISION 1. - GENERALLY

Sec. 54-191. - Purpose.

The city experiences an annual influx of summer tourists creating significant increases in the vehicular and pedestrian traffic on the public streets and sidewalks in the downtown area of the city. Such right-of-ways must be kept free of obstructions to allow a flow of traffic for the safety and convenience of the people. The city further recognizes that sidewalk obstructions detract from the appearance necessary to enhance the city's reputation as a tourism destination. Therefore, it is intended that this article prohibit the placement of all objects on public ways that have been heretofore commonly placed temporarily on the public street or sidewalk by businesses, such as card racks, sandwich boards, bread crates, boxed food and canned goods, beer can containers, beer bottle containers, packaged liquor boxes, bags and boxes of returnable cans and bottles, merchandise boxes, push carts, dollies, wheelbarrows, luggage carts, bike wagons, benches, chairs, seats, tables, placard stands, flower pots, propane cylinders and similar objects.

(Ord. No. 412, § 1, 6-25-2003)

Sec. 54-192. - Obstructions.

Unless permitted pursuant to section 54-193 of this article, or specifically allowed by other city ordinance, no stationary object shall be placed or left upon a public street or public sidewalk, or any portion thereof, for any duration of time, whether temporary or permanent.

(Ord. No. 412, § 2, 6-25-2003)

Sec. 54-193. - Permits for temporary placement.

Permits for temporary placement of items other than those specifically referenced in section 54-191 of this article on public streets or sidewalks may be granted by the city council upon receipt of a completed application form, to be approved by the city council or the city administrator and available through the city clerk's office, together with the requisite fee. Issuance of permits will be based, in general, upon matters of reasonable necessity, matters of health, safety and welfare. Specific consideration will be given to the following:

(1) The purpose of the proposed object/obstruction.

(2) The specific location of the proposed object/obstruction.

(3) The specific time and date that the proposed object/obstruction will be on the city street or sidewalk.

(4) The impact on the flow of traffic.

(5) Aesthetics.

(Ord. No. 412, § 3, 6-25-2003)

Sec. 54-194. - Penalties.

Any person violating any provision of this article shall be deemed responsible for a municipal civil infraction for which the fine shall be not less than $50.00 nor more than $500.00. Each day an unauthorized obstruction exists will constitute a separate offense.

(Ord. No. 412, § 4, 6-25-2003)

Secs. 54-195—54-230. - Reserved.

DIVISION 2. - OVERHANG PERMITS

Sec. 54-231. - Purpose.

The city has a history of allowing seasonal and permanent overhangs in front of commercial establishments on Main Street and has the desire and objective to continue such allowance for the benefit of pedestrians and the general economic well being of the community. The city also desires to preserve its public right-of-way for all intended purposes. This division is intended to further both these objectives by permitting overhangs pursuant to a process that provides necessary conditions and uniform issuance.

(Ord. No. 415, § 1, 11-12-2003)

Sec. 54-232. - Permit required.

No object or structure extending from private property over any public right-of-way within the city shall be allowed unless specifically permitted by the city.

(Ord. No. 415, § 2, 11-12-2003)

Sec. 54-233. - Overhangs permitted in specific area.

Structures extending from private property over public right-of-ways, hereafter referred to as overhangs, may be permitted by the city for commercial establishments on Main Street between Fort Street and Windermere Point. The procedure to obtain such a permit is as follows:

(1) An application will be available through the city clerk's office to obtain a use permit allowing an overhang.

(2) The application shall be signed by the owner of the real estate from which the overhang extends.

(3) The application shall provide sufficient information to determine whether the conditions set forth in section 26-234 are satisfied.

(Ord. No. 415, § 3, 11-12-2003)

Sec. 54-234. - Terms and conditions of use permit.

A use permit allowing an overhang where allowed in this division shall comply with the following conditions and requirements.

(1) The permit fee established by the city council shall be paid prior to issuance of the permit.

(2) The overhang will not project beyond the back edge of the curb.

(3) The structure will be limited to that of an overhang, awning or other similar structure extending over the public right-of-way. Enclosed or partially enclosed structures such as vestibules are specifically prohibited.

(4) The overhang must meet and receive architectural approval consistent with the city zoning ordinance.

(5) The structure must be approved by the city engineer for safety and structural integrity.

(6) Any portion of the overhang, and any items attached thereto, must be placed such that there is a minimum clearance height of eight feet from the lowest point of the overhang or attached item and the highest point of the sidewalk beneath the overhang.

(7) The overhang shall not be used for any use other than providing cover and protection to the right-of-way area beneath the overhang. The area above the overhang shall not be utilized for any other purpose and there shall be no placement of objects, or use by people, above the overhang.

(8) All overhangs must have sufficient lighting under the structure and the lighting must be kept on during the entire year between one hour before dusk and one hour after dawn. All lighting must be incandescent, have architectural approval, provide sufficient lighting for safety and not be likely to negatively impact neighboring properties.

(9) No sign shall be placed on any portion of the overhang except those that are otherwise in compliance with the city sign ordinance and placed underneath the overhang or placed flat on the face of its perimeter. However, signs consisting of lettering on the fabric of a temporary awning, if in compliance with the city's sign ordinance, will be allowed.

(10) The permit will be for a period of 12 months and will be revocable at any time during that 12 months if the city, in its sole discretion, determines that it is necessary to remove or cause damage to all, or part, of the overhang to make repairs or otherwise utilize the right-of-way for the good of the public. Any cost necessary to repair such damage caused by the city will be born by the permitee.

(11) The permitee will indemnify the city for any claim of property damage, personal injury or death relating to the placement, use or maintenance of the overhang structure.

(Ord. No. 415, § 4, 11-12-2003)

Sec. 54-235. - Issuance of permit.

Any permit issued pursuant to this division will be conditioned upon and subject to all provisions stated herein.

(Ord. No. 415, § 5, 11-12-2003)

Sec. 54-236. - Revocation.

In the event changes occur to any aspect of the overhang after issuance of the permit that render the overhang non-compliant with the terms and provisions of this division shall be grounds for revocation of the permit. In such case the city shall issue a written notice of intent to revoke permit which shall be served on the permitee by ordinary mail addressed to the address provided on the permit application. Said notice will advise the permitee of the reason for the intent to vacate in a notice of hearing before the city council at which time the permit will be revoked if the council finds that non-compliant conditions exist. Upon revocation of the permit the permitee agrees to remove the overhang and restore the right-of-way to its pre-overhang condition within 30 days. Failure to do so by the permitee will allow the city to remove the overhang and the permitee shall be responsible to reimburse the city for said expense.

(Ord. No. 415, § 6, 11-12-2003)

Sec. 54-237. - Existing overhang structures.

Existing permanent overhangs will be required to meet all terms and conditions required by this division except those that would require structural alteration. Provided, however, in the event of damage, destruction or deterioration, from any cause, the structure requires repair in excess of 50 percent of its replacement cost, as determined by the city, compliance with all standards of this division shall be required, including those requiring structural alteration.

(Ord. No. 415, § 7, 11-12-2003)

Sec. 54-238. - Penalty.

A person violating the provisions of this division shall be guilty of a civil infraction punishable by a fine of not more than $500.00. Each day a violation exists shall be considered a separate offense.

(Ord. No. 415, § 8, 11-12-2003)

Secs. 54-239—54-350. - Reserved.

ARTICLE VII. - PRIVATE STREETS

Sec. 54-351. - Definitions.

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

Lot means any subdivision lot, metes and bounds lot or site condominium unit, which has been recorded.

Private driveway means an improved or unimproved path, road or ground surface extending from a public street or private street, which provides vehicular ingress and egress to no more than two improved lots, parcels or principal buildings.

Private street means a privately owned (or controlled) and maintained drive, street, road, lane, or any improved or unimproved surface, not dedicated to the City of Mackinac Island or the Mackinac Island State Park as a public street, which provides the primary means of vehicular ingress and egress from a public street or two or more dwelling units, lots, parcels or principal buildings, whether created by a private right-of-way, easement, or other device. A private street shall also include the following:

a. An access other than a private driveway or public street.

b. Where two or more lots or dwellings share or utilize a common access drive or device, even if each lot has the required frontage on a public street.

c. Any and all extensions, additions, or branches of or to a private street shall be considered part of the private street that abuts the public street.

(Ord. No. 495, § 1(1.01—1.03), 6-10-2015, eff. 6-30-2015)

Sec. 54-352. - General standards.

The following standards are required for all private streets:

All private streets shall be improved to at least 16 feet wide where possible.

The area in which the private street is to be located shall have a minimum cleared width of 16 feet, which clearing shall be maintained at all times.

The private street shall be constructed with such stormwater drainage easements, stormwater runoff, culverts, and drainage contours as is reasonably required by the City Streets Administrator to ensure adequate drainage and runoff.

If a private street crosses a natural drainage course, stream or other natural body of water, the method of crossing (bridge, culvert or other structure) must meet such specifications as may be reasonably required by the city streets administrator.

Each private street shall be given a street name that is not the same as any other street name in the city, as determined by the Mackinac Island City Council. A visible street sign, which can be seen easily in an emergency at all times, and constructed in a manner and style approved by the Mackinac Island City Council. The signs shall be paid for, posted and thereafter maintained by the property owner's association, property owners or developer.

The street address numbers for all improved lots accessed from a private road shall conform to City of Mackinac Island Ordinance No. 428, as amended.

(Ord. No. 495, § 2, 6-10-2015, eff. 6-30-2015)

Sec. 54-353. - Maintenance and snow removal.

The owner(s) shall be responsible for maintaining private streets at all times to the standards required by this article and all other applicable laws. Such reasonable maintenance shall include, but not be limited to:

(1) Plowing snow and removing ice in the winter so that firefighting and emergency vehicles can access all portions of the private street at all times;

(2) Trimming of trees, shrubs and grasses to maintain clear passage of emergency vehicles to 16 feet wide and 13.5 feet high;

(3) Clear access to fire hydrants three feet in all directions;

(4) Visibility and quality of all street signs required by this article;

(5) Surface condition of the street suitable for emergency vehicles and that potholes, washouts and other deficiencies that may arise are repaired in a timely manner.

(Ord. No. 495, § 3, 6-10-2015, eff. 6-30-2015)

Sec. 54-354. - Penalty.

Any person who violates this article shall be guilty of a civil infraction and liable for a fine not to exceed $500.00.

(Ord. No. 495, § 4, 6-10-2015, eff. 6-30-2015)

Chapter 58 - SUBDIVISIONS AND OTHER DIVISIONS OF LAND[1]

Footnotes:

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Charter reference— Platting required, ch. XXXI, § 7.

Cross reference— Any ordinance dedicating, accepting or vacating any plat saved from repeal, § 1-11(12); buildings and building regulations, ch. 10; environment, ch. 26; streets, sidewalks and other public places, ch. 54; utilities, ch. 70; waterways, ch. 74; zoning, app. A; special land uses, app. A, § 19.01 et seq.

State Law reference— Land Division Act, MCL 560.101 et seq.

ARTICLE I. - IN GENERAL

Secs. 58-1—58-30. - Reserved.

ARTICLE II. - SUBDIVISIONS

Sec. 58-31. - Minimum lot size.

The minimum lot size for all unplatted land shall be three acres.

(Ord. No. 271, § 3, 5-14-1980)

Sec. 58-32. - Division of platted lot.

No platted lot within the city shall be divided without prior approval of the city council.

(Ord. No. 340, § 3, 7-2-1997)

Sec. 58-33. - Impact statement.

The proprietor must submit to the city council, with the preliminary plat, a statement describing the impact which the subdivision would have on the historic, environmental and scenic character of the city. The statement shall include:

(1) The probable impact of the subdivision on the city's historic, environmental and scenic character;

(2) The probable unavoidable adverse effects of the subdivision on the city's historic, environmental and scenic character; and

(3) An evaluation of alternatives which might avoid or lessen any adverse effects of the subdivision.

(Ord. No. 271, § 4, 5-14-1980)

Sec. 58-34. - Character of city.

The natural and historic features of the city must be preserved wherever possible. No final plat shall be approved by the city council unless the proprietor demonstrates that it will not have an unreasonable adverse impact on the historic, environmental and scenic character of the city.

(Ord. No. 271, § 5, 5-14-1980)

Sec. 58-35. - Building difficulties.

The proprietor must explain to land buyers the difficulties of building in the city where motor vehicles are not permitted.

(Ord. No. 271, § 6, 5-14-1980)

Sec. 58-36. - Buffer.

The city council may require that landscape plantings or other suitable landscape treatment be created or preserved in order to provide a buffer between the subdivision and adjacent areas if necessary or desirable to maintain the character of the adjacent areas.

(Ord. No. 271, § 7, 5-14-1980)

Secs. 58-37—58-70. - Reserved.

ARTICLE III. - LAND DIVISIONS[2]

Footnotes:

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State Law reference— Divisions, MCL 560.108 et seq.

DIVISION 1. - GENERALLY

Sec. 58-71. - Definitions.

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

Applicant means a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

Division means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of sections 108 and 109 of the Land Division Act (MCL 560.108, 560.109). The term "division" does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Land Division Act (MCL 560.101 et seq.) or the requirements of an applicable local ordinance.

Exempt split and *exempt division* mean the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns that does not result in one or more parcels of less than 40 acres or the equivalent. For a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel, any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Land Division Act (MCL 560.101 et seq.) or the requirements of an applicable local ordinance.

Forty acres or the equivalent means either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

Governing body means the city council.

(Ord. No. 338, § 3, 8-1-1997)

Cross reference— Definitions generally, § 1-2.

Secs. 58-72—58-90. - Reserved.

DIVISION 2. - APPROVAL

Sec. 58-91. - Prior approval requirements for land divisions.

Land in the city shall not be divided without the prior review and approval of the city assessor, or other official designated by the governing body, in accordance with this division and the Land Division Act (MCL 560.101 et seq.); provided that the following shall be exempt from this requirement:

(1) A parcel proposed for subdivision through a recorded plat pursuant to article II of this chapter and the Land Division Act (MCL 560.101 et seq.).

(2) A lot in a recorded plat proposed to be divided in accordance with article II of this chapter and the Land Division Act (MCL 560.101 et seq.).

(3) An exempt split.

(Ord. No. 338, § 4, 8-1-1997)

Sec. 58-92. - Application for land division approval.

An applicant shall file all of the following with the city clerk or other official designated by the governing body for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

(1) A completed application form on such form as may be provided by the city.

(2) Proof of fee ownership of the land proposed to be divided.

(3) A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of Public Act No. 132 of 1970 (MCL 54.211 et seq.) by a land surveyor licensed by the state, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division, the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

   a. In lieu of such survey map, at the applicant's option, the applicant may waive the 30-day statutory requirement for a decision on the application until such survey map and legal description are filed with the municipality, and submit a tentative preliminary parcel map drawn to scale of not less than that provided for an application form including an accurate legal description of each proposed division, and showing the boundary lines, dimensions and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval and/or denial by the locally designated official prior to a final application under this section.

   b. The governing body of the city or its designated agent delegated such authority by the city, may waive the survey map requirement where the tentative parcel map, described in subsection (3)a of this section, is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the division, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all the proposed divisions, however, shall at all times be required.

(4) Proof that all standards of the Land Division Act (MCL 560.101 et seq.) and this division have been met.

(5) The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997.

(6) Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.

(7) If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

(8) Unless a division creates a parcel which is acknowledged and declared to be not buildable under section 58-95, all divisions shall result in buildable parcels containing sufficient buildable area outside of unbuildable wetlands, floodplains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor area, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of buildings and structures on the site.

(9) The fee as may from time to time be established by resolution of the governing body of the city for land division pursuant to this division to cover the costs of review of the application and administration of this division and the Land Division Act (MCL 560.101 et seq.).

(Ord. No. 338, § 5, 8-1-1997)

Sec. 58-93. - Procedure for review of applications for land division approval.

(a) Upon request of a land division application package, the city clerk or other official designated by the governing body shall forthwith submit the same to the city assessor or other designated official for decision. The city assessor or other designee shall approve, approve with reasonable conditions to ensure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 30 days after receipt of the application package conforming to this division's requirements, and shall promptly notify the applicant of the decisions and the reasons for any denial. If the application package does not conform to this division's requirements and the Land Division Act (MCL 560.101 et seq.), the assessor or other designee shall return the same to the applicant for completion and refiling in accordance with this division and the Land Division Act (MCL 560.101 et seq.).

(b) Any person or entity aggrieved by the decision of the assessor or designee for a land division application package may, within 30 days of such decision, appeal the decision to the government board of the city or other such board or person designated by the city which shall consider and resolve such appeal by a majority vote of the city or by the designee at its next regular meeting or session affording sufficient time for a 20-day written notice to the applicant (and appellant where other than the applicant) of the time and date of such meeting and appellate hearing.

(c) A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless during such period a document is recorded with the county register of deeds office and filed with the city clerk or other designated official accomplishing the approved division or transfer.

(d) The city assessor or his designee shall maintain an official record of all approved and accomplished land divisions or transfers.

(Ord. No. 338, § 6, 8-1-1997)

Sec. 58-94. - Standards for approval of land divisions.

A proposed land division shall be approved if the following criteria are met:

(1) All parcels to be created by the proposed land division fully comply with the applicable lot (parcel), yard and area requirements of the applicable zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures.

(2) The proposed land division complys with all requirements of the Land Division Act (MCL 560.101 et seq.) and this division.

(3) All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this division. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create four or more parcels.

(4) The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or nonbuildable parcels under section 58-95 and parcels added to contiguous parcels that result in all involved parcels complying with such ratio.

a. The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

b. The permissible minimum width shall be as defined in the applicable zoning ordinance or, in the absence thereof, as specified in subsection (5) of this section.

(5) In the absence of applicable zoning or other ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum standards:

a. A minimum road frontage of 100 feet on a public road or city approved private road.

b. A minimum width of 100 feet as measured on a line parallel to the abutting road right-of-way at the applicable front setback line.

(6) In the absence of applicable zoning or other ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum standards:

a. Where accessibility is to be provided by a proposed new dedicated public road, proof that the city has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.

b. Where accessibility of vehicle traffic and for utilities is permitted through other than dedicated and accepted public roads or easements, such accessibility shall comply with the following:

1. Where such private road or easement extends for more than 660 feet from a dedicated public road, or is serving or intended to serve more than one separate parcel, unit or ownership, it shall be not less than 66 feet in right-of-way width, 24 feet in improved roadbed width with at least three feet of improved shoulder width on each side and adequate drainage ditches and necessary culverts on both sides to accumulate and contain surface waters from the road area. It shall further be improved with not less than six inches of a processed and stabilized gravel base over six inches of granular soil, have a grade of not more than seven percent, and if dead-ended, shall have a cul-de-sac with a radius of not less than 50 feet of improved roadbed for the accommodation of emergency, commercial and other vehicles.

2. Where the private road or easement is 660 feet or less in length, and is serving or intended to serve not more than four separate parcels, units or ownerships, it shall not be less than 40 feet in right-of-way width, 20 feet in improved roadbed width with at least two feet of improved shoulder width on each side, and adequate drainage ditches on both sides with necessary culverts to accommodate and contain surface waters from the road area. It shall further be improved with processed and stabilized gravel and granular soil, have a grade of not more than seven percent, and a cul-de-sac where dead-ended as specified in subsection (6)b1 of this section. If such private road or easement is serving or intended to serve more than four separate parcels, units or ownerships, the right-of-way and development standards set forth in subsection (6)b1 of this section apply.

3. If accessibility is by a private road or easement, a document acceptable to the municipality shall be recorded with the county register of deeds and filed with the assessor or designee specifying the method of private financing of all maintenance, improvements, and snow removal, the apportionment of these costs among those benefited, and the right of the municipality to assess such costs against those properties benefited, plus 25 percent administrative fee, and to perform such improvements in the event of failure of those benefited to privately perform these duties for the health, safety and general welfare of the area.
4. Any intersection between private and public roads shall contain a clear vision triangular area of not less than two feet along each right-of-way line as measured from the intersecting right-of-way lines.
5. No private road or easement shall extend for more than 1,000 feet from a public road.
6. No private road shall serve more than 25 separate parcels.

(Ord. No. 338, § 7, 8-1-1997)

Sec. 58-95. - Allowance for approval of other land divisions.

Notwithstanding disqualification from approval pursuant to this division, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable zoning ordinance or this division may be approved in any of the following circumstances:

(1) Where the applicant executes and records an affidavit or deed restriction with the county register of deeds in a form acceptable to the city, designating the parcel as not buildable. Any such parcel shall also be designated as not buildable in the municipal records, and shall not thereafter be the subject of a request to the zoning board of appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or aboveground structure exceeding four feet in height and shall not be used for human habitation.

(2) Where, in circumstances not covered in subsection (1) of this section, the zoning board of appeals has, previous to this division, granted a variance from the lot, yard, depth to width ratio, frontage and/or area requirements with which the parcel failed to comply.

(3) Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this division, any applicable zoning ordinance, or the Land Division Act (MCL 560.101 et seq.).

(Ord. No. 338, § 8, 8-1-1997)

Sec. 58-96. - Consequences of noncompliance with land division approval requirement.

Any parcel created in noncompliance with this division shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll.

(Ord. No. 338, § 9, 8-1-1997)

Chapter 62 - TELECOMMUNICATIONS[1]

Footnotes:

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Cross reference— Businesses, ch. 14; streets, sidewalks and other public places, ch. 54; utilities, ch. 70; waterways, ch. 74; zoning, app. A.

ARTICLE I. - IN GENERAL

Secs. 62-1—62-30. - Reserved.

ARTICLE II. - CABLE TELEVISION SERVICE

DIVISION 1. - GENERALLY

Sec. 62-31. - Definitions.

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

Affiliate, when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

Basic cable service means any service tier which includes the retransmission of local television broadcast signals.

Cable channel or *channel* means the portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel (as television channel is defined by the Federal Communication Commission by regulation).

Cable operator means any group of persons who:

(1) Provide cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system; or

(2) Otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

Cable service means:

(1) The one-way transmission to subscribers of:

a. Video programming; or

b. Other programming service.

(2) Subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

Cable system means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the community.

Franchise means an initial authorization, or renewal thereof, issued by the franchising authority which authorizes the construction or operation of a cable system.

Franchisee means the person granted a cable television franchise for the city, pursuant to this article.

Franchise fee means the fee imposed by the franchising authority on a cable operator awarded a franchise pursuant to this article. The term "franchise fee" does not include:

(1) Any tax, fee or assessment of general applicability;

(2) Capital costs required to be incurred by the cable operator for public, educational or governmental access facilities;

(3) Requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages; or

(4) Any fee imposed pursuant to federal copyright law.

Franchising authority means the city, the city council or its designee.

Good cause may include, but is not necessarily limited to, delays or interruptions, if shown to be reasonably beyond the control of the cable operator, due to necessary utility changes or rearrangements, fulfillments of governmental or regulatory restrictions or requirements, litigation where a specified injunctive relief prohibiting or limiting construction is ordered by a court of competent jurisdiction, labor strikes, national emergency, war declared or undeclared causing material shortages, uncontrollable material shortages, fire, earthquake or elements and acts of God.

Other programming service means information that a cable operator makes available to all subscribers generally.

Public, educational or governmental access facilities means:

(1) Channel capacity designed for public, educational or governmental use; and

(2) Facilities and equipment for the use of such channel capacity.

Service tier means a category of cable service or other services provided by a cable operator for which a separate rate is charged by the cable operator.

Subscriber means a member of the general public who receives broadcast programming distributed by a cable television system and does not further distribute it.

Video programming means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

(Ord. No. 298, § III, 11-21-1989)

Cross reference— Definitions generally, § 1-2.

Secs. 62-32—62-50. - Reserved.

DIVISION 2. - FRANCHISE

Sec. 62-51. - Required.

(a) No person shall construct, install, maintain or operate a cable service or cable system in the city, nor acquire ownership or control of a cable service or cable system in the city without having first obtained a franchise from the city in the form of a franchise agreement between the city and the franchisee, which shall include, at a minimum, compliance with this article.

(b) No person shall use, occupy or traverse the city streets, alleys, lanes, avenues, boulevards, sidewalks, bridges, viaducts, rights-of-way or other public place or public way in the city, whether on, above or under the surface of the ground, for the purpose of installing, constructing, maintaining or operating a cable system or facilities therefore or for the purpose of furnishing cable service without such person having first obtained a franchise from the city, which shall include, at a minimum, compliance with all the specifications of this article.

(c) Any franchise shall be construed to authorize the construction of a cable system over public rights-of-way, and through easements, which are within the area to be served by the cable system and which have been dedicated for compatible uses. In using the public rights-of-way and easements the cable operator shall ensure that the safety, functioning and appearance of the property, and that the convenience and safety of other persons are not adversely affected by the installation or construction

of facilities necessary for a cable system; that the cost of the installation, construction, operation or removal of such facilities be borne by the cable operator or subscriber, or a combination of both; and that the owner of the property be justly compensated by the cable operator for any damages caused by the installation, construction, operation or removal of such facilities by the cable operator.

(d) The specifications required by this division are minimum requirements of a franchise agreement. Additional requirements including, but not limited to, rates, charges, deposits, specifications regarding required interconnections, studios or other signal originating facilities, number of channels to be equipped and available for immediate use upon initial construction of the system, use of channels by the city, schools and other educational institutions, quality of community access, availability of equipment to users, required establishment and expansion of service area, and other specifications or requirements of a cable operator franchise or system may be established in the franchise agreement.

(Ord. No. 298, § IV, 11-21-1989)

Sec. 62-52. - Applications; contents, fees, issuance, transfer.

(a) The application for a franchise to install, construct, maintain or operate a cable system in the city or to furnish cable service shall be made in writing to the franchising authority in such form as may be prescribed; shall include a description and map of the territory within the city in which the cable system is to be installed, constructed, maintained or operated or cable service is to be provided; shall be accompanied by a showing of the applicant's legal, financial, technical and other qualifications to be a franchisee; and shall contain:

(1) In establishing legal qualifications, if other than a single individual, a certified copy of the partnership agreement, articles of association, or articles of incorporation, as the case may be, and also, if a foreign corporation, a certified copy of its authorization to do business in the state.

(2) In establishing financial qualifications, a copy of the applicant's current balance sheet as of a date not more than 60 days prior to the date of the application shall be furnished; if a loan or other credit agreement is to be consummated to finance the establishment and operation of the proposed cable system or cable service, full particulars of the arrangement shall be disclosed, including the identity of the creditor.

(3) In establishing technical qualifications, a statement of the arrangements to ensure the rendition of good service, including the type and kind of facilities to be employed, the technical standards to be followed, the maintenance and repair facilities to be used, the number and description of technical personnel, including copies of any contracts, agreements or arrangements relating to any of the above.

(4) A statement as to the location of the antenna site or sites and the location of any places of business in the city.

(5) A statement, as to any affiliates engaged in providing cable service, or interlocking directorships or ownership held by any owners, officers or directors of the applicant with any other business engaged in providing cable communication service.

(6) A detailed statement regarding the arrangements and timetable by which the applicant proposes to construct its cable system, including detailed descriptions of portions of the city to be served by the system within one year, 18 months, two years, 30 months and three years of the granting of a franchise pursuant to this division.

(7) The applicant shall furnish information regarding the video programming, the other programming service, and the public, educational or governmental service it shall propose to provide:

a. The off air signals to be carried initially.

b. The number of channels offered and the potential for diversified services to local government, educational institutions, community groups, householders and local commercial interest.

c. Projected development of customer and community services, indicating priorities in development and estimated time schedules therefor.

(8) Cost estimates of development, installation and maintenance of a system, which item shall be deemed to include, but is not limited to, the proposed acquisition of the system where approval of a transfer of the franchise has been requested.

(9) Revenue forecast for the next five years of service.

(10) A proposed schedule of rates for installation charges, monthly service fees and relocation charges.

(11) Such other information as the city may request.

The application shall be accompanied by a fee in the amount established by ordinance.

(b) Upon the filing of the application and the payment of the fee, the franchising authority shall consider the application and may request such additional information as it may deem necessary to establish the legal, financial, technical and other qualifications of the applicant to provide a cable system or cable service in the city. Any of the required information listed in subsection (a) of this section may be waived by the city.

(c) If the franchising authority determines that the applicant possesses the necessary qualifications, legal, financial, technical and otherwise, to reasonably ensure the applicant's ability to satisfactorily install, construct, maintain or operate a cable system or to furnish cable service to the public in the city, the franchising authority may issue the applicant a nonexclusive franchise in the city, provided that no franchise shall be issued:

(1) Until the franchise application has been on file and available for public inspection in the office of the city clerk for at least 30 days; and

(2) Until the city council has, thereafter, held a public hearing on the application after due notice of the time and place of such hearing has been given to the public.

(d) In determining whether a franchise shall be issued, the franchising authority shall take into consideration, among other things, the technical qualifications of the applicant; the financial responsibility of the applicant; the ability of the applicant to perform efficiently the service for which the franchise is requested, including the prior experience, if any, of the applicant in providing cable systems or furnishing cable service; the proposed rate schedule; the nature and scope of the applicant's proposed system; and the timetables for development of the applicant's proposed system.

(e) No franchise granted by the franchising authority may be sold, transferred or assigned unless such transaction is first approved by the franchising authority after receipt of a written application containing the same information as to the transferee as would be required of an original applicant. Prior approval of the franchising authority shall be required where ownership or control of more than 25 percent of the right of control of the cable operator is acquired by a person or a group of persons acting in concert, none of whom already control or own 25 percent or more of such right of control, singularly or collectively. No franchise granted under this section may be sold, transferred or assigned nor may more than 25 percent of the right of control of the cable operator be transferred to a person or group of persons acting in concert, none of whom already own or control 25 percent or more of such right of control, singularly or collectively, until such sale, transfer or assignment of the franchise or a transfer of right of control shall first have been offered to the city or to a person approved by the franchising authority. Such offer shall be made at a price not greater than, and on terms equivalent to, that made to the offeror or by a bona fide bidder for the franchise or right of control. Any transfer will comply, at a minimum, with the conditions set forth at 47 USC 574, concerning fair market value. The city or the person approved by the franchising authority shall accept or reject the offer within 90 days. This provision shall not be deemed to restrict the transfer by bequest or descent of stock of the cable operator.

(Ord. No. 298, § V, 11-21-1989)

Sec. 62-53. - Nonexclusive; term; form.

Any franchise issued pursuant to this division shall be a nonexclusive franchise for a term of years, not to exceed 15 years, as the franchising authority may approve and shall be issued in a form to be determined by the franchising authority.

(Ord. No. 298, § VI, 11-21-1989)

Sec. 62-54. - Fees; records.

(a) During the term of any franchise granted pursuant to this division, the person granted such franchise shall pay to the city, for the use of its streets, public places and other facilities as well as the maintenance, improvements and supervision thereof, and for the regulation activities required by virtue of the franchise, an annual franchise fee in an amount equal to five percent of the annual local gross subscriber revenues. Local gross subscriber revenues are those gross revenues of the franchisee from subscribers within the city. This fee may be reduced or waived by the city when the franchise is granted. Local gross subscriber revenues include installation fees, disconnect and reconnect fees, and fees for regular cable benefits including the transmission of broadcast signals and access and origination channels. Local gross subscriber revenues include local gross revenues from pay TV in excess of fair market value royalty paid by the franchisee therefore, and local lease channel revenues. To the extent that the cable operator's books of account do not reflect the source of any gross subscriber revenue, that portion of gross subscriber revenue allocable to the city shall be based on the ratio of the number of subscribers in the city to the number of subscribers outside the city. Sales tax or other taxes levied directly on a per subscription basis and collected by the cable operator shall be deducted from the local gross revenues before computations of the fee due to the city is made. The city shall be furnished with a statement with each payment, certified as correct by the cable operator, and an annual statement for the entire year, prepared by a certified public accountant. All statements shall reflect the total amount of local gross subscriber revenues and the above charges, deductions and computations for the period covered by the statement.

(b) The franchise fee shall be paid annually during the existence of the franchise, or before a date 30 days subsequent to each anniversary date of the franchise, at the office of the city clerk during its regular business hours. If that office is closed on the 30th day, then payment may be made during the regular business hours on the next day following on which the office is open for regular business.

(c) The city shall have the right to inspect at all reasonable times the customer records of any person granted a franchise from which its franchise fee payments are computed, and shall have the right of audit and recomputation of any and all franchise fees paid. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable as a franchise fee under this division or the performance of any other obligation under this division. Inspection of customer records is subject to 47 USC 551 which protects subscriber privacy.

(Ord. No. 298, § VII, 11-21-1989)

Sec. 62-55. - Construction of facilities; right to use streets; restrictions; disposal; duties.

(a) A franchise granted pursuant to this division shall confer upon the cable operator the nonexclusive right to erect, install, construct, reconstruct, replace, remove, repair, maintain and operate in or upon, under, above and across the streets, avenues, sidewalks, bridges and other public ways, easements and rights-of-way, as existing as of the date of the franchise agreement and all subsequent extensions and additions, in and belonging to the city, all necessary towers, poles, wires, cables, coaxial cables, transformers, amplifiers, underground conduits, manholes and other television and/or radio conductors, equipment and fixtures for the installation, construction, maintenance and operation of a cable system (including audio, video and radio signals) or the furnishing of a cable service.

(b) Prior to erection or installation of any towers, poles, guys, anchors, underground conduits, manholes or fixtures for use in connection with the installation, construction, maintenance or operation of a cable system under a franchise granted pursuant to this division, the franchisee desiring to erect or install such facilities for use in connection with its cable system shall first submit to the franchising authority, for review and approval, a concise description of the facilities proposed to be erected or installed, including engineering drawings, if requested or required, together with a map indicating the proposed location of the facilities. No erection or installation of any tower, pole, guy, anchor, underground conduit, manhole or fixture for use in a cable system shall be commenced by any person until it has been approved by the franchising authority, provided that such approval shall not be unreasonably withheld.

(c) Any person accepting a franchise pursuant to this division and erecting or installing towers or poles shall, upon written request of the city, grant the city reasonable attachment space or spaces upon such towers or poles without a rental charge for the attachment of wire or cable owned and used by the city. The city shall pay any costs incurred by the franchisee in providing attachment space to the city, including all necessary costs of rearrangement of the franchisee's wires, cables or equipment and tower or pole replacement costs for a larger tower or pole, if required.

(d) Upon expiration, termination or revocation of any franchise granted pursuant to this division, or should any person wish otherwise to dispose of any tower or pole erected or installed for use in connection with a cable system, the city retains the first right and option to purchase and place such towers or poles as it may require or such portion of the system for the fair market value, consistent with 47 USC 547. The city shall be under no obligation to purchase any part of a cable system upon the expiration, termination or revocation for cause of any franchise granted pursuant to this division. Further, upon the expiration, termination or revocation for cause of any franchise granted pursuant to this division, should the city determine that it does not desire to purchase the system or any part of the system, the franchisee shall have a period of six months from the date of expiration, termination or revocation to remove its towers, poles, wires, cables or other facilities from the streets, alleys, public rights-of-way or public places. Provided, that the franchisee shall not disturb any underground conduit, manholes or other facilities constructed under ground. At the expiration of the six-month period, any property not removed by the franchisee shall become the property of the city to do with as it may choose. Any cost to the city in removing the property from the streets, alleys, public rights-of-way or public places shall be claimed against the franchise under the performance bond required under section 62-56(a).

(e) In areas or portions of the city where transmission or distribution facilities of public utilities providing telephone service and electric service are under ground, or may be placed under ground when installed, any person granting a franchise pursuant to this division may likewise install, construct, maintain and operate its transmission and distribution facilities in like manner under ground to the maximum extent feasible and permitted by existing technology and conditions, subject to the approval of the franchising authority as provided in subsection (b) of this section.

(f) All construction, installation, maintenance and operation of any cable system or any facilities employed in connection with a cable system shall be in compliance with the provisions of the state construction code, as enforced by the city, and the standards issued by the Federal Communications Commission, published in 47 CFR 76, and elsewhere, or other federal or state regulatory agency rules that may be applicable. Every cable system installed, constructed, maintained or operated in the city shall be so designed, constructed, installed, maintained and operated so as not to endanger or interfere with the safety of persons or property in the city.

(g) Any opening or obstruction in, disturbance of or damage to the streets, alleys, public rights-of-way or public places by any person in exercise of any right granted pursuant to this section shall be properly guarded by adequate barriers, lights, signals, and warnings to prevent danger to any person using such streets, alleys, public rights-of-way or public places and shall be properly and promptly repaired, all in a manner specified and approved by the franchising authority, at the cable operator's expense.

(h) Any person owning or maintaining a cable system or cable system facilities in or on the streets, alleys, public rights-of-way or public places in the city shall, at its expense and without reimbursement from the city, upon request of the city, protect, support, temporarily disconnect, relocate or remove from the street, alley, public right-of-way or public place, any property of such person when required by reason

of traffic conditions, public safety, street vacation, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, tracks, the construction or change of the transmission or distribution facilities of any telephone or electric public utility or other public improvements. Any such person shall also, at the request of any private party holding an appropriate permit issued by the city, temporarily raise or lower its cable communications transmission or distribution wires or cables to permit the moving of any building or other structure, provided that the actual expense of such temporary raising or lowering shall be paid in full by the party requesting it.

(i) If any franchisee shall fail to commence, pursue or complete any work required by law or by the provisions of this article, to be done in any street, alley, public right-of-way or public place as designated by the franchising authority, the franchising authority may cause such work to be done and the franchisee shall pay the cost of completion of the work to the city within 30 days of the receipt of an itemized statement of the cost. If a pole line is abandoned by the owner, with only the cable remaining, the cable must be buried.

(Ord. No. 298, § VIII, 11-21-1989)

Sec. 62-56. - Indemnity; proof of insurance; effective date of franchise.

(a) Every cable operator shall, within 30 days of the grant of a franchise to it pursuant to this division, file with the city clerk, and at all times thereafter maintain in full force and effect for the term of the franchise, at its expense, a corporate surety bond, or such other surety arrangements as the franchising authority may approve, in the amount of $25,000.00, conditioned upon the faithful performance by such cable operator of its obligation under its franchise, and as herein set forth, and upon the further condition that if such cable operator shall fail to comply with any one or more of the provisions of its franchise or this article, there shall be recoverable jointly and severally from the principal and surety of such bond any damages or loss suffered by the city as a result thereof, including the full amount of any compensation, indemnification or cost of removal of any property of the cable operator as provided in this division plus attorneys fees and costs, up to the full amount of the bond. This condition shall be a continuing obligation for the duration of any franchise granted under this division and any renewal thereof and until the cable operator has liquidated all of its obligations with the city which may have arisen under the franchise or from the exercise of any privileges or right granted under the franchise. Any bond provided under this section shall provide that at least 30 days' prior notice of any intention not to renew, to cancel or to make a material change therein shall be filed with the city clerk. Nothing in this section shall be construed to excuse the faithful performance by any cable operator or in any way limit its liability for damages or otherwise. The bond required may be reduced in fact amount to $10,000.00 at such time as the franchisee is actively providing cable service to 150 or more subscribers within the city. This reduction shall be deemed a material change in the bond. The bond requirement referred to in this subsection may be reduced or waived at the discretion of the city.

(b) A cable operator shall, within 30 days of the grant of a franchise pursuant to this division, file with the city clerk, in addition to the surety bond specified in subsection (a) of this section:

(1) An indemnity agreement to indemnify, defend and save the city harmless from and against any or all claims, suits, actions or liability for damages which may arise in any way from the grant of a franchise to the cable operator, or its operation thereunder in the city, including all expenses incurred by the city in defending itself against any claim, action or suit;

(2) Proof of a general comprehensive liability insurance policy issued by a company licensed to do business in the state, protecting the city, it's officers, the city council, the city's agents and employees against liability for loss or damage for personal injury, death and property damage, occasioned by the installation, construction, maintenance or operation of a cable system in the city with minimum limits of $500,000.00 for personal injury or death to any one person and $1,000,000.00 for personal injury or death of two or more persons in any one occurrence, and $500,000.00 for damages to property resulting from any one occurrence, and the policy shall

contain a provision that a written notice of cancellation, or material change or reduction in coverage shall be given to the city clerk at least 30 days in advance of the effective date thereof; and

(3) Proof of adequate insurance as required by the state workers' compensation law applicable to it.

(c) No franchise shall be effective unless the provisions of subsections (a) and (b) of this section have been fully complied with and failure to file with the city clerk within 30 days after the grant of a franchise, the bond, indemnity agreement, proof of general comprehensive liability insurance policy, and proof of adequate workers' compensation insurance, or any of them as required by subsections (a) and (b) of this section shall render the franchise null and void without further notice or proceedings.

(Ord. No. 298, § XII, 11-21-1989)

Sec. 62-57. - Termination; revocation or surrender of franchise.

(a) Any franchise granted pursuant to this division shall expire without further proceedings one year after its effective date in the event the person granted the franchise has not commenced construction of a cable system within the year.

(b) If any person granted a franchise pursuant to this division fails to provide cable service within and throughout the franchise area as required under the terms of its franchise agreement, the franchise shall, on the anniversary of the effective date of the franchise next following the 12-month period during which the cable service has not been extended as required under the terms of the franchise agreement, be deemed revoked without the necessity of franchising authority action, unless prior to that date, the franchisee shall have applied to the franchising authority and the franchising authority shall have, for good cause shown, granted an extension of the construction or service periods set forth in the franchise agreement.

(c) Any franchise granted pursuant to this division shall be terminated and cancelled without further proceedings 120 days after the appointment of a receiver or trustee to take over and conduct the business of the cable operator, whether in receivership, reorganization, bankruptcy or other action or proceedings unless the receivership or trusteeship shall have been vacated prior to the expiration of the 120 days; provided, however, that such receiver or trustee may apply for a transfer or assignment of the franchise, as provided in section 62-52(e), within 60 days of the appointment of the receiver or trustee, if duly approved by the court having jurisdiction, and provided further, in the case of a foreclosure or other judicial sale of the plant, property or facilities of a cable operator, with or without appointment of a trustee or receiver, including or excluding the franchise granted under this division, the franchise as granted will be terminated and cancelled without further proceeding upon 30 days' written notice of termination served upon the cable operator and the purchaser thereof, unless within such 30-day period, the purchaser shall apply to the city for a transfer or assignment to it of the franchise as provided in section 62-52(e).

(d) Any franchise granted pursuant to this division is revocable for cause by the franchising authority prior to its expiration where the cable operator has failed substantially to comply with any provision or requirement of this division, including the payment of the franchise fee required in section 62-54, or the provisions of its franchise agreement. The franchising authority may give a written notice containing full particulars as to the provision or requirement with which compliance is claimed deficient and allow the cable operator 60 days to comply. At the expiration of 60 days, the franchise shall be deemed terminated and revoked, without further franchising authority action, unless the cable operator requests a hearing before the city council upon its alleged failure to substantially comply with any provision or requirement of this article or of its franchise agreement. The hearing will be public with the cable operator being permitted to fully participate, including the right to introduce testimony and exhibits and to examine and cross examine witnesses. The hearing shall be recorded and at the conclusion the city council, if it finds the cable operator has not substantially complied with any provision or requirement of this article or its franchise agreement, may terminate and revoke the franchise.

(e) Any person granted a franchise pursuant to this division may surrender it by written notice of intent to surrender its franchise filed with the city clerk not less than 60 days prior to the surrender date. On the surrender date specified in the notice, all rights, privileges and authority under the franchise shall terminate; provided, however, that the person shall have a period of six months to remove its towers, poles, wires, cables, fixture or other facilities from the streets, alleys, public rights-of-way or public places subject to the rights of the city as set forth in section 62-55(d). At the expiration of the six-month period, any property not removed by the person shall become the property of the city to do with as it may choose. Any cost to the city in removing the property from the streets, alleys, public rights-of-way or public places shall be claimed against the cable operator under the performance bond required in section 62-56(a).

(Ord. No. 298, § XIII, 11-21-1989)

Sec. 62-58. - Priority of use.

Any right or privilege granted to any person under this division to use or occupy any street, alley, public right-of-way or public place shall be subordinate to any prior lawful occupancy of such property. Nothing in this division shall be construed as limiting in any way the city in the lawful exercise of the police power, and the grant of a franchise to any person as provided in this division shall confer no right, privilege or exemption not specifically presented in this division.

(Ord. No. 298, § XVI, 11-21-1989)

Sec. 62-59. - Reports.

Every cable operator shall file annually with the franchising authority a current map showing the exact location of the transmission and distribution facilities and equipment in the city used by it in providing cable service, and further, shall prepare and furnish the city on written request therefor, at such times and in such form as may be prescribed, such reports as to its operations, finances, facilities and activities as may be reasonably necessary to enable the city to perform its obligations, functions and duties under this division. Additionally, the cable operator shall file copies of documents required to be filed with the Federal Communications Commission pursuant to 47 CFR 76.400 and 76.403, to the extent that they relate to cable service provided to the city.

(Ord. No. 298, § XVII, 11-21-1989)

Sec. 62-60. - Renewal application.

(a) Between 2½ and three years before the expiration of a franchise issued under this division, the franchising authority may on its own initiative, and shall at the request of the cable operator, commence proceedings which afford the public in the franchise area appropriate notice and participation for the purpose of identifying the future cable related community needs and interests and reviewing the performance of the cable operator under the franchise during the then current franchise term.

(b) Upon completion of a proceeding under subsection (a) of this section, a cable operator seeking renewal of a franchise may, on its own initiative or at the request of the franchising authority, submit a proposal for renewal. The proposal for renewal shall contain any proposals for an upgrade of the cable system. The franchising authority may require the proposal for renewal to be submitted 12 months before the expiration of the then current franchise.

(c) Upon receipt of a proposal for renewal, the franchising authority shall provide prompt public notice of the proposal and renew the franchise or issue a preliminary assessment that the franchise should not be renewed and, at the request of the cable operator or on its own initiative, commence an administrative proceeding, after providing prompt public notice of the proceeding to consider whether:

(1) The cable operator has substantially complied with the material terms of the existing franchise and with applicable law and this article;

(2) The quality of the cable operator service, including signal quality, response to consumer complaints, and billing practices, (but without regard to the mix, quality, or level of cable services or other services provided over the system) has been reasonable in light of community needs;

(3) The cable operator has the financial, legal and technical ability to provide the services, facilities and equipment as set forth in the cable operator's proposal; and

(4) The cable operator's proposal is reasonable to meet the future cable related community needs and interests, taking into account the cost of meeting such needs and interest.

In this administrative proceeding the cable operator shall be afforded adequate notice and the cable operator and the franchising authority, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence, 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 franchising authority shall issue a written decision granting or denying the proposal for renewal based upon the record of the proceeding, and transmit a copy of the decision to the cable operator. Such decision shall state the reasons therefor.

(d) Any cable operator adversely affected by a final determination made by the franchising authority may commence an action within 120 days after receiving notice of the determination, which may be brought in the northern division of the U.S. District Court for the western district of the state, or the county circuit court, pursuant to 47 USC 555(a).

(e) Notwithstanding the provisions of subsections (a)—(d) of this section, the cable operator may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and the franchising authority may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after proceedings pursuant to this section have commenced). The provisions of subsections (a)—(d) of this section shall not apply to the decision to grant or deny a proposal under this subsection. The denial of a renewal pursuant to this subsection shall not affect action on a renewal proposal that is submitted in accordance with subsections (a)—(d) of this section.

(Ord. No. 298, § XVIII, 11-21-1989)

Sec. 62-61. - Rights of city.

Any franchise granted under this division is made subject to all applicable provisions of law relating to the city and ordinances thereof, and specifically subject to the rights and powers of the city and limitations upon the cable operator holding such franchise as are set forth in the statutes and constitution of the state pertaining to cities, which are incorporated in this section by reference, and such cable operator shall abide by and be bound by such rights, powers and limitations, and any franchise granted under this division constitutes and shall be considered as a public utility franchise, and a cable operator shall be deemed to be a public utility.

(Ord. No. 298, § XIX, 11-21-1989)

Sec. 62-62. - Recourse against city.

Any person granted a franchise pursuant to this division shall have no recourse whatsoever against the city, its officers, city council, boards, commissions, agents or employees for any loss, cost, expense or damage arising out of any provision or requirement of this article or the enforcement thereof.

(Ord. No. 298, § XX(a), 11-21-1989)

Secs. 62-63—62-80. - Reserved.

DIVISION 3. - SYSTEM AND OPERATIONAL REQUIREMENTS AND STANDARDS

Sec. 62-81. - Hearing and determination of complaints; procedure; local office.

(a) In addition to the remedies afforded by federal law, the franchising authority, or any person or department designated by it, shall, upon its own motion or upon complaint of any person or subscriber of a cable operator, have authority to hear and determine all complaints concerning the rates, charges, rules, regulations, practices, quality of service rendered or refused to be rendered, equipment furnished or refused to be furnished, or any other matter relating to the service or operation of the cable system or any person franchised under the terms of this article.

(b) Upon the filing of any complaint against any person pursuant to subsection (a) of this section, the franchising authority or its designee shall give the person at least 20 days' notice of the time and place of a hearing to be given the person upon the matters alleged in the complaint. The franchising authority shall have the power to order such changes in the rates, charges, rules, regulations, services, equipment or other matters relating to the service or operation of the cable operator as in its judgment, based upon the record of the hearing and the findings of fact made thereon, appear to be just, reasonable and lawful.

(c) Every person granted a franchise pursuant to this article shall have a business office located in the city, suitably staffed for the purpose, among others, of receiving and investigating complaints, dealing with its subscribers, receiving payment for service and otherwise conducting business, unless otherwise provided in the franchise agreement.

(Ord. No. 298, § XV, 11-21-1989)

Sec. 62-82. - Commencement and completion of construction.

(a) Any person granted a franchise pursuant to this article shall commence construction or installation of its cable system as specified in the franchise agreement.

(b) Any person granted a franchise pursuant to this article shall, within the period designated in the franchise agreement, complete construction in the area designated in the franchise agreement. Any person granted a franchise pursuant to this article who is unable to construct according to the provisions of this section for good cause shall notify the franchising authority in writing within 30 days of the occurrence of any delay or interruption of construction more than 15 working days duration which interruption or delay would affect its ability to construct according to schedule.

(Ord. No. 298, § XIV, 11-21-1989)

Sec. 62-83. - Standard of service.

(a) Any cable operator granted a franchise pursuant to this article shall furnish reasonably adequate service and facilities to the public and its cable system shall be installed, constructed, maintained and operated in accordance with the accepted standards of the industry, in conformity with the state of the art and any standards of operation or maintenance for a cable television system which have been established by the Federal Communications Commission. It is the intention of the franchising authority that any person granted a franchise to furnish cable service to the public within the city shall possess the financial and technical qualifications necessary to provide a cable system which will ensure its subscribers high quality service.

(b) Every cable system franchised under this article, as a minimum, shall maintain and make available without charge such public access channels, education access channels and local government access

channels as may from time to time be designated, established, required or regulated by the rules and regulations of the Federal Communications Commission, including the expansion of such access channel capacity as may be required to fulfill the needs for such access channels pursuant to the rules and regulations of the Federal Communications Commission as may from time to time be in force and effect.

(Ord. No. 298, § IX, 11-21-1989)

Sec. 62-84. - Service to city, schools; public emergencies.

(a) Every cable operator furnishing service within the city shall, without charge for installation or service, upon the request of the city, provide one installation of its cable communication service to each department of the city and each fire and police station in the city and shall without charge, provide cable service to each primary school, secondary school and public library within the franchisee's service area, provided that such service provided without charge shall be included in determining the number of subscribers in service for computation of the franchise fee.

(b) Every cable operator providing service within the city shall make its cable system available, without charge, to the city, the county, the state, the United States of America, and/or emergency operations agencies for the prompt and simultaneous communication to subscribers and the public within the city of any information resulting from or required by war, threat of war, natural catastrophe, riot or insurrection, necessary to save or protect life or property.

(Ord. No. 298, § XI, 11-21-1989)

Secs. 62-85—62-110. - Reserved.

DIVISION 4. - RATE REGULATION

Sec. 62-111. - Definitions.

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

Act means the Communications Act of 1934, as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, PL 102-385), and as may be amended from time to time.

Associated equipment means all equipment and services subject to regulation pursuant to 47 CFR 76.923.

Basic cable service means basic service as defined in the FCC rules, and any other cable television service which is subject to rate regulation by the city pursuant to the Act and the FCC rules.

FCC means the Federal Communications Commission.

FCC rules means all rules of the FCC promulgated from time to time pursuant to the Act.

Increase in rates means an increase in rates or a decrease in programming or customer services.

(b) All other words and phrases used in this division shall have the same meaning as defined in the Act and FCC rules.

(Ord. No. 317, § 1, 10-13-1993)

Cross reference— Definitions generally, § 1-2.

Sec. 62-112. - Purpose; interpretation.

The purpose of this division is to adopt regulations consistent with the Act and the FCC rules with respect to basic cable service rate regulation, and prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the city. This division shall be implemented and interpreted consistent with the Act and FCC rules.

(Ord. No. 317, § 2, 10-13-1993)

Sec. 62-113. - Inapplicable provisions.

Provisions in this article not contained in this division do not apply to this division.

Sec. 62-114. - Rate regulations promulgated by FCC.

In connection with the regulation of rates for basic cable service and associated equipment, the city shall follow all FCC rules.

(Ord. No. 317, § 3, 10-13-1993)

Sec. 62-115. - Filing; additional information; burden of proof.

(a) A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates in accordance with the Act and the FCC rules. The cable operator shall include as part of its submission such information as is necessary to show that its schedule of rates or its proposed increase in rates complies with the Act and the FCC rules. The cable operator shall file ten copies of the schedule or proposed increase with the city clerk. For purposes of this division, the filing of the cable operator shall be deemed to have been made when at least ten copies have been received by the city clerk. The city council may, by resolution or otherwise, adopt rules and regulations prescribing the information, data and calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.

(b) In addition to information and data required by rules and regulations of the city pursuant to subsection (a) of this section, a cable operator shall provide all information requested by the city mayor in connection with the city's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. The mayor may establish deadlines for submission of the requested information and the cable operator shall comply with such deadlines.

(c) A cable operator has the burden of proving that its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates complies with the Act and the FCC rules including, without limitation, 47 USC 543 and 47 CFR 76.922 and 76.923.

(Ord. No. 317, § 4, 10-13-1993)

Sec. 62-116. - Proprietary information.

(a) If this division, any rules or regulations adopted by the city pursuant to section 62-115(a), or any request for information pursuant to section 62-115(b) requires the production of proprietary information, the cable operator shall produce the information. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the city determines that the preponderance of the

evidence shows that nondisclosure is consistent with the provisions of the Freedom of Information Act, 5 USC 552. The city shall place in a public file for inspection any decision that results in information being withheld. If the cable operator requests confidentiality and the request is denied, where the cable operator is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or the cable operator may seek review within five working days of the denial in any appropriate forum. Release of the information will be stayed pending review.

(b) Any interested party may file a request to inspect material withheld as proprietary with the city. The city shall weigh the policy considerations favoring nondisclosure against the reasons cited for permitting inspection in light of the facts of the particular case. It will then promptly notify the requesting entity and the cable operator that submitted the information as to the disposition of the request. It may grant, deny or condition a request. The requesting party or the cable operator may seek review of the decision by filing an appeal with any appropriate forum. Disclosure will be stayed pending resolution of any appeal.

(c) The procedures set forth in this section shall be construed as analogous to and consistent with the rules of the FCC regarding requests for confidentiality including, without limitation, 47 CFR 0.459.

(Ord. No. 317, § 5, 10-13-1993)

Sec. 62-117. - Public notice; initial review of rates.

Upon the filing of ten copies of the schedule of rates or the proposed increase in rates pursuant to section 62-115(a), the city clerk shall publish a public notice in a newspaper of general circulation in the city which shall state that the filing has been received by the city clerk and, except those parts which may be withheld as proprietary, is available for public inspection and copying, and interested parties are encouraged to submit written comments on the filing to the city clerk not later than seven days after the public notice is published. The city clerk shall give notice to the cable operator of the date, time and place of the meeting at which the city council shall first consider the schedule of rates or the proposed increase. This notice shall be mailed by first class mail at least three days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the city council, then the city clerk shall mail a copy of the report by first class mail to the cable operator at least three days before the meeting at which the city council shall first consider the schedule of rates or the proposed increase.

(Ord. No. 317, § 6, 10-13-1993)

Sec. 62-118. - Tolling order.

After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after 30 days from the date of filing under section 62-115(a) unless the city council, or other properly authorized body or official, tolls the 30-day deadline pursuant to 47 CFR 76.933 by issuing a brief written order, by resolution or otherwise, within 30 days of the date of filing. The city council may toll the 30-day deadline for an additional 90 days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showings.

(Ord. No. 317, § 7, 10-13-1993)

Sec. 62-119. - Public notice; hearing on basic cable service rates following tolling of 30-day deadline.

If a written order has been issued pursuant to section 62-118 and 47 CFR 76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the city any additional information required or requested pursuant

to section 62-115. In addition, the city council shall hold a public hearing to consider the comments of interested parties within the additional 90-day or 150-day period, as the case may be. The city clerk shall publish a public notice of the public hearing in a newspaper of general circulation within the city which shall state the date, time and place at which the hearing shall be held. Interested parties may appear in person, by agent or by letter at such hearing to submit comments on or objections to the existing rates or the proposed increase in rates. Copies of the schedule of rates or the proposed increase in rates and related information, except those parts which may be withheld as proprietary, are available for inspection or copying from the office of the clerk. The public notice shall be published not less than 15 days before the hearing. In addition, the city clerk shall mail by first class mail a copy of the public notice to the cable operator not less than 15 days before the hearing.

(Ord. No. 317, § 8, 10-13-1993)

Sec. 62-120. - Staff or consultant report; written response.

Following the public hearing of section 62-119, the city mayor shall cause a report to be prepared for the city council which shall, based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information, include a recommendation for the decision of the city council pursuant to section 62-121. The city clerk shall mail a copy of the report to the cable operator by first class mail not less than 20 days before the city council acts under section 62-121. The cable operator may file a written response to the report with the city clerk. If at least ten copies of the response are filed by the cable operator with the city clerk within ten days after the report is mailed to the cable operator, the city clerk shall forward it to the city council.

(Ord. No. 317, § 9, 10-13-1993)

Sec. 62-121. - Rate decisions and orders.

The city council shall issue a written order, by resolution or otherwise, which in whole or in part, approves the existing rates for basic cable service and associated equipment or a proposed increase in such rates, denies the existing rates or proposed increase, orders a rate reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund or orders other appropriate relief in accordance with the FCC rules. If the city council issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 CFR 76.933. The order specified in this section shall be issued within 90 days of the tolling order under section 62-54 in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under section 62-54 in all cases involving a cost-of-service showing.

(Ord. No. 317, § 10, 10-13-1993)

Sec. 62-122. - Refunds; notice.

The city council may order a refund to subscribers as provided in 47 CFR 76.942. Before the city council orders any refund to subscribers, the city clerk shall give at least seven days' written notice to the cable operator by first class mail of the date, time and place at which the city council shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent or by letter at such time for the purpose of submitting comments to the city council.

(Ord. No. 317, § 11, 10-13-1993)

Sec. 62-123. - Written decisions; public notice.

Any order of the city council pursuant to section 62-121 or section 62-122 shall be in writing, shall be effective upon adoption by the city council, and shall be deemed released to the public upon adoption. The clerk shall publish a public notice of any such written order in a newspaper of general circulation within the city which shall summarize the written decision, and state that copies of the text of the written decision are available for inspection or copying from the office of the clerk. In addition, the city clerk shall mail a copy of the text of the written decision to the cable operator by first class mail.

(Ord. No. 317, § 12, 10-13-1993)

Sec. 62-124. - Rules and regulations.

In addition to rules promulgated pursuant to section 62-115, the city council may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings, including, without limitation, the conduct of hearings, consistent with the Act and the FCC rules.

(Ord. No. 317, § 13, 10-13-1993)

Sec. 62-125. - Failure to give notice.

The failure of the city clerk to give the notices or to mail copies of reports as required by this division shall not invalidate the decisions or proceedings of the city council.

(Ord. No. 317, § 14, 10-13-1993)

Sec. 62-126. - Additional hearings.

In addition to the requirements of this division, the city council may hold additional public hearings upon such reasonable notice as the city council, in its sole discretion, shall prescribe.

(Ord. No. 317, § 15, 10-13-1993)

Sec. 62-127. - Additional powers.

The city shall possess all powers conferred by the Act, the FCC rules, the cable operator's franchise and all other applicable law. The powers exercised pursuant to the Act, the FCC rules, and this division shall be in addition to powers conferred by law or otherwise. The city may take any action not prohibited by the Act and the FCC rules to protect the public interest in connection with basic cable service rate regulation.

(Ord. No. 317, § 16, 10-13-1993)

Sec. 62-128. - Failure to comply; remedies.

The city may pursue any and all legal and equitable remedies against the cable operator, including, without limitation, all remedies provided under a cable operator's franchise with the city, for failure to comply with the Act, the FCC rules, any orders or determinations of the city pursuant to this division, any requirements of this division, or any rules or regulations promulgated under this division. Subject to applicable law, failure to comply with the Act, the FCC rules, any orders or determinations of the city

pursuant to this division, any requirements of this division, or any rules and regulations promulgated under this division, shall also be sufficient grounds for revocation or denial of a cable operator's franchise.

(Ord. No. 317, § 17, 10-13-1993)

Sec. 62-129. - Conflicting provisions.

In the event of any conflict between this division and the provisions of any prior ordinance or any franchise, permit, consent agreement or other agreement with a cable operator, the provisions of this division shall control.

(Ord. No. 317, § 19, 10-13-1993)

Secs. 62-130—62-150. - Reserved.

ARTICLE III. - PUBLIC RIGHTS-OF-WAY

Sec. 62-151. - Purpose.

The purposes of this article are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("Act") and other applicable law, and to ensure that the city qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(Ord. No. 416, § 1, 12-10-2003)

Sec. 62-152. - Conflict.

Nothing in this article shall be construed in such a manner as to conflict with the Act or other applicable law.

(Ord. No. 416, § 2, 12-10-2003)

Sec. 62-153. - Terms defined.

The terms used in this article shall have the following meanings:

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

Note— A copy of the Act can be obtained on the internet at http://www.cis.state.mi.us/mpsc/comm/rightofway/rightofway.htm.

City means the City of Mackinac Island.

City council means the City Council of the City of Mackinac Island or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the city council.

Permit means a non-exclusive permit issued pursuant to the Act and this article to a telecommunications provider to use the public rights-of-way in the city for its telecommunications facilities.

All other terms used in this article shall have the same meaning as defined or as provided in the Act, including without limitation the following:

Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "commission" in the Act.

Person means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

Public right-of-way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

Telecommunication facilities or *facilities* means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of Part I of title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, to-way communication device.

Telecommunication's provider, provider and *telecommunications services* means those terms as defined in Section 102 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2102. Telecommunication provides does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of Part I of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this ordinance only, a provider also includes all of the following:

(1) A cable television operator that provides a telecommunications service.

(2) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.

(3) A person providing broadband internet transport access service.

(Ord. No. 416, § 3, 12-10-2003)

Sec. 62-154. - Permit required.

(a) *Permit required.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the city for its telecommunications facilities shall apply for and obtain a permit pursuant to this article.

(b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the city clerk, one copy with the mayor, and one copy with the city attorney. 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.

Note— A copy of the application form as approved by the commission can be obtained on the internet at http://www.cis.state.mi.us/mpsc/comm/rightofway/rightofway.htm.

(c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the fact 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 council may request an applicant to submit such additional information which the mayor 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 council. If the city and the applicant cannot agree on the requirement of additional information requested by the city, the city or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.

(f) *Previously issued permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the city under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the city to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this article.

(g) *Existing providers.* Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in the public right-of-way in the city as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251, shall submit to the city an application for a permit in accordance with the requirements of this article. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the $500.00 application fee required under subsection (d) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the authority, as provided in Section 5(4) of the Act.

(Ord. No. 416, § 4, 12-10-2003)

Sec. 62-155. - Issuance of permit.

(a) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the city council. Pursuant to Section 15(3) of the Act, the city council shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under section 62-154(b) of this article for access to a public right-of-way within the city. Pursuant to Section 6(6) of the Act, the city council shall notify the MPSC when the city council 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 council shall not unreasonably deny an application for a permit.

(b) *Form of permit.* If an application for permit is approved, the city council 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.

Note— Copies of the permit forms currently approved by the MPSC can be obtained on the internet at http.//www.cis.state.mi.us/mpsc/comm/rightofway/rightofway.htm.

(c) *Conditions.* Pursuant to Section 15(4) of the Act, the city council 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 mayor may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. No. 416, § 5, 12-10-2003)

Sec. 62-156. - Construction/engineering permit.

A telecommunications provider shall not commence construction up, over, across, or under the public rights-of-way in the city without first obtaining a construction or engineering permit as required under this Code, as amended, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(Ord. No. 416, § 6, 12-10-2003)

Sec. 62-157. - Conduit or utility poles.

Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this article does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. No. 416, § 7, 12-10-2003)

Sec. 62-158. - Route maps.

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the city, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the city. The route maps should be in [paper or electronic] format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act.

(Ord. No. 416, § 8, 12-10-2003)

Sec. 62-159. - Repair of damage.

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the city, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

(Ord. No. 416, § 9, 12-10-2003)

Sec. 62-160. - Establishment and payment of maintenance fee.

In addition to the non-refundable application fee paid to the city set forth in section 62-154(d), a telecommunications provider with telecommunications facilities in the city's public rights-of-way shall pay an annual maintenance fee to the authority pursuant to Section 8 of the Act.

(Ord. No. 416, § 10, 12-10-2003)

Sec. 62-161. - Modification of existing fees.

In compliance with the requirements of Section 13(1) of the Act, the city hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the authority. In compliance with the requirements of Section 13(4) of the Act, the city also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the city's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The city shall provide each telecommunications provider affected by the fee with a copy of this article, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the city's policy and intent, and upon application by a provider or discovery by the city, shall be promptly refunded as having been charged in error.

(Ord. No. 416, § 11, 12-10-2003)

Sec. 62-162. - 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 62-161 shall be void from the date the modification was made.

(Ord. No. 416, § 12, 12-10-2003)

Sec. 62-163. - Use of funds.

Pursuant Section 10(4) of the Act, all amounts received by the city from the authority shall be used by the city solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the city from the authority shall be deposited into the major street fund and/or the local street fund maintained by the city under Act No. 51 of the Public Acts of 1951.

(Ord. No. 416, § 13, 12-10-2003)

Sec. 62-164. - Annual report.

Pursuant to Section 10(5) of the Act, the city council shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.

(Ord. No. 416, § 14, 12-10-2003)

Sec. 62-165. - Cable television operators.

Pursuant to Section 13(6) of the Act, the city shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. No. 416, § 15, 12-10-2003)

Sec. 62-166. - Existing rights.

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this article shall not affect any existing rights that a telecommunications provider or the city may have under a permit issued by the city or under a contract between the city and a telecommunications provider related to the use of the public rights-of-way.

(Ord. No. 416, § 16, 12-10-2003)

Sec. 62-167. - Compliance.

The city hereby declares that is 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:

(1) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in section 62-154(c) of this article;

(2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with section 62-154(f) of this article;

(3) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the $500.00 application fee, in accordance with section 62-154(g) of this article;

(4) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the city, in accordance with section 62-155(a) of this article;

(5) Notifying the MPSC when the city has granted or denied a permit, in accordance with section 62-155(a) of this article;

(6) Not unreasonably denying an application for a permit, in accordance with section 62-155(a) of this article;

(7) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in section 62-155(b) of this article;

(8) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with section 62-155(c) of this article;

(9) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with section 62-155(d) of this article;

(10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with section 62-156 of this article;

(11) Providing each telecommunications provider affected by the city's right-of-way fees with a copy of this article, in accordance with section 62-161 of this article;

(12) Submitting an annual report to the authority, in accordance with section 62-164 of this article; and

(13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 62-165 of this article.

(Ord. No. 416, § 17, 12-10-2003)

Sec. 62-168. - Reservation of police powers.

Pursuant to Section 15(2) of the Act, this article shall not limit the city's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the city's authority to ensure and protect the health, safety, and welfare of the public.

(Ord. No. 416, § 18, 12-10-2003)

Sec. 62-169. - Severability.

The various parts, sentences, paragraphs, sections, and clauses of this article are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this article is adjudged unconstitutional or invalid by a court or administrative agency of ompetent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this article.

(Ord. No. 416, § 19, 12-10-2003)

Sec. 62-170. - Authorized city officials.

The mayor or her 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 for violations under this article as provided by the City Code.

(Ord. No. 416, § 20, 12-10-2003)

Sec. 62-171. - Municipal civil infraction.

A person who violates any provision of this article or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to a fine of not more than $500.00. Nothing in this section shall be construed to limit the remedies available to the city in the event of a violation by a person of this article or a permit.

(Ord. No. 416, § 21, 12-10-2003)

Secs. 62-172—62-180. - Reserved.

ARTICLE IV. - WIRELESS FACILITIES IN RIGHTS-OF-WAY[2]

Footnotes:

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Editor's note— Ord. No. 573 , § 1, adopted Sept. 11, 2019, added provisions to the Code, but did not specify manner of inclusion. Therefore, at the discretion of the editor, said provisions have been designated as art. IV, §§ 62-181—62-185, as set out herein.

Sec. 62-181. - Purpose.

This section is adopted in partial response to new and differing state and federal regulations, including Michigan Public Act No. 365 of 2018 (MCL 460.1301—460.1339), 47 USC 1455, rules adopted by the Federal Communications Commission (FCC) as 47 CFR 1.40001 (now 47 CFR 1.6100) and 47 CFR 1.6001—1.6003, and the FCC's Declaratory Ruling and Third Report and Order in FCC 18-133, that infringe on the city's constitutional and proprietary rights and interests in its public right-of-way and the reasonable control thereof under article VII, section 29 of the Michigan Constitution of 1963, the city Charter, and other applicable laws, which would allow the city to require public right-of-way users to obtain a franchise or permit from the city. Without waiving those city rights, this article is adopted for the purpose of complying with those state and federal regulations by providing for and regulating aesthetic and spacing standards regarding access to and ongoing use of, public rights-of-way for wireless facilities that are not considered to be telecommunications facilities covered by the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("Act"), and permits applied for and issued under that Act and article III of chapter 62 of the City of Mackinac Island Code of Ordinances. The principal purpose of this article is to assure minimum impact upon the city which is located upon Mackinac Island, all of which island has been designated a national historic landmark, which includes all of the public rights-of-way within the city. Without waiving any of the city's rights as set forth above, in the event of any inconsistency between this article and Michigan Public Act No. 365 of 2018 (MCL 460.1301—460.1339), the state statute shall prevail.

(Ord. No. 573 , § 1, 9-11-2019)

Sec. 62-182. - Definitions.

Except as otherwise provided herein and except where the context clearly indicates a different meaning, the terms used in this section shall have the meanings ascribed to them in MCL 460.1301 through MCL 460.1339.

(Ord. No. 573 , § 1, 9-11-2019)

Sec. 62-183. - Required permits and approvals to be applied for and complied with.

(a) Wireless facilities, wireless support structures, and utility poles shall not be installed, used, operated, or maintained in a public right-of-way in the city without first obtaining and thereafter complying with the terms and conditions of all applicable permits and approvals, including those required pursuant to section 106 of the National Historic Preservation Act, 54 U.S.C. 300101 et seq. ("section 106"), and those required for work within a historic district.

(b) A permit or approval shall not be required and fees or rates shall not be payable for:

(1) Replacement of a small wireless facility with a small wireless facility that is not larger or heavier and complies with applicable codes.

(2) Routine maintenance of small wireless facilities, wireless support structures, or utility poles.

(3) The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is suspended on cables strung between utility poles or wireless support structures.

(c) Any permits or approvals obtained for wireless facilities, wireless support structures, or utility poles shall be conditioned on the issuance of and compliance with the permit and permit conditions for those facilities, support structures, or utility poles. Nothing in this article preempts or otherwise excuses compliance with any other applicable City of Mackinac Island ordinances or regulations.

(d) To the extent applicable and allowed under existing franchises, permits, and applicable law, the permit requirements under this article shall apply to all new installations in the public right-of-way by electric and gas public utilities, incumbent or competitive local exchange carriers, fiber providers, and cable television video services providers.

(Ord. No. 573 , § 1, 9-11-2019)

Sec. 62-184. - Notice requirement and permit application requirements.

(a) Prior to an application to the city, the applicant shall have provided advance written notice to the city and the city attorney of its intent to initiate a section 106 review with the FCC, and shall have completed a section 106 review before the FCC and obtained its approval.

(b) If, after notice to the city as provided above, applicant's proposal is approved as a result of a section 106 review, the applicant may submit its application for a permit under the standards and regulations in this article, which shall be filed with the city clerk and shall include:

(1) Certified documentation that the proposed wireless facilities, wireless support structures and utility poles (all of which are proposed to be located on National Historic Landmark property) have, after notice to the city as provided above, gone through a section 106 review by the Federal Communications Commission ("FCC") in compliance with the National Historic Preservation Act and all applicable federal statutes and regulations;

(2) Copies of any documents that were produced and requirements or agreements that were created as a result of the section 106 review; and

(3) Plans for the proposed wireless facilities, wireless support structures, and utility poles in accordance with this article and article III, section 62-151 et seq.

(c) The time period for the city to act on a wireless provider permit or approval application for wireless facilities, support structures, or utility poles under this article shall not commence until the city has complete applications for all city permits or approvals required in section 62-183 and the documentation required in subsection (b) above for those wireless facilities, support structures, and utility poles. Thereafter the timing for the review process and decision on the application shall be in accordance with MCL 460.1301—460.1339.

(Ord. No. 573 , § 1, 9-11-2019)

Sec. 62-185. - Aesthetic and spacing standards.

(a) Subsequent and subject to review and approval under section 106, wireless facilities, wireless support structures, utility poles, and any related equipment shall be located, designed, installed, used, and maintained in a manner that entirely conceals such facilities, structures, poles and related equipment from public view (including installing all antenna support equipment underground in a manner that does not interfere with other underground facilities) in any city right-of-way that is National Historic Landmark property in an effort to avoid or remedy the tangible and intangible public harm of installations in this city's public rights-of-way that are unsightly, out-of-character with the surrounding area and resources, including the historic character of this National Historic Landmark island, which could result in the direct or indirect removal of trees or shrubbery and other aesthetically desirable features and appearances, and/or which could harm the public interest in historic preservation, which the Michigan legislature has declared to be a public purpose in MCL 399.202, and which public purpose is set forth more fully in section 10-152 of this Code and incorporated herein.

(b) An applicant may request a waiver or modification of one or more of the standards in subsection 62-185(a) by demonstrating in writing that compliance will prevent a disclosed wireless service provider that would be using the proposed wireless facilities, support structure, or utility pole, from providing personal wireless services in violation of 47 USC 332.

(c) To the extent applicable and allowed under existing franchises, permits, and applicable law, the permit requirements under this article shall apply to all new installations in the public right-of-way by electric and gas public utilities, incumbent or competitive local exchange carriers, fiber providers, and cable television video services providers.

(Ord. No. 573 , § 1, 9-11-2019)

Chapter 66 - TRANSPORTATION[1]

Footnotes:

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Cross reference— Any ordinance prescribing traffic regulations for specific locations not codified in this Code saved from repeal, § 1-11(15a); any ordinance ordering, requiring or authorizing the erection or installation of traffic control signs, signals, devices or markings saved from repeal, § 1-11(15b); law enforcement, ch. 34; offenses and miscellaneous provisions, ch. 38; streets, sidewalks and other public places, ch. 54.

ARTICLE I. - IN GENERAL

Secs. 66-1—66-30. - Reserved.

ARTICLE II. - MOTOR VEHICLES[2]

Footnotes:

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State Law reference— Michigan Vehicle Code, MCL 257.1 et seq.

DIVISION 1. - GENERALLY

Sec. 66-31. - Definitions.

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

City means the common council of the City of Mackinac Island through its designated official.

Control over any premises, residence or other real property means the authority to regulate, direct, restrain, superintend, control or govern the conduct and activities of other individuals on or within that premises, residence or other real property, and includes, but is not limited to, a possessory right.

Horse-drawn drayage means the hauling or pulling of a licensed wheeled wagon by a properly hitched horse, or team of horses, in the transportation and conveyance of goods and materials upon a road, highway or street.

Knowingly allow means to give permission for, or approval of, the possession, use, storage and/or operation of a motor vehicle by any of the following means:

(1) In writing, including by way of example, an accepted, written proposal, or executed contract or agreement which provides for the delivery of goods, materials or service by one person for the benefit of another.

(2) By any form of conduct, including a failure to take corrective action, that would cause a reasonable person to believe that permission or approval has been given.

Motor vehicle means any mechanical device that is self-propelled and of which operates and moves under the power of one or a combination of any of these means: internal or external combustion engines, electricity; or human power when operated in conjunction with or in concert with one of the foregoing. The term "motor vehicle" shall not apply to the following, and of which are not subject to provisions of this article:

(1) Snowmobiles, as defined and regulated under Ord. No. 249, and Public Act No. 249 of 1968 (MCL 257.1501—257.1543 et seq.)

(2) Mechanized wheelchairs or electric powered three-wheeled, one-person scooter/cart, when used by a person who is subjected to a physical impairment or condition categorized as a temporary or permanent handicap, that significantly limits ambulation or necessitates the use of such a device for mobility as prescribed by a licensed health professional. Individuals using these devices shall at all times have in their possession and on their person a letter from a physician describing the use of such a device.

(3) An electric assist bicycle or tricycle when used by a qualified person with a disability who has received a permit pursuant to the provisions of article IV, section 66-167 of this chapter.

Operate and *operating* mean being in actual physical control of a motor vehicle.

Operator means an individual person who is in actual physical control of a motor vehicle.

Permit means a form/instrument conveyed by the city to a person who has applied for same and of which empowers a person to use a motor vehicle in compliance with the provisions of this article including any conditions or restrictions lawfully imposed by the city in the use and operation of the vehicle.

Public safety means functions and services provided by persons employed by, acting for and under the authority of local, county, state or federal agencies and shall include police, fire and medical services with primary duties and responsibilities of protecting persons and property and the rendering of aid and assistance to the general public.

Public safety vehicle means a motor vehicle, publicly or privately owned, when used in the provision of public safety services.

(Ord. No. 327, § 2, 11-20-1995; Ord. No. 423, § 1, 7-21-2004; Ord. No. 582 , § 1, 6-3-2020)

Cross reference— Definitions generally, § 1-2.

Sec. 66-32. - Scope and purpose.

(a) Regulatory control and authority of this article shall apply to all public and privately-owned roads, highways, streets, lanes, alleys, lots, parcels of land, wharfs and docks, parks and open spaces, of which are under the jurisdictional authority of and within the corporate limits of the city.

(b) Because of the natural and historic significance and character of the city, as well as its unique use and reliance on horse-drawn conveyance and transport of persons and property, the use and presence of motorized vehicles pose a significant and potentially detrimental effect on the health, safety and welfare of the general public. The impact of the presence and use of motor vehicles can be adverse to the economics of the only industry of the city which is tourism. Further, the engineering, construction and use of roadways and streets are not intended for the transit of motorized traffic. The overall safety of persons and property far exceeds the need for motor vehicles as a means of transit and use.

(c) The contemporary methods of furthering, enhancing, as well as improving, the quality of life often necessitates more appropriate and specifically designed motorized vehicles. To this end, regulating motor vehicles, as provided in this article, attempts to balance the needs of unique and nonrecurring incidents of motor vehicle use relative to the public safety and welfare.

(d) Persons residing, visiting and working in the city must weigh the relative convenience against the absolute need of using a motor vehicle and must understand the impact of its presence and use. Persons must be prepared to demonstrate a clear and compelling need in the use of motorized vehicles for purposes of convenience and desire.

(Ord. No. 327, § 1, 11-20-1995; Ord. No. 582 , § 2, 6-3-2020)

Sec. 66-33. - Compliance.

It shall be unlawful for any person to possess, use, store, maintain, operate or to knowingly allow the possession, use, storage, maintenance or operation of a motor vehicle, whether that vehicle is in operation, engine running or not, within the city, unless specifically allowed and permitted as provided for within this article.

(Ord. No. 327, § 3, 11-20-1995; Ord. No. 582 , § 3, 6-3-2020)

Sec. 66-34. - Penalties.

(a) Any person found responsible for violation of the provisions of this article shall be guilty of a civil infraction.

(b) A violation of this article is also deemed a nuisance per se enforceable by injunctive relief.

(Ord. No. 327, § 9, 11-20-1995; Ord. No. 582 , § 4, 6-3-2020)

Sec. 66-35. - Presumption of violation.

The driver or operator of a vehicle shall be presumed responsible for violations of provisions of this article. This presumption does not preclude the city from bringing action against a person who may have hired, or contracted for, and who knowingly allows the unlawful operation, use or maintenance of a motor vehicle contrary to the provisions of the article.

(Ord. No. 327, § 5(c), 11-20-1995; Ord. No. 582 , § 5, 6-3-2020)

Secs. 66-36—66-60. - Reserved.

DIVISION 2. - OPERATIONAL REQUIREMENTS AND PROHIBITED VEHICLES

Sec. 66-61. - Reserved.

Editor's note— Ord. No. 549, § 1, adopted Aug. 17, 2017, repealed § 66-61 which pertained to waiver of restrictions and derived from Ord. No. 327, § 8, adopted Nov. 20, 1995.

Sec. 66-62. - General operational rules.

A person shall not operate a motor vehicle contrary to the following provisions:

(1) No vehicle shall exceed a speed limit of 20 miles per hour on any public road or highway, except for vehicles operating as emergency public safety vehicles, operating with due regard for the safety of others and in accordance with provisions pertaining to emergency vehicle operation under the Michigan Vehicle Code (MCL 257.1 et seq.).

(2) Vehicles shall travel on the right side of a roadway unless properly overtaking and passing another vehicle or horse-drawn conveyance. No vehicle shall overtake and pass a horse-drawn vehicle without first being allowed for by the operator of the horse-drawn vehicle.

(3) All motor vehicles shall yield to horses, horse-drawn vehicles, bicyclists and pedestrians lawfully on and traveling on a road, highway or within and approaching an intersecting road or highway.

(4) No vehicle shall be operated, used or maintained in a manner likely to pose a threat to the safety of persons or property.

(5) Any vehicle so manufactured and equipped shall have in good working order all safety devices and features, such as by way of example: headlamps, taillights, brake lights, brakes (including emergency and parking), backup alarms, emergency flashers, exhaust systems, transmission and power train systems, horns and turn signals.

(6) No vehicle shall be operated by a person who is not properly licensed to operate a vehicle as may be applied and prescribed under licensing requirements or provided for under the Michigan Vehicle Code.

(7) No vehicle shall be operated contrary to its intended or manufactured use.

(8) No vehicle shall be used, operated or maintained contrary to any condition or restriction applied to that vehicle. Conditions or restrictions may be imposed by the city based on the following considerations:

a. The effect of the vehicle on the health, safety and welfare of the general public.

b. The location of the proposed and approved transit and movement routes insofar as it pertains to convenience of the public and effect on local traffic conditions.

c. The location and routes of transit relative to other permitted vehicles and vehicular activity in the same vicinity.

d. The relative inconvenience of the applicant/permittee when the applicant/permittee can demonstrate a clear and compelling need in the using of nonmotorized transportation compared with the inconvenience to the public caused by the presence of the vehicle in the city.

e. The city reserves the right to regulate the use, operation and control of motor vehicles as may be lawfully imposed, including route of transit.

(9) No vehicle shall be used or operated with more persons on board than what the vehicle was designed and manufactured for.

(10) No vehicle shall be used as a personal convenience in transporting persons or goods.

(11) When not in actual use or operation, a vehicle shall be hidden from public view as much as practicable. No vehicle shall be present or stored or maintained as well as used and operated outside of that period of time properly applied for and permitted.

(12) When a vehicle is not to be used or operated for a period of time more than one day past the permitted period, it shall be removed from the city if it had initially been brought to the city to perform a specific project or use.

(Ord. No. 327, § 5(a), 11-20-1995; Ord. No. 582 , § 6, 6-3-2020)

Sec. 66-63. - Reserved.

Editor's note— Ord. No. 549, § 2, adopted Aug. 17, 2017, repealed § 66-63 which pertained to prohibited vehicles and derived from Ord. No. 327, § 5(b), adopted Nov. 20, 1995.

Sec. 66-64. - Exemptions.

The following motor vehicles are exempted from restricted use and only in accordance with enumerated uses:

(1) Public safety vehicles shall have no restrictions in usage so long as such vehicle is being used in the normal course of public safety service.

(2) Public service and utility vehicles when used to provide, maintain and repair basic public utilities such as electrical, water, sewer and telephone, as well as roadway maintenance and repair.

(3) Utility carts/vehicles when operated as a means of conveyance of goods and property and only on that property owned by the utility cart/vehicle owner. In those instances that such vehicle must cross a public roadway to access one parcel of land to another of same ownership, such crossing shall be at that point of minimal distance between the parcels and at a speed only enough to maintain a forward motion. There shall be no crossing of parcels of land having different ownership than that of which is owned by the cart owner. Transit from one parcel to another not contiguous to one another shall not involve the use of a public roadway to bypass another parcel owned by another.

(4) Golf carts, when used for the game of golf. Approved usage of a golf cart shall be only that which is owned, operated and maintained by the owner of a public or private golf course and provided only for guests, customers or others engaged in the actual playing of golf.

(5) Lawn tractors/mowers, when used in the care and maintenance of yards and lots.

(Ord. No. 549, § 4, 8-17-2017; Ord. No. 582 , § 7, 6-3-2020)

Editor's note— Ord. No. 549, § 4, adopted Aug. 17, 2017, repealed former § 66-64 and enacted a new § 66-64, as set out herein. The former § 66-64 pertained to times when prohibited and derived from Ord. No. 327, § 6, adopted Nov. 20, 1995.

Sec. 66-65. - Reserved.

Editor's note— Ord. No. 549, § 3, adopted Aug. 17, 2017, repealed § 66-65 which pertained to contracted residential vehicle and derived from Ord. No. 327, § 7, adopted Nov. 20, 1995.

Secs. 66-66—66-90. - Reserved.

DIVISION 3. - PERMIT

Sec. 66-91. - Permit required.

With the exceptions as enumerated under section 66-64, no person shall use, operate, maintain, store or knowingly allow the use, operation, maintenance or storage of a motor vehicle without properly applying for and obtaining a motor vehicle permit.

(Ord. No. 327, § 4, 11-20-1995; Ord. No. 582 , § 8, 6-3-2020)

Sec. 66-92. - Application.

A person shall submit an application for a motor vehicle permit, prior to the actual use of a motor vehicle, on a form approved by the city and made available to persons by the city. The application form shall include information detailed in a manner so as to allow the city to make a knowledgeable and proper decision. The application shall contain, at a minimum, the following requested and provided information:

(1) The type of permit requested, being an annual, short term or seasonal, defined as follows:

a. Annual permit: permits that are in effect for a period of one year.

b. Short term permit: permits not exceeding 30 days.

c. Seasonal permit: permits for any time period less than one year but more than 30 days.

(2) Name of the person completing the application; including that person's mailing address, telephone number, as well as the name of the person for whom the person making application is filing an application on behalf of.

(3) A description of the motor vehicle that will be used, including identification of its owner. Minimally, the description shall include the type of vehicle, as well as the make, and for those vehicles required to be registered by the state, as provided for in the Michigan Vehicle Code (MCL 257.1 et seq.), or as required to be so registered under applicable provisions of other states or provinces, that registration number so assigned to that motor vehicle.

(4) If the motor vehicle is being brought to the city, identification of the location of arrival, as well as method of transit to the city.

(5) The date when the use is to commence and the date it is expected to be complete. The actual number of usage days shall be indicated within the period of days. For purpose of this section, a working day shall be for a full 24-hour day, regardless of the number of hours less than a full 24-hour day.

(6) A description of the route of transit the motor vehicle will use, either from and to a specific site, or a route utilized in the course of use of the motor vehicle.

(7) A specific location where the motor vehicle will primarily be used, stored or maintained.

(8) A statement explaining why the purpose or work accomplished by the motor vehicle is such that such work cannot be reasonably performed, accommodated or accomplished by a horse drawn dray, or done in a safe manner by horse drawn dray.

(9) Consent by the applicant to an administrative inspection of the vehicle, as stated in section 66-99(e), by the person completing and submitting the application with authority by the vehicle owner.

(Ord. No. 327, § 4(a), 11-20-1995; Ord. No. 582 , § 8, 6-3-2020)

Sec. 66-93. - Separate application required.

A separate application and permit shall be required each time a motor vehicle is proposed to be used for a purpose not specifically identified and approved in the original application and permit. Permits are for that vehicle and use as originally applied for and shall not be transferred or applied to another vehicle, person or use.

(Ord. No. 327, § 4(b), 11-20-1995; Ord. No. 582 , § 8, 6-3-2020)

Sec. 66-94. - Fees.

Fees shall be assessed and collected for each motor vehicle permit according to the fee schedule promulgated by the city council. The appropriate fee shall accompany each application when submitted to the city, payable in U.S. funds to the city. The amount of fees as provided for shall be in that amount that is reasonably assessable based on administrative, enforcement and printing costs, as well as reasonable costs associated with vehicular traffic and its tangible impact on the road system and structure. Fees shall be waived only in the following instances:

(1) Vehicles owned, used, operated or contracted by local, county, state and federal agencies and entities, and public authorities and boards.

(2) Vehicles owned and operated by public utilities as may be regulated by the state public service commission, and in the course of conducting their franchise and service.

(Ord. No. 327, § 4(c), 11-20-1995; Ord. No. 582 , § 8, 6-3-2020)

Sec. 66-95. - Application review standards.

Approval standards applicable to all motor vehicle permit applications.

(1) Applications for motor vehicle permits shall consider the following criteria relating to the proposed use of a motor vehicle:

a. There is no other reasonable way to perform a specific task for which the motor vehicle is proposed to be used.

b. The location of the property where the vehicle will be used or stored as it relates to public view, noise and other impact on the neighboring properties and the general public.

c. Whether the owner/applicant is a public or private entity.

d. Factors involving the health, safety and welfare of the community at large.

e. The use/storage of the permitted motor vehicle is not in violation of any zoning or other city ordinance.

(2) Additional approval standards for annual permits. All motor vehicles with an annual permit shall be stored and used on a regular or continuous basis by a business or institution within the confines of the permittee's property for the specific task(s) identified in the application. The permitted motor vehicle will not be allowed off the permittee's parcel of property identified in the application, and when not in use, must be stored in a structure that will not allow the vehicle to be viewed by the public.

(3) Additional approval standards for seasonal permits.

a. Seasonal permits are available only for the following:

1. Lawn and garden tractors for mowing and maintenance of grounds. The gross weight of said vehicle must be less than 1,000 pounds.

2. Golf course maintenance equipment.

3. Vehicles used solely for snow removal.

(4) Additional approval standards for short term permits. Larger motor vehicles, including, but not limited to, those carrying housing modules shall not exceed any of the following dimensional limits, measuring the entire vehicle, trailer and load as a single unit. Vehicles exceeding such limits may be permitted only by the city council upon the city council determining that the vehicle will not endanger the health, safety and welfare of the community because of the time, route and other circumstances surrounding the proposed use. Dimensional limits shall not exceed 14 feet wide by 44 feet long. Dimensions must include the overhangs and eaves.

(Ord. No. 327, § 4(d), 11-20-1995; Ord. No. 549, § 5, 8-17-2017; Ord. No. 582 , § 8, 6-3-2020)

Sec. 66-96. - Display.

A motor vehicle permit issued under this division shall be displayed on the vehicle for which it was issued to in a prominent and visible manner.

(Ord. No. 327, § 4(f), 11-20-1995)

Sec. 66-97. - Revocation.

Any permit issued under this division shall be immediately revoked when, based on personal investigation by a peace officer, it can be shown that a violation has occurred contrary to provisions of this article or other conditions or restrictions applicable to that permit.

(Ord. No. 327, § 4(e), 11-20-1995)

Sec. 66-98. - Applicant's burden of proof.

(a) The applicant's burden of proof shall depend on the time of year and the location where the motor vehicle is proposed to be used. There are two different geographic zones which are depicted on a map attached hereto as Exhibit A with the intent being to allow a more permissive issuance of motor vehicle permits in geographic areas that are more remote, and more removed from the majority of tourists. Zone 1 is intended to include the downtown area, being all property below the bluff from the city water plant to the west end of the boardwalk, including the Grand Hotel properties, all of Hubbard's Annex, all of Stonebrook Subdivisions, and all areas accessible to M-185. Zone 2 is intended to include all other areas that are not included in Zone 1.

(b) In Zone 1, an application to use a motor vehicle between November 1 and May 1 of the following year must show, by a preponderance of the evidence, that the applicant would encounter practical difficulties if the permit is denied. An application to use a motor vehicle at all other times of the year must show, by clear and convincing evidence, that a denial would result in undue hardship.

(c) In Zone 2, an application to use a motor vehicle between the second Monday in October to the Thursday before Memorial Day of the following year must show, by a preponderance of the evidence, that the applicant would encounter practical difficulties if the permit is denied. An application to use a motor vehicle at all other times of the year must show, by clear and convincing evidence, that a denial would result in undue hardship.

(Ord. No. 582 , § 8, 6-3-2020)

Sec. 66-99. - Terms and conditions applicable to all permits.

(a) All vehicles must travel with headlights on at all times on city streets.

(b) The following time restrictions apply to Monday through Friday on Main Street, Market Street, Cadotte Avenue through Harrisonville, the Stonecliffe residential area and Mission area unless school is not in session. No vehicle will run before 10:00 a.m. on Sunday.

(1) 7:45 a.m. until 8:30 a.m.

(2) 12:00 p.m. until 12:30 p.m.

(3) 3:00 p.m. to 4:00 p.m.

(c) Permitted vehicles will not be allowed to park or be used on the following city streets during the following events:

City Streets: Main Street, Market Street, Cadotte Avenue through Harrisonville, Mission area and the Stonecliffe Residential area.

Events: The Christmas Bazaar (including Friday through Sunday of the Bazaar weekend), Christmas (being December 24 through Christmas Day), New Year's (being December 31 through January 1) and Winter Festival weekend (beginning Saturday and continuing through Sunday of the Winter Festival weekend).

(d) All vehicles shall be escorted by the city police department while traveling on public streets except:

(1) Vehicles that operate exclusively on state park property won't require an escort from the city if the park approves their movement.

(2) If the police department is busy and cannot escort vehicles, the fire department, state park, or DPW may aid in escorting motor vehicles. The mayor and/or police chief will have discretionary control as needed.

(e) All vehicle owners/operators must consent to an administrative inspection of said vehicle, and any trailer or apparatus connected thereto, prior to entering Mackinac Island. Failure to do so will result in the automatic revocation of a vehicle permit. The purpose of such inspection is to detect any device or condition on or of the motor vehicle, and any trailer or apparatus connected thereto, that could endanger human life/safety while within the city.

(Ord. No. 582 , § 8, 6-3-2020)

Secs. 66-100—66-120. - Reserved.

ARTICLE III. - SNOWMOBILES[3]

Footnotes:

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State Law reference— Snowmobiles, MCL 324.82101 et seq.

Sec. 66-121. - Definitions.

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

Operate means to ride in or on and be in actual physical control of the operation of a snowmobile.

Operator means any person who operates or is in actual physical control of a snowmobile.

Owner means any of the following:

(1) A person renting a snowmobile or having the exclusive use of a snowmobile for more than 30 days.

Snowmobile means any motor-driven vehicles designed to travel primarily on snow or ice which is driven by a single endless belt tread in contact with the surface upon which it is operated and steered by two sled type runners or skis.

(Ord. No. 225, § 1, 12-22-1976; Ord. No. 410, § 2, 4-23-2003; Ord. No. 517, § 2, 10-14-2015; Ord. No. 518, § 3, 10-28-2015)

Cross reference— Definitions generally, § 1-2.

Sec. 66-122. - Areas of use.

All public streets, roads, alleys and other thoroughfares in the city are open to snowmobile traffic under the rules and regulations set forth in section 66-125; however, when the city council determines that any such public street, road, alley or other thoroughfare should be closed to snowmobiles, the same shall be posted on the street, road, alley or other thoroughfare involved.

(Ord. No. 225, § 2, 12-22-1976)

Sec. 66-123. - Time of operation.

Snowmobiles may be operated only between November 15 through April 15; however, the operation must be on snow or ice, and under no other conditions.

(Ord. No. 225, § 4, 12-22-1976)

Sec. 66-124. - State registration; permit.

Snowmobiles shall not be operated in the city without first complying with the following:

(1) Each snowmobile must be registered under state law.

(2) a. No snowmobile shall be operated within the City of Mackinac Island unless the owner first obtains the necessary permit from the City of Mackinac Island or the Mackinac Island State Historic Park (there being one permit that may be issued by either governmental entity). Said permits shall require payment of the appropriate fee as determined and established by the city council. Said permits are valid only between November 15th to April 15th annually. The annual permits referenced in the subsequent paragraph shall be affixed and prominently displayed on the snowmobile. The daily permits shall be retained by the driver of the snowmobile.

b. There shall be two types of permits allowing controlled and restricted use of snowmobiles on specified roads as follows:

1. *Annual permits.* Annual permits can be obtained by residents of Mackinac Island and nonresidents who commute to Mackinac Island via the ice bridge on snowmobiles, for safe and convenient access to and from the shore of Mackinac Island for purposes of health, safety, education and employment purposes. Said annual permits will be valid for the entire snowmobile season referenced in subsection (2)a. above.

2. *Daily permits.* Daily permits can be obtained by any person for the purpose of traveling on Mackinac Island in limited locations designated in section (3). Said daily permits shall be valid for the day of issuance and the following day until 12:00 PM.

(3) *Roads open for snowmobile use.* All city of Mackinac Island roads are open to use by snowmobiles with annual permits. Daily permitees are prohibited from using city roads except for the following:

Main Street—M-185

Truscott Street

Astor Street

Hoban Street

French Lane

Mahoney Avenue

Cadotte Avenue

Huron Road—Between Turkey Hill and Annex Road

Annex Road

Market Street

(Ord. No. 225, § 3, 12-22-1976; Ord. No. 396, 11-7-2001; Ord. No. 517, § 4, 10-14-2015; Ord. No. 518, § 4, 10-28-2015)

State Law reference— Snowmobile registration, MCL 324.81203.

Sec. 66-125. - Operation rules.

In the operation of a snowmobile, the following rules must be complied with:

(1) Snowmobiles shall be operated at a safe speed for the conditions existing at the time of the operation; provided however, in no case shall the speed exceed 20 miles per hour within the territorial limits of the city of Mackinac Island.

State Law reference— Snowmobile speed, MCL 324.82119.

(2) Snowmobiles shall observe and yield to righthand traffic unless otherwise posted, and obey all city and state traffic laws and for this purpose, all cross streets shall be considered stop streets for snowmobiles.

(3) Snowmobiles shall yield and give right-of-way to pedestrians, horses and snow plows and shall come to a complete stop for pedestrians crossing any travelway.

(4) Snowmobiles shall not overtake and pass any horse being ridden or driven without the permission of the person controlling the horse.

(5) A snowmobile shall not be operated unless it has at least one headlight, one taillight and adequate brakes capable of one of the following while the snowmobile travels on packed snow and carries an operator who weighs 175 pounds or more:

a. Stopping the snowmobile in not more than 400 feet from an initial steady speed of 20 miles per hour; or

b. Locking the snowmobile's traction belt or belts.

State Law reference— Snowmobile lights and equipment, MCL 324.82122, 324.82131.

(6) There shall be no parking of snowmobiles on any plowed street so as to interfere with the maintenance of the street or other traffic thereon.

(7) Snowmobiles may not be operated by any person unless the person shall comply with section 82120 of Public Act No. 451 of 1994 (MCL 324.82120), as it pertains to people of age 12 to age 16.

(8) A person shall not operate a snowmobile:

a. While under the influence of intoxicating liquor or narcotic drugs, barbital or any derivative of barbital.

State Law reference— Operation of snowmobile under influence of alcohol or drugs, MCL 324.82127.

b. During the hours from one-half hour after sunset to one-half hour before sunrise without displaying a lighted headlight and a lighted taillight.

c. Within 100 feet of a dwelling between 12:00 midnight and 6:00 a.m., at a speed greater than the minimum required to maintain forward movement of the snowmobile.

State Law reference— Similar provisions, MCL 324.82126(1)(e).

d. In or upon or remain unlawfully on premises which are fenced, otherwise enclosed in a manner to exclude intruders, posted in a conspicuous manner or when notice against trespass is personally communicated to him by the owner or an authorized person. A person shall not operate a snowmobile in or upon farmlands, farm woodlots, or platted property without permission of the landowner.

e. While transporting thereon a bow unless unstrung or a firearm unless securely encased or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

State Law reference— Similar provisions, MCL 324.82126(1)(g).

f. On or across a cemetery or burial ground.

State Law reference— Similar provisions, MCL 324.82126(1)(h).

g. Upon a public highway or other place open to the general public in willful or wanton disregard for the safety of persons or property. Such operation shall constitute reckless operation.

State Law reference— Similar provisions, MCL 324.82126(2).

h. Upon a public highway or other place open to the general public in a careless or negligent manner likely to endanger any person or property, but without wantonness or recklessness. Such operation shall constitute careless operation.

State Law reference— Similar provisions, MCL 324.82126(1).

(9) All snowmobiles must be operated on the righthand side of any street, road, alley or other thoroughfare.

State Law reference— Operation on right, MCL 324.82119.

(Ord. No. 225, § 5, 12-22-1976; Ord. of 12-22-1987; Ord. of 1-3-1990; Ord. No. 517, §§ 2, 6, 10-14-2015; Ord. No. 518, § 6, 10-28-2015)

Sec. 66-126. - Operation on school property.

Restrictions placed on snowmobile operation Monday through Friday, both day and night, on city school property shall be as follows:

(1) Machines are to be parked in the area designated west of the north end of the building, 100 feet from the building.

(2) Machines crossing the school property shall not operate within a minimum of 100 feet of the building.

(3) When students are present on the playground, the driver shall remain a minimum of 25 feet from such students.

(4) The maximum speed limit on school property shall be ten miles per hour.

(5) The driveway to the east of the building shall be reserved for delivery and repair vehicles only.

(6) The only machines permitted to come to the entrance door areas of the building shall be:

a. Delivery vehicles.

b. Emergency vehicles.

c. Parents picking up an injured or ill student.

(Ord. No. 225, § 5A, 12-22-1976)

Sec. 66-127. - Commercial operation prohibited.

No snowmobile shall be used or operated for the following commercial purposes:

(1) Transporting freight or passengers for hire, or as a service for customers of a business.

(2) As a rental by a snowmobile rental livery located within the city of Mackinac Island.

(Ord. No. 225, § 6, 12-22-1976; Ord. No. 517, § 7, 10-14-2015; Ord. No. 518, § 7, 10-28-2015)

Sec. 66-128. - Violations.

(a) *Determining operator of snowmobile.* In a proceeding for a violation of this article involving prohibited operation or conduct, the registration number displayed on a snowmobile constitutes prima facie evidence that the owner of the snowmobile was the person operating the snowmobile at the time of the offense.

(b) *Issuance of citation in accident.* A police officer may issue a citation to a person who is the operator of a snowmobile in an accident when, based upon personal investigation, the officer had reasonable cause to believe that the person has committed a misdemeanor under this article in connection with the accident. The officer shall prepare an original and three copies of the citation setting forth the name and address of the person, the violation that may be charged against the person and the time and place of the appearance of the person in court. The citation shall inform the person of the office, bureau or department to which requests for a change or adjournment of the court date may be made.

(Ord. No. 225, § 8, 12-22-1976)

Sec. 66-129. - Penalties for violations.

(a) Any person who violates the provisions of this article, except for the prohibited parking of snowmobiles referenced in section 66-125(8), shall be responsible for a civil infraction.

(b) Any person who violates the snowmobile parking provision in section 66-125(8) shall be responsible for a civil infraction and a fine of $15.00. In addition, any such violation shall be subject to having the snowmobile impounded and not released until an impound fee, as established by the city council, is paid.

(Ord. No. 225, § 9, 12-22-1976; Ord. No. 396, 11-7-2001; Ord. No. 410, § 3, 4-23-2003; Ord. No. 576 , § 1, 2-24-2020)

Secs. 66-130—66-160. - Reserved.

ARTICLE IV. - BICYCLES, TRI-WHEELERS, PEDAL WHEELCHAIRS[4]

Footnotes:

State Law reference— General authority relative to bicycles, MCL 257.606(1)(i); bicycle operation, MCL 257.656 et seq.

Sec. 66-161. - Regulations for parking.

(a) No person shall park a bicycle, tri-wheeler, or pedal wheelchair on any sidewalk at any time within the city limits.

(b) From May 15th to November 1st of each year, no person shall park a bicycle, tri-wheeler, or pedal wheelchair, at any time of day, on the north side of Market Street between Fort Street and the Medical Center.

(c) From May 15th to November 1st of each year, no person shall park a bicycle, tri-wheeler, or pedal wheelchair on the following streets between the hours of 3:00 a.m. and 7:00 a.m.:

(1) On Main Street or Lake Shore Boulevard between Fort Street and Market Street.

(2) On Market Street, between Fort Street and Lake Shore Boulevard.

(3) On Astor Street between Market Street and Main Street.

(4) On Hoban Street between Market Street and Main Street.

(5) On Cadotte Avenue, also known as Grand Avenue between Market Street and Mahoney Avenue.

(d) Where white lines are painted on a public street, depicting a bicycle parking lane between the white line and the curb, any bicycle, tri-wheeler or pedal wheelchair shall be parked entirely within said parking lane.

(e) No bicycle, tri-wheeler or pedal wheelchair, when otherwise legally parked on a city street, shall be locked to any fixed object on or adjacent to said street.

(f) From May 15th to November 1st of each year, no bicycle or tri-wheeler with burleys or trailers attached, no tandem bikes, and no bikes without kickstands, shall be parked on any of the following streets at any time of day.

(1) On Main Street or Lake Shore Boulevard between Fort Street and Market Street.

(2) On Market Street, between Fort Street and Lake Shore Boulevard.

(3) On Astor Street between Market Street and Main Street.

(4) On Hoban Street between Market Street and Main Street.

(5) On Cadotte Avenue, also known as Grand Avenue between Market Street and Mahoney Avenue.

(Ord. No. 259, § 5, 7-25-1979; Ord. No. 494, § 1, 4-29-2015, eff. 5-19-2015)

Sec. 66-162. - Rental singularly or in conjunction with hotel or roominghouse.

No person shall rent or offer for rent, whether singularly or in conjunction with a hotel room or roominghouse lease agreement, a tri-wheeler or four wheel bicycle.

(Ord. No. 259, 7-25-1979; Ord. of 4-25-1984)

Sec. 66-163. - License.

(a) It shall be unlawful for any person, firm or corporation to operate, place or cause to be placed, a bicycle or tri-wheeler upon the city streets without having obtained and prominently displayed upon such vehicle a license as provided in this section.

(b) An annual license shall be obtained from the city police department upon submission of required information concerning the licensee and the bicycle to be licensed, and payment of the license fee as determined by the city council.The annual license shall expire April 30 of the calendar year following the date of its issuance.

(c) A tourist license shall be obtained upon payment of the designated fee for any bicycle transported to the city by way of one of the passenger ferry services franchised by the city, who are designated as licensing agents for the city, except for bicycles that have previously been issued an annual license. A tourist license may also be obtained from the city police department upon payment of the designated fee. A tourist license shall expire upon the bicycle being removed from the city or within seven days of the date of issuance, whichever is sooner.

(Ord. No. 259, § 2, 7-25-1979; Ord. No. 349, §§ 1, 2, 5-7-1998; Ord. No. 388, 3-8-2001)

Sec. 66-164. - Operation on sidewalk or dock prohibited.

No person, firm or corporation shall operate or use any bicycle, tri-wheeler or pedal wheelchair upon any public sidewalk or public dock.

(Ord. No. 259, § 3, 7-25-1979; Ord. No. 349, § 3, 5-7-1998)

Cross reference— Streets, sidewalks and other public places, ch. 54.

Sec. 66-165. - Regulations for operation.

(a) The following regulations are applicable to bicycles and tri-wheelers and shall apply whenever a bicycle or tri-wheeler is operated upon any street, highway or upon any path set aside for exclusive use of bicycles and tri-wheelers subject to those exceptions stated in this section. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this section.

(1) A person operating a bicycle or tri-wheeler shall not carry any package, bundle or article that obscures the vision of such operator, or in any way interferes with the operation of such bicycle or tri-wheeler.

(2) No person shall operate a bicycle or tri-wheeler at such a speed, or in such a manner or reckless manner as to be likely to endanger persons or property lawfully upon public streets.

(3) A person operating a bicycle or tri-wheeler for the purpose of carrying luggage, baggage, packages, bundles or articles shall have such vehicle equipped only with standard-stock handlebars and standard-stock seat stem and must be able to operate such a vehicle, when loaded, in a safe manner. If a person operating such vehicle when carrying luggage, baggage, packages, bundles or articles is unable to safely stop within a distance of five feet, then such operation shall be presumed unsafe. If a person operates such a vehicle with luggage, baggage, packages, bundles or other articles hanging from the handlebars, then such operation shall be presumed unsafe.

(4) No person shall ride, operate or use any human powered pedal-wheel device that allows for more than one person except for the following:

a. A tandem bicycle with in-line seating.

b. A bicycle with an infant carrier-type seat.

(5) No person shall operate a bicycle or tri-wheeler having attached to it, or as a part of it, an overhead cover of any material.

(6) No person shall operate, or allow to be operated, a bicycle with training wheels on Main Street; Market Street; or on Cadotte Avenue, between Market Street and the Grand Hotel.

(b) Nothing in this section shall prevent a person operating or riding a bicycle or tri-wheeler from attaching to such bicycle or tri-wheeler a two-wheeled cart or trailer for the following purpose:

(1) The hauling of luggage, baggage, packages, bundles or articles provided that such trailer or cart have a total width, including the axle, of no more than four and one-half feet. Further, such cart or trailer shall be attached safely, and securely fastened to a frame component of the bicycle or tri-wheeler.

(2) The transport of children in a cart or trailer specifically designed and manufactured for the exclusive purpose of transporting children while properly affixed and attached to a bicycle or tri-wheeler according to the manufacturer's recommended direction with recommended equipment. Further, such cart shall be occupied and children secured within the cart by no more children than what the cart is designed and manufactured for. For purposes of this subsection, a child is defined as a person weighing not more than 60 pounds.

(c) No bicycle or tri-wheeler shall be used to transport people, other than the operator(s), for a fee or as a service provided to a commercial patron.

(Ord. No. 259, § 4, 7-25-1979; Ord. No. 335, 5-28-1997; Ord. No. 470, § 1, 7-25-2012, eff. 8-13-2012; Ord. No. 494, § 2, 4-29-2015, eff. 5-19-2015; Ord. No. 500, § 1, 6-10-2015, eff. 6-30-2015)

Sec. 66-166. - Penalty.

Any person violating any provision of this division, except section 66-165(a)(2), shall be guilty of a civil infraction, and further, any bicycle, three-wheel cycle, pedal wheelchair, Bermuda chair or any other manpowered vehicles operated or placed in a manner that is in violation of the provisions of this division, may be impounded and shall not be released until payment of fines and court costs, if any. The person violating section 66-165(a)(2) shall be guilty of a misdemeanor.

(Ord. No. 259, § 6, 7-25-1979; Ord. No. 335, 5-28-1997; Ord. No. 349, § 6, 5-7-1998; Ord. No. 457, §§ 1, 2, 7-13-2011, eff. 8-10-2011; Ord. No. 494, § 3, 4-29-2015, eff. 5-19-2015; Ord. No. 507, §§ 1, 2, 6-24-2015, eff. 7-14-2015)

Sec. 66-167. - Electric assistance to bicycles/tricycle utilized by qualified persons with mobility disabilities.

(a) *Definition of "qualified person with a mobility disability".* The definition of a "qualified person with a mobility disability" is as follows:

A qualified person with a mobility disability is an individual who has a physical impairment that substantially limits the ability of the individual to pedal a bicycle; and despite the person's physical limitations, he or she is capable of safely operating an electric assist tricycle/bicycle.

A qualified person with a mobility disability would include, for example, an individual who:

(1) Cannot walk 200 feet without stopping to rest; or

(2) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic devices, wheelchair or other assistive device; or

(3) Is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 mm/Hg on room air at rest; or

(4) Uses portable oxygen; or

(5) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or

(6) Is severely limited in their ability to walk and to pedal a bicycle due to an arthritic, neurological or orthopedic condition.

(b) *Definition of electric bicycle.* The definition of an "electric bicycle" as used in this section, includes both two-wheeled bicycles and three-wheeled tricycles that satisfy all of the elements of the definition of "Class 1 electric bicycle" contained in section 13e of the Michigan Vehicle Code, 1949 PA 300, MCL 257.13e.

(c) *Use of electric bicycle/tricycle.* A person with a mobility disability may use an electric bicycle in the city when the use of the electric bicycle is necessary to reasonably accommodate a mobility disability of the person.

(d) *Required label on electric bicycle.* All electric bicycles used within the city must have affixed to them the label required by section 662a(2) of the Michigan Vehicle Code, 1949 PA 300, MCL 257.662a(2) showing the classification number, top assisted speed, and motor wattage of the electric bicycle.

(e) *Non-conforming electric bicycles.* In the event an electric bicycle does not meet the definition provided in subsection (b) of this section, that non-conforming electric bicycle may be modified to meet the definition provided therein. In the event an electric bicycle meets the definition of subsection (b) but does not contain the affixation of a label providing that information, in compliance with subsection (d) of this section, the owner of such an electric bicycle may provide the relevant information to the city police and a city label shall be provided to affix to the electric bicycle.

(Ord. No. 423, § 2, 7-21-2004; Ord. No. 566, § 1, 3-13-2019; Ord. No. 584 , § 1, 7-15-2020)

Editor's note— Ord. No. 566, § 1, adopted March 13, 2019, amended § 66-167, and in so doing changed the title of said section, as set out herein.

Secs. 66-168—66-200. - Reserved.

ARTICLE V. - BICYCLE RENTALS[5]

Footnotes:

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Editor's note— Ord. No. 436, § 1—16, adopted 12-17-2008, amended Art. V, in its entirety to read as herein set out. Prior to inclusion of said ordinance, Art. V, pertained to similar subject matter. See also the Code Comparative Table.

DIVISION 1. - GENERALLY

Sec. 66-201. - Purpose.

The city of Mackinac Island is host to a large number of tourists each year who have a need for transportation to various parts of the island. One of the primary means of transportation on Mackinac Island is the bicycle, and the ability of tourists to access the various areas of the city is important to the

tourists' enjoyment and to the local economy. The city of Mackinac Island also has significant concerns with traffic congestion in various locations which require the coordinated use of public areas by pedestrians, horse drawn vehicles, personal bicycles and rental bicycles. The purposes of this article are to provide an appropriate number of rental bicycles to accommodate the needs of the public, to minimize traffic congestion caused by rental bicycles, to otherwise regulate the operation of rental bicycle outlets and to provide competition beneficial to the public.

(Ord. No. 436, § 1, 12-17-2008; Ord. No. 506, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 66-202. - Definitions.

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

Bicycle means any pedal-propelled wheeled vehicle, with not more than two wheels, used for or capable of transporting one or more persons thereon. A rental bicycle shall not include or have attached to it any trailer type vehicle, except a trailer cart in compliance with the manufacturer's specifications and not transporting more than two children.

(Ord. No. 436, § 3, 12-17-2008; Ord. No. 506, § 3, 6-24-2015, eff. 7-14-2015)

Sec. 66-203. - Condition of bicycles.

All bicycles rented or held out for rent shall be in good working order. All rental bicycles licensed under this article shall be made available for inspection after reasonable notice upon request of the mayor.

(Ord. No. 436, § 4, 12-17-2008; Ord. No. 506, § 4, 6-24-2015, eff. 7-14-2015)

Sec. 66-204. - License.

No person shall rent or offer for rent a bicycle, or offer use of a bicycle in association, or as a part of, any commercial endeavor, for operation within the limits of the city unless such person shall first obtain a rental bicycle license for each bicycle rented.

(Ord. No. 436, § 5, 12-17-2008; Ord. No. 506, § 5, 6-24-2015, eff. 7-14-2015)

Sec. 66-205. - Annual license issuance.

(a) Prior to the issuance of any rental bicycle licenses under this article, the city council shall determine the total number of licenses to issue, the identity of the licensee and the location of the licensee's rental bicycle operation.

(b) Before making said determination, the council shall hold a public hearing on or before March 31st of each year. Any person may appear personally before the council at such public hearing or may submit a written statement to the council on or before the date of hearing, or both, making a request or offering comment on the number of licenses issued, to whom the licenses are issued and the location of the rental bicycle operation.

(c) The clerk shall post notice of a public hearing in a public place within the city at least ten days before the public hearing. Written notice of the public hearing shall be sent at least ten days before the public hearing by first class mail to:

(1) All current rental bicycle licensees.

(2) All current applicants for rental bicycle licenses.

(3) Any other person, upon the written request of that person submitted to the clerk.

Failure of one or more of the above-described persons to receive such written notice shall not automatically invalidate a determination made pursuant to the public hearing.

(d) After the public hearing, the council shall determine the number of rental bicycle licenses to be authorized, the identity of the licensees and the location where the licenses will be operated based on the consideration set forth in subsection (c). In making such determinations, the council shall consider [the following section requirements].

(Ord. No. 436, § 6, 12-17-2008; Ord. No. 506, § 6, 6-24-2015, eff. 7-14-2015)

Sec. 66-206. - Application for license.

(a) *Application.* Any person wishing to obtain rental bicycle licenses shall make application to the city council by filing with the clerk on or before March 1 of each year, with an application form available from the city clerk providing the following information.

(1) Applicant's name and address. If the applicant is a partnership, limited liability company, corporation or other similar entity, the names of all partners, members, shareholders or owners shall be provided. If the licenses will be managed by any person or entity other than the applicant or its partners, members, shareholders or owners, the name and address of said manager must be included;

(2) Number of licenses requested;

(3) Location of the proposed rental outlet;

(4) Facts relevant to the criteria to be used by the council in issuing licenses, as set out in subsection (c) of this section; and

(5) Any other information the applicant wishes the council to consider.

The council may require further information from the applicant which will assist the council in issuing licenses.

(b) *Determination of council.* Upon timely and proper application, the council shall, with respect to each applicant, determine:

(1) Whether to issue licenses to the applicant; and

(2) If so, how many licenses to issue.

(3) Any conditions the council may impose on the issuance of licenses.

(c) *Considerations in making determination.* In determining whether to issue licenses as requested by an applicant, and in determining the number and any conditions thereon, the council shall consider:

(1) Whether the applicant was licensed in the previous year;

(2) Whether the requested licenses were issued at the applicant's proposed location the previous year;

(3) The adequacy of the physical facilities from which the bicycle rental business would be conducted;

(4) The location of the proposed rental sites, insofar as it pertains to convenience to the public and effect on local traffic conditions;

(5) The adequacy of the applicant's equipment and facilities to repair and maintain the bicycles in good working order;

(6) The applicant's compliance with the terms of this division;

(7) The applicant's compliance with all applicable federal, state and local building, plumbing, fire, zoning, safety, sanitation and health laws and ordinances;

(8) The effect of issuance of licenses on the health, welfare and safety of the general public; and

(9) Whether the issuance creates a situation where the applicant, and/or its manager, or any combination thereof, will control more than 24 percent of the total number of rental bicycle licenses within the city. This criteria will not prevent the issuance of renewal licenses to a licensee having more than 24 percent of the total licenses at the time of adoption of this article.

(Ord. No. 436, § 7, 12-17-2008; Ord. No. 506, § 7, 6-24-2015, eff. 7-14-2015)

Sec. 66-207. - Ordinance form.

The decision of the council with regard to the issuance of licenses shall be in the form of an ordinance directing the clerk to issue the specific licenses.

(Ord. No. 436, § 8, 12-17-2008; Ord. No. 506, § 8, 6-24-2015, eff. 7-14-2015)

Sec. 66-208. - Failure to renew.

In the event licenses issued in the previous year are not renewed by the council, the council shall provide a written notice to the renewal applicant advising the applicant of said failure to renew and the reasons therefore. The written notice shall further notify said applicant of its right to request and have a hearing before the council at which time the applicant may show cause to the council why the license should have been renewed. The hearing shall be requested in writing by the applicant within ten days of the written notice of non-renewal being mailed applicant.

At the hearing the applicant shall be given the opportunity to present evidence bearing on the issue of non-renewal and, thereafter, the council shall decide whether to affirm or reverse its previous decision to not renew the applicant's licenses.

(Ord. No. 436, § 9, 12-17-2008; Ord. No. 506, § 9, 6-24-2015, eff. 7-14-2015)

Sec. 66-209. - Fee.

No rental bicycle license or renewal of a rental bicycle license shall be issued until the licensee has paid an annual license fee in the amount established by the council.

(Ord. No. 436, § 10, 12-17-2008; Ord. No. 506, § 10, 6-24-2015, eff. 7-14-2015)

Sec. 66-210. - Insurance.

Before rental bicycle licenses may be issued, the applicant must file with the clerk proper evidence, which shall include a certificate of insurance that the applicant has procured insurance with an insurance company permitted to do business in the state, which insures the licensee from and against any public liability arising out of the public rental of bicycles, in the amount of $500,000.00.

(Ord. No. 436, § 11, 12-17-2008; Ord. No. 506, § 11, 6-24-2015, eff. 7-14-2015)

Sec. 66-211. - Expiration.

All licenses issued under this division shall expire on April 30 of the next calendar year following the date of issuance.

(Ord. No. 436, § 12, 12-17-2008; Ord. No. 506, § 12, 6-24-2015, eff. 7-14-2015)

Sec. 66-212. - Transfer or modification of license.

Licenses issued pursuant to this article may be assigned or modified upon at any time upon written application therefore providing all information required in subsection 66-205(a) and the approval of the council. The council's approval of such assignment shall be based on the same considerations in making determinations set forth in subsection 66-205(c) of this article.

(Ord. No. 436, § 13, 12-17-2008; Ord. No. 506, § 13, 6-24-2015, eff. 7-14-2015)

Sec. 66-213. - Form and display.

A rental bicycle license shall be displayed in a prominent and conspicuous location on the rental bicycle. Current licenses shall be displayed when the license becomes effective, or 15 days after they are made available to the licensees, whichever is later. No bicycle shall be rented unless it displays a current license plate. The licensee shall be allowed to transfer the physical license from one bicycle to another provided the licensee does not rent more bicycles than their number of licenses.

(Ord. No. 436, § 14, 12-17-2008; Ord. No. 506, § 14, 6-24-2015, eff. 7-14-2015)

Sec. 66-214. - Suspension or revocation.

(a) *Hearing required.* The council shall have authority to suspend for a period of time up to six months, or to revoke any license issued pursuant to this division if it shall appear that the licensee has failed to comply with the terms of this division. Suspension or revocation may occur only after a public hearing.

(b) *Notice of hearing.* The clerk shall post notice in a public place within the city at least ten days before the public hearing required in subsection (a) of this section. The licensee shall be given at least ten days' written notice stating that suspension or revocation is under consideration and setting forth the reasons therefore. Such notice may be given by personal delivery to the licensee or by first class mail.

(c) *Evidence.* At the hearing required in subsection (a) of this section the rental bicycle licensee shall be given the opportunity to present evidence bearing on the issue of suspension or revocation.

(d) *Decision.* After the hearing required in subsection (a) of this section, the council shall decide whether there is proper cause to suspend or revoke the licenses held by the licensee.

(e) *Ordinance regarding revocation.* The council's decision shall be expressed in the form of an ordinance. If the rental bicycle licenses are revoked, the ordinance shall set forth the reasons for such revocation. The clerk shall, by first class mail, send a copy of the ordinance to the licensee involved.

(Ord. No. 436, § 15, 12-17-2008; Ord. No. 506, § 15, 6-24-2015, eff. 7-14-2015)

Sec. 66-215. - Notices.

(a) *Completion date of notice.* All notices required to be sent by mail shall be deemed completed on the date mailed for purposes of time requirements of this division.

(b) *Addressing notice.* The notice requirement of this division shall be deemed satisfied if the notice is addressed as follows:

(1) In the case of the city, to the clerk.

(2) In the case of a licensee, applicant or any other person, to the licensee's, applicant's or other person's city address, unless another address is designated in writing.

(Ord. No. 436, § 16, 12-17-2008; Ord. No. 506, § 16, 6-24-2015, eff. 7-14-2015)

Secs. 66-216—66-250. - Reserved.

ARTICLE VI. - COMMERCIAL FREIGHT HAULING VEHICLE ORDINANCE[6]

Footnotes:

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Editor's note— Ord. No. 522, §§ 1, 2, adopted December 16, 2015, repealed the former article VI, §§ 66-251—66-257, and enacted a new article VI as set out herein. The former article VI pertained to horse-drawn vehicles, saddle horses and wheeled carts and derived from Ord. No. 425, 5-11-2005.

Sec. 66-251. - Definitions.

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

Bicycle means any pedal-propelled wheeled vehicle with not more than three wheels used for or capable of transporting not more than two persons thereon.

Commercial freight hauler means those persons or entities engaged in the business of transporting goods on public ways.

Horse-drawn vehicle means all vehicles propelled by one or more horses that is licensed to use the public streets by the City of Mackinac Island.

Korey means a wheeled device used to carry articles that is in any way larger than a luggage cart as defined herein but not more than 84 inches wide at any point of the vehicle, excluding wheels, and not more than 120 inches long at any point of the vehicle, excluding the tongue.

Luggage means the personal articles and effects of residents, visitors and customers of hotels, bed and breakfasts, and other commercial lodging operations.

Luggage cart means any wheeled device used to carry articles that is in any way larger than a personal cart, as defined herein, but not more than 48 inches wide at any point of the vehicle, excluding wheels, or not more than 72 inches long at any point of the vehicle, excluding any tongue or handle.

Personal cart means any wheeled device used to carry articles that are not more than 36 inches wide at any point of the vehicle, excluding wheels, and not more than 72 inches long at any point of the vehicle excluding any tongue or handle.

Trailers include any non-motorized wheeled vehicle that does not meet the definition of the various vehicles defined in this article, including but not limited to construction trailers, snowmobile trailers and boat trailers.

(Ord. No. 522, § 2, 12-16-2015)

Sec. 66-252. - Operation generally.

(a) All regulations and prohibitions contained herein are effective on all streets, highways, alleyways, lanes and sidewalks within the corporate limits of the city from May 1st through October 31st, annually.

(b) All vehicles and carts used on public ways shall have rubber wheels and used in a manner that does not cause damage to the pavement.

(c) All traffic shall be operated on the right side of the road.

(d) All horse-drawn vehicles will park only in designated parking areas.

(e) All horse-drawn vehicles will park wheel to curb.

(f) Three tour buggies will be allowed to stand on Huron Street between Astor Street and Hoban Street, between Hoban Street and French Lane, and between French Lane and Windermere Point.

(g) All taxis and buses will park right wheel to curb while loading or unloading.

(h) No horse-drawn vehicle will park in a loading zone unless loading or unloading passengers or articles.

(i) All horse-drawn vehicles shall have an attendant for horses at all times unless the horse or team of horses is hitched to a hitching post or rail.

(j) It shall be unlawful to operate any vehicle on any street designated as a one-way street by ordinance in any direction other than that so designated.

(k) No vehicles shall be connected or disconnected to a horse, or team of horses, on a public street or sidewalk except:

(1) Luggage carts that are used solely for the purpose of transporting customer luggage to and from ferry docks may be connected or disconnected on the street in front of the dock of the ferry on which the luggage is transported, and at a designated location at the lodging establishment. Provided, the luggage carts shall be immediately removed and placed on private property upon disconnection and, when in the process of being connected, shall be on the public way only for the time necessary to connect it to the horse-drawn vehicle.

(2) Situations in which the city council makes a specific exception taking into consideration matters that include the time of day, the time of year, the location and the impact the exception will have on the use of city streets and sidewalks.

(l) No more than one Korey or luggage cart may be pulled behind a horse-drawn vehicle at any time except:

(1) Two luggage carts loaded with luggage only may be pulled behind a licensed horse-drawn dray.

(2) Two luggage carts loaded with luggage only may be pulled by a horse-drawn shuttle.

(Ord. No. 522, § 2, 12-16-2015)

Sec. 66-253. - Operation of commercial freight haulers.

All commercial freight haulers shall transport goods on public ways only in one of the following manners:

(1) On a licensed horse-drawn dray.

(2) On a luggage cart being pulled behind a horse-drawn vehicle.

(3) On a Korey being pulled behind a horse-drawn dray.

(4) By a bicycle operated by a dock porter.

(5) Any other manner that is specifically approved by the city council based on a determination that there are safety or security issues which cannot be reasonably addressed by subsections (1), (2) or (3) above.

(6) Trailers may be used only with permission of the city council. Consideration for such permission shall include the purpose and need for the use, the time of use, the date of use, the route, the storage and parking of the trailer and any other matter relating to the health, safety and welfare of the residents and visitors to the city.

(Ord. No. 522, § 2, 12-16-2015)

Sec. 66-254. - Transportation of luggage.

Luggage not transported by a commercial freight hauler shall be transported on public ways only in one of the following manners:

(1) By hand.

(2) On personal carts.

(3) On a bicycle operated by a dock porter.

(Ord. No. 522, § 2, 12-16-2015)

Sec. 66-257. - Operation of personal carts.

(a) Personal carts may be used on city streets or sidewalks for all purposes except the transportation of freight by a commercial freight hauler.

(b) Any personal cart found in violation of this section shall be removed and impounded by a member of the police department and an impound fee in the amount established by ordinance assessed and collected before release to its proper owner.

(c) It shall be prima facie evidence that the owner of any personal cart found in violation of provisions of this article shall be deemed responsible for such violation and for payment of fines and/or fees assessed.

(d) No personal cart shall be placed or parked during the loading or unloading of articles in a manner so as to impede the safe and efficient movement of persons, bicycles, horses or other horse-drawn vehicles lawfully using the streets, highways, alleyways, lanes or sidewalks. Personal carts shall be removed immediately upon completion of any loading or unloading of articles.

(e) All personal carts shall have either affixed to it, or in any other manner, placed on it in a clear, legible and visible manner the name of the person, firm or corporation owning such cart as a means of identifying the personal cart's ownership. Any person, firm or corporation owning more than two personal carts shall, in addition to the requirements noted previously, identify each personal cart by an identification number unique to each personal cart in the same manner or fashion as noted previously within this section.

(Ord. No. 522, § 2, 12-16-2015)

Sec. 66-258. - Operation of trailers.

Operation of trailers, whether for commercial freight hauling or any other purpose, are prohibited within the City of Mackinac Island unless specifically permitted by the city council in consideration of the purpose and need for the use, the time of the use, the date of the use, the route, the storage and parking of the trailer and any other matters relating to the health, safety and welfare of the residents and visitors to the city.

(Ord. No. 522, § 2, 12-16-2015)

Secs. 66-259—66-290. - Reserved.

ARTICLE VII. - HORSE-DRAWN VEHICLES FOR HIRE[7]

Footnotes:

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Charter reference— Authority to regulate vehicles for hire, ch. IX, § 1(25).

Cross reference— Animals, ch. 6; businesses, ch. 14.

DIVISION 1. - GENERALLY

Sec. 66-291. - Definitions.

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

Drive yourself carriage means a carriage available for hire without an assigned driver, to be driven by the person renting or hiring such vehicle and shall be made available to patrons only after it shall be fully understood by the patrons that under no circumstances shall they be permitted to drive these drive yourself carriages in the areas specified in section 66-303.

General sightseeing carriage means a carriage used for operation of a fixed tour at a fixed fee per passenger and driven by an assigned driver and used only for sightseeing and tour drives except in such emergency created by heavy traffic arriving at the city, at which time general sightseeing carriages may be used for taxi service as a matter of convenience to the traveling public, except also when in an emergency a large group in excess of the capabilities of the hourly drive carriages seek such services and the hourly drive carriages are unable to cope with any specific group which may require the use of a general sightseeing carriage for an hourly drive, whereupon and in such event it will be permissible for a general sightseeing carriage to be used as an hourly drive carriage but only in that event.

Horse-drawn vehicle means a drive yourself carriage, general sightseeing carriage, hourly drive carriage or taxi.

Hourly drive carriage means a carriage capable of carrying not to exceed six persons, operated by a driver who may be accompanied by an assistant, both of whom must dress in full livery. Such carriage shall be hired by the hour and to operate to points designated by and at the request of the party occupying and hiring such service and shall be maintained by the owners in stands established by the city marshal as directed by the mayor and common council and shall not at any time cruise for the purpose of soliciting the hire of such carriage.

Operator means the driver in control of and in the actual operation of any horse-drawn vehicle and shall also include any assistant to the driver operating any carriage.

Owner includes the title holder of any license or equipment, lessee, licensee, assignee of any license.

Taxi means a carriage used for carrying passengers and their luggage on specific trips to a given point of origin for a fee based upon the service rendered according to passengers and distance but in no case upon an hourly rate and shall be on call 24 hours a day and operate from established stands. Such stands shall be designated by the city marshal as requested by the mayor and common council.

(Ord. No. 143, §§ 2, 28, 29, 7-16-1957)

Cross reference— Definitions generally, § 1-2.

Sec. 66-292. - Intent.

It is the intent of this article that no exclusive rights, privileges or permits shall be granted to any person or to any firm or corporation for any purpose whatsoever.

(Ord. No. 143, § 11, 7-16-1957)

Sec. 66-293. - Soliciting.

Soliciting by drivers or operators, or agents thereof, of such vehicles licensed under this article shall be done in an orderly manner that will not create a public nuisance.

(Ord. No. 143, § 12, 7-16-1957)

Sec. 66-294. - Time of operation.

The time of operation for carriages licensed under this article shall be designated by the city police department under the direction of the mayor and city council by resolution or otherwise.

(Ord. No. 143, § 13, 7-16-1957)

Sec. 66-295. - Fares.

(a) The fees and charges which may be collected by the owners, operators, or drivers of the vehicles for hire under this article shall be as follows:

(1) Sightseeing tours:

a. Adults and children 12 years of age or over, $2.50 each.

b. Children age five through 11 inclusive, $1.00 each.

(2) General service vehicles used as taxis in emergencies, $0.60 per occupant.

(3) Hourly drive vehicles:

a. Vehicles with up to four passengers, $10.00 per hour.

b. Vehicles carrying four to six passengers, $12.00 per hour.

(b) Notwithstanding the provisions of subsection (a) of this section and other sections of this article, it is permissible in the event of an emergency for larger carriages to be used as rental carriages where one entire and complete group shall demand the hourly services offered by liveried, hourly drive vehicles, and in such case where such general service vehicles are used, the initial rate for seven passengers and over shall be $18.00 per hour.

(Ord. No. 143, § 16, 7-16-1957)

Sec. 66-296. - Safety inspection.

All horse-drawn passenger carriages for hire shall be subject to inspection by the chief of police and shall be kept in good mechanical condition for the protection of the public. Any vehicle found to be in a defective condition shall be immediately withdrawn from service and shall not again be used for carrying passengers for hire until such carriage has been repaired, inspected and approved by the chief of police. A failure to comply with the requirements of the inspector shall be considered a violation of this article and

shall be punished as provided in this article and such license may be revoked or suspended by the council.

(Ord. No. 143, § 18, 7-16-1957)

Sec. 66-297. - Age of driver.

No horse-drawn vehicle for hire shall be driven by any person under 18 full years of age.

(Ord. No. 143, § 19, 7-16-1957)

Sec. 66-298. - Attendance of vehicle.

No horse-drawn vehicle for hire shall be left unattended at any time when such vehicle is hitched to a horse or team of horses.

(Ord. No. 143, § 20, 7-16-1957)

Sec. 66-299. - Carriage stands.

General sightseeing carriages for hire shall occupy such stands and places as directed by the city police department under instructions of the mayor and city council and such carriages at all times will maintain an orderly alignment at the designated stand. Carriages will discharge passengers in such a way as to provide safety and comfort to the public and at the direction of the city police department should such department deem it necessary to direct discharge of passengers.

(Ord. No. 143, § 21, 7-16-1957)

Sec. 66-300. - Conduct of drivers.

The drivers of all carriages shall at all times when on duty, be clean, courteous and neat and shall be free from the influence of any alcoholic beverages or narcotics of any nature and further, the odor of alcoholic beverages upon the breath of any driver of a carriage for hire shall be prima facie evidence of a violation of this article.

(Ord. No. 143, § 22, 7-16-1957)

Sec. 66-301. - Taxi operation.

(a) *Stands.* Taxicab operation shall be as directed from time to time by the city police department who shall carry out the directions of the mayor and council and such taxicabs shall occupy stands designated by the city police department and shall display a rate card in the cab showing proper charges for trips.

(b) *Refusal of patrons.* No taxicab driver, operator or owner shall refuse to make a trip to any point in the city customarily recognized as a taxi serviced point, regardless of the number of passengers, distance of trip, time of day or night and any owner whose agent, driver or employee shall refuse to make such trip as above provided shall be guilty of a violation of this article, and further, that any driver or agent who is not the owner who so refuses as herein provided to answer the call of a patron shall have violated this article and the guilt or innocence of one party or the other, be he owner, operator, agent, driver, partner or co-owner, shall not absolve another person from the violation.

(c) *Availability of taxis.* Taxicab licensees shall make their vehicles available 24 hours a day and provide telephone service but shall not engage in sightseeing business nor shall such licensees keep passengers waiting for more than five minutes while waiting to load to capacity.

(Ord. No. 143, § 23, 7-16-1957)

Sec. 66-302. - Speed at which vehicles to be operated.

No carriage for hire shall travel faster than a slow trot on Main Street, Market Street, in the business district or on any lanes where no sidewalks are provided or on such passageways whereon children are playing.

(Ord. No. 143, § 25, 7-16-1957)

Sec. 66-303. - Drive yourself carriages.

(a) No person shall drive a drive yourself carriage:

(1) In that part of the city extending southerly and easterly from the intersection of Market Street and the shore drive along the Main Street of the city in an easterly direction to a Coast Guard Station corner.

(2) Upon Astor Street, Hoban Street or French Lane.

(b) Any owner or operator of drive yourself vehicles shall be held in violation of subsection (a) of this section should their patrons be in violation of such subsection.

(c) At no time shall drive yourself carriages be used for racing or be driven at an immoderate rate of speed.

(Ord. No. 143, § 2(e), 7-16-1957)

Sec. 66-304. - Hourly drive carriages.

(a) The driver supplied by the owners of hourly drive carriages shall be dressed in livery commensurate with the business venture and livery shall be considered a uniform and shall be a complete uniform from head to foot and worn by the attendant or attendants, as the case may be, when such carriages are available for hire.

(b) Nothing in this section shall prevent hourly drive carriages from being rented from the stable or home yard of the owner, nor shall the owners of such hourly drive carriages be prohibited from furnishing their services to patrons who may hire them along the street while the carriage may be returning from a prior engagement; however, any of such liveried drivers who solicit engagement of their carriages by prospective patrons along the street shall be considered in violation of this article. The term "driver" shall include assistant driver or attendant on or with such hourly drive vehicle.

(c) No hourly drive carriage shall engage in taxi service.

(Ord. No. 143, § 2(d), 7-16-1957)

Secs. 66-305—66-320. - Reserved.

DIVISION 2. - LICENSE

Sec. 66-321. - Required.

No person owning or operating any horse-drawn passenger carrying vehicle for hire driven by the renter or a regular driver, shall operate, or permit to be operated, any such vehicle in that portion of the city wherein the city has jurisdiction to enforce its ordinances and is not excluded in doing so by the exclusive jurisdiction of the city state park commission, without first securing a license from the city to so operate such vehicle.

(Ord. No. 143, § 1, 7-16-1957)

Sec. 66-322. - Application and issuance standards.

(a) Any person desiring to obtain a license required by this division shall make and file with the city clerk a written application, stating the applicant's name and permanent residence and any other information the city clerk may require, and the clerk shall lay such application before the common council at a regular or special meeting thereof. The council shall consider all such applications so filed and shall approve or reject the same.

(b) In considering applications for a license required by this division, the city council shall consider:

(1) The number of vehicle licenses available.

(2) The adequacy of the applicant's financial resources for the establishment and operation of a horse-drawn passenger vehicle business.

(3) The adequacy of the physical facilities from which the horse-drawn passenger vehicle business would be conducted.

(4) The knowledge and experience of the applicant in handling horses.

(5) The applicant's prior service to the public in the horse-drawn passenger vehicle business.

(6) The apparent ability of the applicant to maintain sanitary conditions in and around the applicant's stables.

(7) The location of the proposed rental site insofar as it pertains to convenience to the public and effect on local health and traffic conditions.

(8) The applicant's compliance with the terms of this article.

(9) The applicant's compliance with all applicable federal, state and local building, plumbing, fire, zoning, safety, sanitation and health laws and ordinances.

(10) The effect of issuance of licenses on the health, welfare and safety of the general public.

(Ord. No. 143, § 3, 7-16-1957)

Sec. 66-323. - Number of vehicles licensed.

(a) The number of vehicles licensed shall be limited to the number of general sightseeing carriages, taxis and hourly drive carriages established by ordinance.

(b) If an increase or decrease in the number of vehicles licensed is requested, the city council shall determine the number of licenses for each classification of vehicle provided for in this division. In making such determination, the council shall consider:

(1) The number of vehicles in each classification necessary to satisfy the needs of the public.

(2) The probable effect of the number of vehicles of all classifications on local traffic conditions.

(3) The health, safety and welfare of the general public.

(Ord. No. 143, § 2, 7-16-1957)

Sec. 66-324. - Fees.

Any person whose application for a license required by this division is approved as provided for in section 66-322 shall pay, prior to the issue of such license, to the city clerk a yearly license fee as established by ordinance. All sums received for licenses granted under this division, by the city or under its authority, shall be paid into the city treasury to the credit of the contingent fund within 48 hours after the license is issued and the city clerk shall report such deposits to the council at the first meeting of the council after such deposit.

(Ord. No. 143, §§ 4, 9, 7-16-1957)

Sec. 66-325. - Bond and insurance.

The city council may, in its discretion by resolution or otherwise, require the person securing a license required by this division to execute a bond to the city in such sum as the council may prescribe with one or more sufficient sureties; and may require a surety bond conditioned for the faithful observance of the Charter of the city and the ordinances of the council. Before the licenses may be issued, the applicant must file with the clerk proper evidence, which shall include a certificate of insurance, that the applicant has procured insurance with an insurance company permitted to do business in the state, which insures the licensee from and against any public liability arising out of the operation of horse-drawn vehicles carrying passengers for hire, in the following amounts:

(1) General sightseeing carriages, $250,000.00 property damage; $1,000,000.00 bodily injury per occurrence; $2,000,000.00 aggregate.

(2) Taxis, $250,000.00 property damage; $1,000,000.00 bodily injury per occurrence; $2,000,0000.00 aggregate.

(3) Hourly drive carriages, $100,000.00 property damage; $300,000.00 personal injury coverage per occurrence; $300,000.00 aggregate.

(4) Drive yourself carriages, $25,000.00 property damage; $100,000.00 personal injury coverage per occurrence; $300,000.00 aggregate.

(Ord. No. 143, § 5, 7-16-1957; Ord. of 5-23-1986)

Sec. 66-326. - Expiration date.

All licenses issued under this division shall expire on April 30 of the next calendar year following the date of issuance.

(Ord. No. 143, § 7, 7-16-1957; Ord. No. 376, 3-8-2000)

Sec. 66-327. - Assignability of hourly drive licenses.

No hourly drive carriage licenses shall be assigned, nor shall such licenses be sold to a new owner without first having licenses returned to the city for reissuance to a new prospective owner upon his compliance with all the terms of this article and other regulations of the city council applicable to such vehicle operation.

(Ord. No. 143, § 17, 7-16-1957)

Sec. 66-328. - Issuance; form; display.

Upon approval of the council of application and payment of fees required by this division, the city clerk shall issue to the applicant a license under this division which license shall be signed by the mayor of the city and countersigned by the city clerk. The clerk shall deliver to the applicant a metal license plate corresponding to the number of the license, which plate shall be attached securely and in plain view upon the rear of the vehicle so licensed.

(Ord. No. 143, § 10, 7-16-1957)

Sec. 66-329. - Revocation or suspension.

(a) Licenses issued under this division may be revoked or suspended by the city council at will. Any licensee licensed under this division may at the discretion of the council, for a violation of any of the provisions of this division, have his license revoked or suspended for a given time as directed by the city council and such revocation or suspension is not a punishment which may prevent further action which further action may be taken upon due and proper complaint being made according to law for the punishment of violations as provided in this section.

(b) When any such license shall be revoked by the council for noncompliance with the terms and conditions upon which it was granted, or on account of any violation of this article or any regulation passed or authorized by the council relating to this article, the person operating under such license shall, in addition to all other penalties imposed, forfeit all payments made for such license.

(Ord. No. 143, §§ 6, 24, 7-16-1957)

Secs. 66-330—66-350. - Reserved.

ARTICLE VIII. - HORSE-DRAWN BUSES[8]

Footnotes:

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Charter reference— Authority to regulate vehicles for hire, buses, etc., ch. IX, § 1(25).

Sec. 66-351. - Definitions.

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

Bus means a horse-drawn vehicle carrying passengers for hire in association with any commercial hotel activity from a designated point of departure to a designated destination, without stopping between such point of departure and destination.

(Ord. No. 308, § 1, 4-17-1991)

Cross reference— Definitions generally, § 1-2.

Sec. 66-352. - Penalty.

Any person violating any of the provisions of this article shall upon conviction thereof be guilty of a misdemeanor and subject to punishment as provided in section 1-7 or revocation of the license or by both such fine, imprisonment and revocation in the discretion of the court.

(Ord. No. 305, § 5, 1-1-1991)

Sec. 66-353. - License required.

All persons, firms, associations or corporations shall, before using a bus, apply for and after approval of the mayor and council, procure an annual license for such vehicle and prominently display such license on the vehicle. Upon approval, bus applicants shall pay a reasonable fee as determined by the city council.

(Ord. No. 308, §§ 2, 3, 4-17-1991)

Sec. 66-354. - Insurance.

Before the license required by this article may be issued, the applicant must file with the clerk proper evidence, which shall include a certificate of insurance, that the applicant has procured insurance with an insurance company permitted to do business in the state, which insured the licensee from and against any public liability arising out of the public operation of a horse-drawn bus, in the combined single limit amount of $1,000,000.00 for property damage and bodily injury coverage.

(Ord. No. 308, § 3A, 4-17-1991)

Sec. 66-355. - Regulations for buses.

All buses shall display a sign designating the terminal points between such bus travels. All buses shall display a sign stating the cost of transportation of each passenger from point to point. No bus shall pick up nor discharge passengers between the point of departure and the point of destination. All buses shall abide by all reasonable rules and regulations of the city police department, acting on instructions of the mayor and city council.

(Ord. No. 308, § 4, 4-17-1991)

Secs. 66-356—66-390. - Reserved.

ARTICLE IX. - DRAYS[9]

Footnotes:

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Charter reference— Authority to regulate vehicles for hire, ch. IX, § 1(25).

Sec. 66-391. - License.

(a) No person shall conduct the following without having first obtained a license therefor:

(1) Operate a horse-drawn vehicle for hire, or engage in the transfer or hauling of any good, wares, materials or merchandise, for entities other than themselves.

(2) Engage in the transfer or hauling of any goods, wares, materials or merchandise in association with a commercial business activity.

(b) The license requirement for activities set forth in subsection (a)(1) of this section shall be deemed a general commercial dray license. The license required for activities set forth in subsection (a)(2) of this section shall be deemed a limited commercial dray license and be limited to use by and for the licensee business.

(c) Licenses shall be granted by the mayor and council, upon application in writing, submitted by the applicant, giving his name and permanent place of residence, and such other information as the clerk may require. Licenses, if approved, shall be issued by the city clerk upon the payment of a fee as determined by the city council.

(d) All licenses granted under this section shall expire on April 30 of the next calendar year following the date of its issuance.

(Ord. No. 309, §§ 1—3, 4, 5-1-1991; Ord. No. 378, 3-8-2000)

Sec. 66-392. - Insurance.

Before the licenses required by this article may be issued, the applicant must file with the clerk proper evidence, which shall include a certificate of insurance, that the applicant has procured insurance with an insurance company permitted to do business in the state, which insures the licensee from and against any public liability arising out of the public operation of a dray or other vehicle for hire engaged in the transfer or hauling of any goods, wares, materials or merchandise, in the combined single limit amount of $1,000,000.00 for the property damage and bodily injury coverage.

(Ord. No. 309, § 3(A)(1), 5-1-1991)

Sec. 66-393. - Vehicle equipment.

(a) Each dray shall be equipped with adequate brakes and tarpaulin or other adequate means to cover all loads of trash when it is carried on the dray.

(b) All drays shall be equipped with visible reflectors on the front and back of the vehicle.

(Ord. No. 309, § 3(A)(2), (A)(10), 5-1-1991)

Sec. 66-394. - Use for hauling refuse or trash.

(a) No load of refuse shall be loaded higher than the height of the sides of the wagon upon which it is carried.

(b) No licensee shall allow any dray to remain loaded with trash or refuse overnight for more than 16 hours and then only if the dray is protected with a tarpaulin of adequate size to cover the load and if such dray is parked on property belonging to the licensee or under his control no closer than 100 feet to the nearest residential property.

(c) No dray shall be allowed to use the city sanitary landfill unless that dray possesses a city ticket to dump at the landfill, or has a contract with the city to use the landfill.

(Ord. No. 309, § 3(A)(3), (A)(8), (A)(9), 5-1-1991)

Cross reference— Solid waste, ch. 50.

Sec. 66-395. - Attendant.

A dray, when attached to a team of horses, shall have an attendant for the horses at all times, unless such team is hitched to a hitching post or rail.

(Ord. No. 309, § 3(A)(4), 5-1-1991)

Sec. 66-396. - Age of driver.

No licensee under this article shall allow any person under 18 years of age to drive a dray without an operator or attendant 18 years of age or over in attendance upon such dray or in the close proximity thereof. The licensee may hire and employ attendants and trainees less than 18 years of age, but not less than 16 years of age. Each driver must be dressed neatly in keeping with the type of work undertaken.

(Ord. No. 309, § 3(A)(5), 5-1-1991)

Sec. 66-397. - Alcoholic beverages.

There shall be no drinking of alcoholic beverages on any dray in the operation of its business.

(Ord. No. 309, § 3(A)(6), 5-1-1991)

Sec. 66-398. - Care of horses.

All horses used on a licensed dray shall be properly shod, treated humanely and shall at all times be cared for with good animal husbandry practices. A dray shall not be loaded with excessive weight when pulling such weight will be inhumane to a horse or a team of horses.

(Ord. No. 309, § 3(A)(7), 5-1-1991)

Secs. 66-399—66-430. - Reserved.

ARTICLE X. - HORSE RENTALS[10]

Footnotes:

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Editor's note— Ord. No. 525, §§ 1—5, adopted January 6-2016, repealed the former article X, §§ 66-431—66-433, and enacted a new article X as set out herein. The former article X pertained to similar subject matter and derived from Ord. No. 121, §§ 1, 2, 4, 10-18-1950.

Cross reference— Animals, ch. 6; businesses, ch. 14.

Sec. 66-431. - Definitions.

Saddle horse means all horses operated with a person mounted on its back.

(Ord. No. 525, § 2, 1-6-2016)

Sec. 66-432. - Horse rental license.

(a) It shall be unlawful for any person, firm, association or corporation to engage in the business of renting saddle horses or drive yourself rental horses for hire without first having obtained from the city a license therefore. Any person desiring to engage in the business of renting saddle horses or drive yourself rental horses for hire shall make and file an application with the city clerk, giving the applicant's name and address, and any other information pertaining to the business requested by the clerk.

(b) Upon receipt of application and the payment in advance of the license fee established by ordinance, the city clerk shall issue to the applicant the required license which shall be signed by the mayor and countersigned by the city clerk.

(c) Each license so granted shall be posted in a conspicuous place on the premises where horses are kept and failure to post or display such license shall be prima facie evidence of the violation of this article.

(Ord. No. 525, § 3, 1-6-2016)

Sec. 66-433. - Insurance.

Before any license required by this article may be issued, the applicant must file with the city clerk proper evidence, which shall include a certificate of insurance, that the applicant has procured insurance with an insurance company permitted to do business in this state, which insures the licensee from and against any public liability arising out of the use or operation of a rental saddle horse in the amounts determined by the city council.

(Ord. No. 525, § 4, 1-6-2016)

Sec. 66-434. - Rules of operation.

Any person using or operating a rental saddle horse or a private saddle horse shall comply with the following rules of conduct.

(a) All saddle horses shall travel no faster than a walk or slow trot on Main Street, Market Street, the business district, or any lanes not having sidewalks or where children are playing.

(b) Racing of saddle horses is strictly prohibited in any location within the city.

(Ord. No. 525, § 5, 1-6-2016)

Secs. 66-435—66-460. - Reserved.

ARTICLE XI. - FERRY BOATS[11]

Footnotes:

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Editor's note— Ord. No. 465, § 1, adopted June 20, 2012, repealed the former article XI, §§ 66-461—66-467, 66-491—66-499, and enacted a new article XI as set out herein. The former article XI pertained to similar subject matter. See Code Comparative Table for complete derivation.

DIVISION 1. - GENERALLY

Sec. 66-461. - Definitions.

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

City means the City of Mackinac Island.

Ferry boat means any boat used to transport persons and/or property to and from the city as part of a ferry boat service.

Ferry boat company means any person which owns, controls, operates or manages a ferry boat providing a ferry boat service.

Ferry boat service means the transporting of persons and/or property for pay to or from the city by ferry boat.

Franchisee means any person who is granted a franchise under this article to provide ferry boat service.

Person means a natural person, corporation, trust, partnership, incorporated or unincorporated association, or other legal entity.

Regular ferry boat season means the period of time between April 21 of any calendar year and October 31 of the same calendar year.

To and from the City of Mackinac Island means to or from the City of Mackinac Island where the ferry boats depart, or are destined to points and places within the State of Michigan, respectively.

Winter ferry boat season means the period of time between November 1 of any calendar year and April 20 of the following calendar year.

(Ord. No. 465, § 2, 6-20-2012, eff. 7-10-2012)

Sec. 66-462. - Declaration of purpose.

The purpose of this article is to:

(1) Provide fair regulation of ferry service to and from the city in the interest of the public;

(2) Promote and encourage adequate, economical and efficient ferry service to and from the city;

(3) Promote and encourage harmony between ferry boat companies and their customers and passengers; and

(4) Provide for the furnishing of ferry service without unjust discrimination, undue preferences or advantages.

(5) Provide for the payment of franchise fees to the city.

(Ord. No. 465, § 3, 6-20-2012, eff. 7-10-2012)

Sec. 66-463. - Violations; penalties.

(a) Any person or ferry boat company who violates any provision of this article shall be guilty of a civil infraction and liable for a fine not to exceed $500.00. Each day that the violation continues is a separate offense.

(b) In addition to pursuing a violation as a civil infraction, or as an alternative to pursuing a violation as a civil infraction, the city may pursue revocation of the franchise of the violating person or ferry boat company as provided in section 66-496.

(c) In addition to pursuing a violation as a civil infraction, or as an alternative to pursuing a violation as a civil infraction, the city may file a civil suit seeking injunctive relief pursuant to section 66-464.

(Ord. No. 465, § 4, 6-20-2012, eff. 7-10-2012)

Sec. 66-464. - Injunctive relief.

A violation of any provision of this article by any person or ferry boat company is deemed to be a nuisance per se, causing irreparable harm, and shall constitute grounds for injunctive relief.

(Ord. No. 465, § 5, 6-20-2012, eff. 7-10-2012)

Sec. 66-465. - Majority concurrence required.

Any approval, denial or waiver by the council pursuant to this article shall require the concurrence of a majority of all the elected aldermen.

(Ord. No. 465, § 6, 6-20-2012, eff. 7-10-2012)

Sec. 66-466. - Schedule of services; additional services.

(a) A ferry boat company granted a franchise must provide ferry boat service during the entire regular ferry boat season and the ferry boat company selected from time to time to provide ferry boat service during the winter ferry boat season must in addition provide ferry boat service during the entire winter ferry boat season, ice conditions and weather permitting.

(b) A ferry boat company not selected to provide winter ferry boat service shall not provide ferry boat service during the winter ferry boat season without specific authorization from the council.

(c) A ferry boat company granted a franchise must operate in accordance with its schedule of services as is on file with the council. Provided, however:

(1) A ferry boat company is not obligated to provide service on any day when, in the good faith judgment of the ferry boat company, it would be unsafe to provide service because of the weather.

(2) A ferry boat company may change its filed schedule of services.

(Ord. No. 465, § 7, 6-20-2012, eff. 7-10-2012)

Sec. 66-467. - Safety regulations; reporting requirement.

(a) The ferry boats operated in connection with a ferry boat service shall meet all of the safety regulations of the United States Coast Guard. Any person operating a ferry boat in connection with a ferry boat service must provide written evidence of satisfaction of all of the United States Coast Guard regulations prior to the commencement of any ferry boat service.

(b) Any person operating a ferry boat in connection with a ferry boat service must give notice to the council, in writing, of any violation of the United States Coast Guard regulations of which such person has been informed by the United States Coast Guard, either in writing or by verbal communication.

(Ord. No. 465, § 8, 6-20-2012, eff. 7-10-2012)

Sec. 66-468. - Rates; filing requirements.

(a) No ferry boat company shall make any unjust or unreasonable discrimination in rates, charges, classifications, promotions, practices, regulations, facilities or services for or in connection with ferry boat services, nor subject any person to any prejudice or disadvantage in any respect whatsoever; however, this shall not be deemed to prohibit the establishment of a graded scale of charges and classification of rates to which any customer or passenger coming within such classification shall be entitled.

(b) Any ferry boat company operating under approval of the state public service commission, or which has filed tariffs with the state public service commission, shall file a summary of the authorities held from this commission with the council. Such ferry boat company shall also file with the council a true copy of its tariffs on file with this commission. The council shall be given written notice of any proposed modification of the tariffs on file with this commission. Such notification shall be given to the council by any ferry boat company, in writing, as soon as any letter, form, or other document is filed with this commission seeking a modification of such ferry boat company's tariffs.

(Ord. No. 465, § 9, 6-20-2012, eff. 7-10-2012)

Secs. 66-469—66-490. - Reserved.

DIVISION 2. - FRANCHISE

Sec. 66-491. - Franchise; required.

(a) The city council may grant a franchise to operate a ferry boat service.

(b) No person shall operate a ferry boat service nor shall any person provide a ferry boat service in the city without such person having first obtained a franchise therefore from the city.

(c) No person shall use, occupy or traverse any public place or public way in the city or any extensions thereof or additions thereto for the purpose of establishing or maintaining a ferry boat service or any facility used in conjunction therewith, including, but not limited to, any building, pier, piling, bulkhead, reef, breakwater or other structure in, upon or over the waters in the city limits, without such person having first obtained a franchise therefore from the city.

(Ord. No. 465, § 10, 6-20-2012, eff. 7-10-2012)

Sec. 66-492. - Application; contents; fees; acknowledgement.

(a) An application for a franchise to operate a ferry boat service shall be made in writing to the city council and shall include such information as requested by the city council, including but not limited to:

(1) The applicant's name, and if other than a single individual, a certified copy of the partnership agreement, articles of association, or articles of incorporation, as the case may be.

(2) The applicant's principal place of business.

(3) A description, including passenger capacity, of each ferry boat which will be used to provide a ferry boat service.

(4) A schedule of ferry boat services proposed to be operated including arrival and departure times to and from the city.

(b) The application shall be accompanied by an application fee established by ordinance.

(c) The application must be signed by an individual with authority to legally bind the ferry boat company, and provide that the company, its officers, employees and agents, will operate according to the terms of this article.

(Ord. No. 465, § 11, 6-20-2012, eff. 7-10-2012)

Sec. 66-493. - Issuance; display; transfer.

(a) Upon the granting of such franchise, the city clerk shall issue a certificate evidencing the existence of such franchise, which must be publicly displayed on all ferry boats providing a ferry boat service.

(b) No franchise granted under this section may be sold, transferred or assigned unless such transaction is first approved by the council after receipt of a written application therefore, containing the same information as to transferee as would be required of an original applicant.

(Ord. No. 465, § 12, 6-20-2012, eff. 7-10-2012)

Sec. 66-494. - Nonexclusive; term; form.

Any franchise issued pursuant to this ordinance shall be a nonexclusive franchise for a term of years, not to exceed 20 years, as the council may approve and shall be issued in the form to be determined by the council. A grant of a franchise for a term of years shall create no right to a franchise after the expiration of the term of years.

(Ord. No. 465, § 13, 6-20-2012, eff. 7-10-2012)

Sec. 66-495. - Fees; reporting; record.

(a) During the term of any franchise granted pursuant to this division for the operation of ferry boat service, the person granted such franchise shall pay to the city in consideration of the granting of such franchise a franchise fee determined as follows:

(1) For calendar year 2012 or any part of 2012 a franchisee shall pay a sum equal to $600,000.00 divided by the number of ferry boat franchises in effect. Provided, however, that any amount paid by a franchisee in 2012 as franchisee fees pursuant to City of Mackinac Ordinance No. 454 shall be credited against that franchisee's obligation to pay franchisee fees under this Ordinance No. 465 for 2012.

(2) During all calendar years beginning on or after January 1, 2013, a franchisee shall pay a monthly fee equal to the base sum of $50,000.00 divided by the number of ferry boat franchises in effect for the month the franchise fee is owed; provided, however, on July 1 of each calendar year after 2012, the $50,000.00 base sum shall be adjusted by an increase equal to any percentage increase in the cost-of-living for the preceding one-year period as reflected in the Consumer Price Index, All Urban Consumers (CPI-U), U.S. City Average published by the Bureau of Labor Statistics of the U.S. Department of Labor. If that Consumer Price Index is subsequently discontinued, the council shall select comparable statistics on the cost of living as they are computed and published by the federal government.

(b) The monthly franchise fee shall be due and payable on the last day of each month, provided, however, at the election of the franchisee, the total franchise fee owed by that franchisee for a calendar year, may be paid, without penalty, in six equal installments on the 15th day of June, July, August, September, October and November of that year. Such franchise fee shall be paid at the treasurer's office of the city during regular business hours. If the city treasurer's office is closed on the due date, then payment may be made during regular business hours on the next following day on which the office is open for business.

(c) No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable as a franchise fee under this section or for the performance of any other obligation under this division.

(Ord. No. 465, § 14, 6-20-2012, eff. 7-10-2012)

Sec. 66-496. - Revocation.

A franchise granted pursuant to this ordinance may be revoked by the city council in the event a franchisee defaults in its performance of the terms and provisions of this article. Such revocation shall not be effective until the franchisee has been advised of the violation and, except for a violation of subsections 66-466(a) or 66-466(b) of this article, given a period of ten calendar days to cure the default, and if the default is not cured within that ten-day period, provided with a hearing before the city council. The ten-day period to cure does not apply to violations of subsection 66-466(a) or subsection 66-466(b) of this article. The city council decision shall be based on a preponderance of the evidence.

(Ord. No. 465, § 15, 6-20-2012, eff. 7-10-2012)

Sec. 66-497. - Rights of city; public utility.

Any franchise granted under this division is made subject to all applicable provisions of the charter of the city and ordinances thereof, and specifically subject to the rights and powers of the city and limitations upon the ferry boat company holding such franchise as are set forth in the charter, including, but not limited to, chapter IX, section 1, chapter XV and chapter XVI thereof which are herein incorporated by reference, and such ferry boat company shall abide by and be bound by such rights, powers and limitations, and any franchise granted under this division constitutes and shall be considered as a public utility franchise and a ferry boat company shall be deemed to be a public utility.

(Ord. No. 465, § 16, 6-20-2012, eff. 7-10-2012)

Sec. 66-498. - Recourse of franchisee.

Any person granted a franchise pursuant to this division shall have no recourse whatsoever against the city, its officers, boards, commissions, agents or employees for any loss, cost, expense or damage arising out of any provision or requirement of this ordinance or the enforcement thereof.

(Ord. No. 465, § 17, 6-20-2012, eff. 7-10-2012)

Sec. 66-499. - Value.

No franchise granted pursuant to this division shall be given any value by any court or other authority public or private, in any proceeding of any nature or character whatsoever, wherein or whereby the city shall be a party or affected therein or thereby.

(Ord. No. 465, § 18, 6-20-2012, eff. 7-10-2012)

Chapter 70 - UTILITIES[1]

Footnotes:

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Charter reference— Utilities, chs. XXIV—XXVI, XXI, § 11.

Cross reference— Administration, ch. 2; buildings and building regulations, ch. 10; businesses, ch. 14; environment, ch. 26; solid waste, ch. 50; streets, sidewalks and other public places, ch. 54; subdivisions and other divisions of land, ch. 58; telecommunications, ch. 62.

ARTICLE I. - IN GENERAL

Secs. 70-1—70-30. - Reserved.

ARTICLE II. - WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM[2]

Footnotes:

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Charter reference— Waterworks, ch. XXIV.

Sec. 70-31. - Definitions.

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

Revenues and *net revenues* have the meanings as defined in section 3 of Public Act No. 94 of 1933 (MCL 141.103).

The system means the complete water supply system of the city and the complete county sanitary sewage disposal system No. 1, including all intakes, treatment plants, pumps, mains and all other facilities used or useful for the supply and distribution of water for domestic, commercial and industrial purposes and all sewers, pumps, lift stations, treatment facilities and all other facilities used or useful in the collection, treatment and disposal of domestic, commercial or industrial wastes, including all appurtenances thereto and including all extensions and improvements thereto which may hereafter be acquired.

(Ord. No. 197, § 2, 5-9-1973)

Cross reference— Definitions generally, § 1-2.

Sec. 70-32. - Operation on combined public utility rate basis.

It is determined to be desirable and necessary, for the public health, safety and welfare of the city, that the water supply system of the city and the county sanitary sewage disposal system No. 1 be operated by the city and the county board of public works on a combined public utility rate basis, in accordance with the provisions of Public Act No. 94 of 1933 (MCL 141.101 et seq.).

(Ord. No. 197, § 1, 5-9-1973)

Sec. 70-33. - Supervision and control of system.

The operation, maintenance, alteration, repair and management of the system shall be under the supervision and control of the city board of public works, subject to the overall supervision of the city council, and, in the case of the sewage treatment portion of the system, the terms of the contract, dated September 23, 1970, between the county and the city. Such board may employ such person or persons

in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the system and may make such rules, orders and regulations as it deems advisable and necessary to ensure the efficient management and operation of the system; provided, however, that the city council shall fix and collect charges for use of the system.

(Ord. No. 197, § 3, 5-9-1973)

Sec. 70-34. - Rates and charges.

(a) Rates to be charged for service furnished by the system shall be established by resolution.

(b) A charge for connection of a water meter shall be as established by resolution.

(c) For miscellaneous or special services for which a special rate shall be established, such rates shall be fixed by the city council.

(d) Bills will be rendered monthly and a ten percent penalty shall be added to bills which remain unpaid more than 30 days after the billing date.

(e) The charges for services which are under the provision of section 21 of Public Act No. 94 of 1933, made a lien on all premises served thereby, and whenever any such charge against any piece of property shall be delinquent for six months, the city official or officials in charge of the collection thereof shall certify annually, on March 1 of each year, to the tax assessing officer of the city the facts of such delinquency, whereupon such charge shall be by him entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general city taxes against such premises are collected and the lien thereof enforced. In addition to the foregoing, the city shall have the right to shut off water service to any premises for which charges for water service or sewer service are more than three months delinquent, and such service shall not be reestablished until all delinquent charges and penalties and a turn-on charge, to be specified by the city council, have been paid. Further, such charges and penalties may be recovered by the city by court action.

(Ord. No. 197, § 4, 5-9-1973; Ord. No. 199, 6-9-1973; Ord. No. 208, 7-24-1974; Ord. No. 247, 9-5-1978; Ord. No. 257, 6-12-1979; Ord. No. 258, 8-1-1979; Ord. No. 265, 7-2-1979; Ord. No. 283, 8-3-1983; Ord. No. 302, 6-20-1990; Ord. of 6-13-1991; Ord. of 7-1-1992; Ord. No. 354, 7-1-1998; Ord. No. 371, 7-1-1999; Ord. No. 381, 6-14-2000; Ord. No. 384, 7-1-2000; Ord. No. 394, 6-13-2001; Ord. No. 404, § 4, 5-20-2002; Ord. No. 473, § 1, 12-5-2012; Ord. No. 505, § 1, 6-24-2015)

State Law reference— Utility rates, MCL 141.121; water or sewer liens, MCL 123.101 et seq.

Sec. 70-35. - No free service.

No free service shall be furnished by the system to any person, firm or corporation, public or private, or to any public agency or instrumentality.

(Ord. No. 197, § 5, 5-9-1973)

Sec. 70-36. - Connection to system.

All premises to which sewage disposal services of the system shall be available shall connect to the system within 90 days after the mailing of a notice to such premises by appropriate officials in charge of the system indicating that such services are available.

(Ord. No. 197, § 6, 5-9-1973)

Sec. 70-37. - Rate sufficiency.

The rates fixed are estimated to be sufficient to provide for the payment of the expenses of administration and operation, such expenses for maintenance of the system as are necessary to preserve the same in good repair and working order, to provide for the payment of the contractual obligations of the city to the county pursuant to the aforesaid contract between the county and the city as the same becomes due, and to provide for such other expenditures and funds for the system as this article may require. Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts.

(Ord. No. 197, § 7, 5-9-1973)

Sec. 70-38. - Fiscal year.

The system shall be operated on the basis of a fiscal year commencing April 1 each year.

(Ord. No. 197, § 8, 5-9-1973)

Secs. 70-39—70-70. - Reserved.

ARTICLE III. - WATER SUPPLY CROSS CONNECTIONS

Sec. 70-71. - Rules adopted.

The city adopts by reference the water supply cross connection rules of the state department of public health being R 325.11401—R 325.11407 of the state administrative code.

(Ord. No. 214, § 1, 6-11-1975)

Sec. 70-72. - Inspections.

It shall be the duty of the city board of public works (hereinafter called BPW) to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the BPW and as approved by the state department of public health.

(Ord. No. 214, § 2, 6-11-1975)

Sec. 70-73. - Right of access, information.

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

(Ord. No. 214, § 3, 6-11-1975)

Sec. 70-74. - Discontinuing service.

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

(Ord. No. 214, § 4, 6-11-1975)

Sec. 70-75. - Labeling unsafe water.

The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this article and by the state and city plumbing code now in effect or hereafter adopted. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING

(Ord. No. 214, § 5, 6-11-1975)

Sec. 70-76. - Effect of article.

This article does not supersede the state plumbing code, or any plumbing ordinance of the city now in effect or hereafter adopted.

(Ord. No. 214, § 6, 6-11-1975)

Sec. 70-77. - Penalty.

Any person or customer found guilty of violating any of the provisions of this article, or any written order of the BPW in pursuance thereof, shall be deemed guilty of a misdemeanor.

(Ord. No. 214, § 7, 6-11-1975)

Secs. 70-78—70-110. - Reserved.

ARTICLE IV. - SEWER USE REQUIREMENTS AND RESTRICTIONS

DIVISION 1. - GENERALLY

Sec. 70-111. - Definitions.

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

Approval authority means the director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a nonNPDES state or NPDES state without an approved pretreatment program.

Attorney means the city attorney.

Authorized representative of industrial user means:

(1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation.

(2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively.

(3) A duly authorized representative of the individual designated in subsection (2) of this definition if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

Available public sanitary sewer system means a public sanitary sewer system located in a right-of-way, easement, highway or public way which crosses, adjoins, abuts or is contiguous to the realty involved and passes not more than 200 feet at the nearest point from a structure in which sanitary sewage originates.

BOD, denoting biochemical oxygen demand, means the quantity of oxygen utilized in the biological oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

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

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Capacity charge, in addition to any other assessments, costs or levies under this article, a charge for capacity utilization and/or reservation shall be levied for all residential multiple dwellings and other users for each residential equivalent. The amount of such charge shall be as set forth in this article. Premises other than single-family residences shall pay a connection charge in the amount of the capacity charge.

Categorical pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1347) which applies to a specific category of industrial users.

Classes of users means the division of sanitary sewer customers into classes by similar process or discharge flow characteristics, as follows:

Combined sewer means a sewer receiving both surface runoff and sewage.

Commercial user means any retail or wholesale business engaged in selling merchandise or a service and that discharges only segregated domestic wastes or wastes from sanitary conveniences.

Compatible pollutant means biochemical oxygen demand, suspended solids, pH and fecalcoliform bacteria, plus any additional pollutants identified in the NPDES permit if the treatment works was designed to treat such pollutants, and in fact can remove such pollutants to a substantial degree. The term "substantial degree" generally means removals in the order of 80 percent or greater.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Governmental user means any local, state or federal government building engaged in service to the public and that discharges only segregated domestic wastes or wastes from sanitary conveniences.

Incompatible pollutant means any pollutant that is not a compatible pollutant.

Industrial user means any manufacturing or process facility engaged in a productive or profit making venture that discharges a trade or process waste to the sewer system.

Infiltration means any waters entering the system from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. The term "infiltration" does not include and is distinguished from inflow.

Infiltration/inflow means the total quantity of water from both infiltration and inflow.

Inflow means any waters entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, cooling water discharges, seepage lines from springs and swampy areas and storm drain cross connections.

Inspector means any person authorized by the municipality to inspect and approve the installation of building sewers and their connection to the public sewer system.

Institutional user means any educational, religious or social organization such as a school, church, nursing home, hospital or other similar entity that discharges only segregated domestic wastes or wastes from sanitary conveniences.

Interference means the inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the municipality's NPDES permit. The term "interference" includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act (33 USC 1345), or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Major contributing industry means an industrial user that discharges:

(1) A flow of 25,000 gallons or more per average work day;

(2) A flow exceeding five percent of the total treatment plant flow;

(3) Toxic pollutants in toxic amounts as defined in the NPDES permit; or

(4) A flow with a significant impact on the treatment plant when considered alone or in combination with other industrial users.

Municipality means the city, which has jurisdiction over the use and operation of the sewage treatment plant and sewage collection system.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Normal strength sewage means a sanitary wastewater flow containing an average daily BOD of not more than 340 mg/l or an average daily suspended solids concentration of not more than 355 mg/l.

NPDES permit means the permit issued pursuant to the National Pollution Discharge Elimination System for the discharge of wastewaters into the waters of the state.

Official means the clerk of the city or his authorized agent or representative.

Operation, maintenance and replacement costs means all costs, direct and indirect, other than debt service, necessary to ensure adequate wastewater treatment on a continuing basis, conform with all related federal, state and local requirements, and ensure optimal longterm facility management. (These O, M & R costs include replacement costs.)

pH means the logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.

POTW means publicly owned treatment works.

Pretreatment means the treatment of extra strength industrial wastewater flows in privately owned pretreatment facilities prior to discharge into the public sewer.

Private sewage disposal systems means any septic tanks, lagoons, cesspools or other facilities intended or used for the disposal of sanitary sewage other than via the public sanitary sewer.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been 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 dimension.

Property owner means the person having legal title to the premises according to the municipality's tax records and shall include in the case of a land contract sale the land contract vendee or vendees, provided that the municipality has been furnished with a copy of such land contract or assignment thereof.

Public sewer means the main collector sewer system in which all owners of abutting properties have equal rights, and is controlled by the city.

Replacement means necessary expenditures made during the service life of the treatment works to replace equipment accessories and plant appurtenances required to maintain the intended performance of the treatment works.

Residential user means an individual home or dwelling unit, including mobile homes, apartments, condominiums or multifamily dwellings that discharge only segregated domestic wastes or wastes from sanitary conveniences having normal domestic strength sewage characteristics.

Sanitary sewer means a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Sewage means a combination of the liquid-carried and water-carried wastes from residences, commercial buildings, institutions and industrial establishments, including polluted cooling water, together with such groundwaters, surface waters and stormwaters as may be present. The three most common types of sewage are:

Combined sewage. Wastes including sanitary sewage, industrial sewage, stormwater, infiltration and inflow carried to the wastewater treatment facilities by a combined sewer.

Industrial sewage. A combination of liquid-carried and water-carried wastes, discharged from any industrial establishment, and resulting from a trade or process carried on in that establishment (this shall include the wastes from pretreatment facilities and polluted cooling water).

Sanitary sewage. The combination of liquid and water-carried wastes discharged from toilet and other sanitary plumbing facilities.

Sewage treatment facility means any arrangement of devices and structures used for treating sewage.

Sewer means a pipe or conduit for carrying sewage.

Sewerage works means all facilities for collecting, pumping, treating and disposing of sewage.

Single-family dwelling means a residence in which only one family resides.

Slug means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24 hours concentration or flows during normal operation.

Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Storm drain, sometimes termed "storm sewer," means a sewer which carries stormwater and surface water and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Surcharge means the additional charge which a user discharging wastewater having strength in excess of the limits set by the municipality for transmission and treatment within the sanitary sewage system will be required to pay to meet the cost of treating such excessively strong wastewater.

Suspended solid means solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

System means the complete city wastewater collection and treatment system, including all sewers, pumps, lift stations, treatment facilities or other facilities and appurtenances used or useful in the collection, transportation, treatment and disposal of domestic, commercial or industrial wastes, and all

easements, rights and land for same and including all extensions and improvements thereto which may hereafter be acquired or constructed.

Treatment works means all facilities for collecting, pumping, treating and disposing of sewage.

User debt retirement charge means the charge levied on all users of the treatment works for the cost of any bond debt of which debt repayment is to be met from the revenues of such works.

User O, M & R charge means the charge levied on all users of the treatment works for the cost of the operation and maintenance, including replacement, of such treatment works.

Wastewater means water which contains, or previous to treatment has contained, pollutants such as sewage and/or industrial wastes.

Wastewater connection means the connection of a customer to the sewage system, as follows:

Permanent. The connection of a customer to the sewage system who has yearround use of the system, due to yearround connection of such customer to the water system.

Seasonal. The connection of a customer to the sewage system who has only part-year use of the system, due to part-year connection of such customer to the water system. Such customer has his water meter disconnected for a part of the year, usually the winter, and connected for a part of the year, usually the summer.

Wastewater contribution permit means as set forth in section 70-217.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

(Ord. No. 283, § 2, 12-22-1982)

Cross reference— Definitions generally, § 1-2.

Sec. 70-112. - Operation, maintenance and control.

The operation and maintenance of the system shall be under the supervision and control of the municipality. The municipality retains the exclusive right to establish, maintain and collect rates and charges for sewage collection, treatment, transmission and debt service, and in such capacity the council for the municipality may employ such person or persons in such capacity or capacities as it deems advisable, and may make such rules or regulations as it deems advisable and necessary to ensure the efficient establishment, operation and maintenance of the system to comply with the terms of the NPDES permit and to discharge its financial obligations.

(Ord. No. 283, § 3, 12-22-1982)

Sec. 70-113. - Use of public sewers required.

(a) Each and every owner of property on which is located a structure in which sanitary sewage originates, shall, at his own expense, install suitable toilet facilities in such structure, and shall cause such facilities to be connected to the available public sanitary sewer system. Such connection shall be completed promptly but in no case later than 90 days from the date of the occurrence of the last of the following events:

(1) Publication of a notice by the official of the availability of the public sanitary sewer system in a newspaper of general circulation within the municipality, and the mailing of written notice indicating the availability of the public sanitary sewer to the owner, or any one of the owners in the case of co-ownership of the property in question.

(2) Modification of a structure so as to become a structure where sanitary sewage originates.

(3) Improvement of land with buildings or structures from which sanitary sewage originates.

(b) If the owner of property on which is located a structure in which sanitary sewage originates does not complete connection to an available sanitary sewer within the 90-day period described in subsection (a) of this section, the official shall notify such person by written notice that connection to the system is required forthwith. The giving of such notice shall be made by first class mail to the owner of the property on which the structure is located and by posting the notice on the property. Notice shall provide the owner with the approximate location of the public sanitary sewer system which is available for connection of the structure involved and shall advise the owner of the requirements and the enforcement provisions of this article and sections 12751—12758 of the Public Health Code (MCL 257.12751—257.12758).

(c) If the property owner is unable to connect to the system within the time prescribed by subsection (a) of this section due to or on account of inclement or adverse weather conditions, the property owner may appeal to the sanitary sewer board of appeals, established pursuant to section 70-143(a), to allow such person additional time in which to connect without penalty and without civil and criminal proceedings being initiated against him. The foregoing notwithstanding, this appeal shall be made in writing within ten days' of notice of sanitary sewer availability as set forth in subsection (a)(1) of this section.

(d) Failure or refusal to connect to the system within the time prescribed in subsection (a) of this section shall result in the property being charged a penalty of $100.00 for each single-family residential unit multiplied by the number of units. Where any structure wherein sanitary sewage originates is not connected to the system 90 days after the date of mailing or otherwise serving notice to connect as set forth in subsection (a) of this section, the municipality may bring an action for mandatory injunction or injunctive order in any court of competent jurisdiction in the county to compel the owner of the property on which such property is located to connect to the system. The municipality may charge in such action or actions any number of owners of such properties to compel such person or persons to connect to the system.

(Ord. No. 283, § 4, 12-22-1982)

Sec. 70-114. - Private sewage disposal.

(a) It shall be unlawful for any person to place, deposit or permit to be deposited upon any public or private property within the municipality, or any area under its jurisdiction, any untreated human excrement, garbage or other objectionable waste.

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

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

(d) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the municipality or any other area under the jurisdiction of the municipality and abutting any street, alley or right-of-way, in which, within 200 feet at the nearest point from the structure in which sewage originates, there is now located or may in the future be located a public sewer or combined sewer of the municipality, is required at his own expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article when given official notice to do so, provided that such connection shall not be required to be made less than 90 days after the sewer so located is constructed and made available for connection thereto.

(e) Where a public sanitary sewer is not available under the provisions of section 70-113, the building sewer shall be connected to a private sanitary sewer disposal system which shall be approved by the Luce-Mackinac-Alger-Schoolcraft District Health Department.

(f) At such time as a public sanitary sewer system becomes available to premises served by a private sanitary sewage disposal system, connection to the public system shall be made in compliance with this article, and any septic tank cesspools and similar private disposal facilities located thereon shall be abandoned and discontinued for sanitary sewage disposal use.

(g) All private sanitary sewage disposal systems maintained in compliance with this article shall be maintained in a sanitary manner at all times at the sole expense of the owner thereof.

(h) All abandoned private sanitary sewage disposal systems shall be completely filled with earth, sand, gravel, concrete or other approved material. Upon the abandonment or discontinuation of use of a septic tank or privy, the sewage and sludge contents thereof shall be completely removed and disposed of by a septic tank cleaner who is duly licensed under provisions of Public Act No. 243 of 1951. The tank, or the pit in the instance of a privy, shall be treated with at least ten pounds of chlorinated lime or other chemical disinfectant acceptable to the health officer. Then the tank or pit shall be completely backfilled with approved material and made safe from the hazard of collapse or entrapment.

(Ord. No. 283, § 5, 12-22-1982)

Sec. 70-115. - Building sewers.

(a) A separate and independent building sewer (lead) shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Other exceptions will be allowed only by special permission granted by the council.

(b) All costs and expenses incidental to the installation of the building sewer and the connection of the building sewer to the public sewer shall be borne by the property owner.

(c) All building sewers (leads) shall meet or exceed the requirements of the ordinances of the municipality or the requirements of this article, whichever shall be most stringent.

(d) Building sewers hereinafter installed shall consist of pipes and fittings of the following types and sizes:

(1) Pipe must be of sufficient diameter to carry the estimated volume of discharge. Minimum pipe size permitted is four-inch ID.

(2) Pipe must be one of the following materials and cannot be mixed in the connection lines to include the fittings:

a. Cast iron with rubber-type gaskets or leaded joint.

b. Cast iron NH pipe with neoprene stainless couplings.

c. Ductile iron with rubber-type gaskets, slip joint or mechanical joint.

d. Vitrified clay tile with ASTM C425 joints.

e. Reinforced concrete with ASTM C443 joints.

f. PVC plastic, schedule 40 or better.

(3) No tees, double tees or crosses, or double hub pipes shall be permitted.

(4) Old building sewers or portions thereof may be used in connection with new buildings only when they are found, on examination and test by the inspector, to meet all requirements of this article.

(5) All changes in grades or direction shall be made with appropriate fittings.

(e) Building sewer cleanouts shall be installed every 100 feet of straight run and at each 90-degree direction change, and all cleanouts shall be plugged.

(f) All building sewer lines shall be laid at a minimum slope of one-eighth inch per foot grade and a maximum slope of one-half-inch per foot grade for four-inch lines and at a minimum of one-eighth-inch per foot grade and a maximum one-half-inch per foot grade for six-inch lines.

(g) The method to be used in excavating, placing of pipe, jointing, testing and backfilling the trench for a building sewer, shall conform to the requirements of the plumbing code rules (part 7) issued by the state department of labor construction code commission and the regulations of the municipality where applicable. All joints and connections of the building sewer shall be gastight and shall conform to the requirements of the current building and plumbing codes.

(h) 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. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the inspector. Pipe laying and backfill shall be performed in accordance with current ASTM specifications except that no backfill shall be placed until the work has been inspected by the inspector or his representative.

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

(j) All excavations for building sewer installation and connection shall be adequately guarded by barricades and lighting so as to protect the public from hazards. Streets, sidewalks, alleys, parkways and other public property disturbed in the course of the installation and connection work shall be restored in the manner satisfactory to the municipality.

(k) The connection of the building sewer into the public sewer shall be made at the "Y" branch designated for that property, if such branch is available at a suitable location. Any connection not made at the designated "Y" branch in the main sewer shall be made only as directed by the inspector and approved by the official.

(l) The applicant for the building sewer shall notify the inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the inspector or his representative.

(Ord. No. 283, § 6(A), 12-22-1982)

Sec. 70-116. - Connection regulations.

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the municipality. Before a permit may be issued for excavating for plumbing in any public street, way or alley, the person applying for such permit shall have executed unto the municipality and deposited with the treasurer a corporate surety bond in the sum of $1,000.00 conditioned that he will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority or any ordinances of the municipality pertaining to plumbing. This bond shall state that the persons will indemnify and save harmless the municipality and the owner of the premises against all damages, costs, expenses, outlays and claims of every nature and kind arising out of unskillfulness or negligence on his part in connection with plumbing or excavating for plumbing as prescribed in this article. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalty claims and demands that may have accrued thereunder prior to such expiration.

(b) The fee, if any, for the connection permit, as described in subsection (a) of this section, shall be an amount established by resolution of the council.

(c) The owner or contractor applying for a connection permit, as described in subsection (a) of this section, will receive three copies of the permit, one copy each for the contractor and the property

owner, with the third copy to be returned to the municipality with a sketch of the installation on the back showing all dimensions, directions and other important information concerning the installation. The latter copy will remain the property of the municipality.

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

(e) All connections to the system will be made by a licensed contractor or plumber; provided, however, that a property owner may make his own installation and connection in accordance with the requirements of this article and law so long as he has secured a connection permit, as described in subsection (a) of this section. This does not allow a property owner to hire an unlicensed contractor to do his work.

(f) All licensed contractors and plumbers making connections to the system shall file with the municipality a copy of their plumbers' or contractors' license from the state and a copy of their liability insurance prior to performing any connections to the system.

(g) No person shall connect roof downspouts, foundation drains, areaway drains or any sources of surface water or groundwater to a building sewer which in turn is connected to the system.

(h) No building sewer shall be covered until after it has been inspected and approved by authorized personnel of the municipality or its designee. No building sewer shall be used until final approval after the trench is backfilled. An air test may be required at the owner's expense.

(Ord. No. 283, § 6(B), 12-22-1982)

Sec. 70-117. - Connection of privately constructed sanitary sewer systems to the system.

Before any sanitary sewer system constructed by private, as distinguished from public funding, hereinafter referred to as the "private sanitary sewer," shall be permitted to connect to the system, the owner of such system, hereinafter referred to as the "developer," shall do and provide the municipality with the following:

(1) The developer's plans and specifications for construction, an estimate of the cost of construction, and a performance bond and deposit with the municipality the estimated cost of review of construction plans covering the cost of hiring a registered professional engineer to review plans and specifications, which monies shall be placed by the municipality in an escrow account in the name of such developer.

(2) Obtain approval of the municipality of the plans and specifications.

(3) Secure all necessary permits for construction.

(4) Upon commencement of construction of the private sanitary sewer, deposit with the municipality in the escrow account referred to in subsection (1) of this section a sum of not less than ten percent of the cost of construction of the wastewater system improvements to cover the anticipated cost of inspection of construction and payment of connection charges.

(5) Upon completion of connection of the private sanitary sewer to the system, the performance bond, upon recommendation of the municipality's engineer and approval of the council, shall be released and any monies remaining in the developer's escrow account shall be returned to the developer. Any additional expenses incurred by the municipality in ensuring the municipality that the private sanitary sewer is properly operating shall be deducted therefrom or charged directly to the developer, at the option of the municipality. An accounting of expenditures shall be made to the developer by the municipality.

(6) Thereafter, in accordance with chapter 58 of this Code, any accepted privately constructed main collector sewer system within a publicly dedicated right-of-way, shall become a public sewer.

(Ord. No. 283, § 12(B), 12-22-1982)

Sec. 70-118. - Conditions of service.

(a) At the time of original construction of the public sewer, the municipality shall install at its expense that portion of the service from the main to the lot or easement line of all occupied premises. The municipality shall maintain, at its expense, the public sewer. Those customers making connections at the time of original construction of the public sewer shall install, at their expense, that portion of the service from such lot or easement line to their premises. The customer shall maintain, at his expense, the building drain and building sewer.

(b) Those customers making connections subsequent to the time of original construction of the public sewer shall pay any additional costs of the municipality in making a special connection to the sewer main.

(c) The municipality shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damage nor have any portion of a payment refunded for any interruption.

(d) The premises receiving sanitary sewer service shall at all reasonable hours be subject to inspection by duly authorized personnel of the municipality.

(e) The provisions of this section may be changed or amended.

(Ord. No. 283, § 9, 12-22-1982)

Sec. 70-119. - Protection from damage.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with the system or any component thereof. Any person violating this provision shall be subject to immediate arrest under the charge of disorderly conduct.

(Ord. No. 283, § 12(A), 12-22-1982)

State Law reference— Malicious mischief, MCL 750.377a et seq.

Sec. 70-120. - Cease and desist order.

The failure, neglect or refusal to comply with a cease and desist order of the enforcing agency shall be unlawful.

(Ord. No. 283, § 13(A)(1), 12-22-1982)

Secs. 70-121—70-140. - Reserved.

DIVISION 2. - ADMINISTRATION[3]

Footnotes:

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Cross reference— Administration, ch. 2.

Subdivision I. - In General

Sec. 70-141. - Enforcement of article.

The official of the city or his agent is charged with the responsibility of administering the system and causing the enforcement of this article.

(Ord. No. 283, § 12(C), 12-22-1982)

Sec. 70-142. - Power and authority of inspectors.

(a) Duly authorized employees of the municipality bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observations, measurement sampling and testing in accordance with the provisions of this article.

(b) Duly authorized employees of the municipality may enter at all reasonable times in or upon private or public property for the purpose of inspecting and investigating conditions or practices which may be in violation of this article or detrimental to the system.

(c) Duly authorized employees of the municipality shall inspect the on-site work occurring by reason of any system permit. Such person shall have the right to issue a cease and desist order on the site upon finding a violation of such permit or this article. The order shall contain a statement of the specific violation and the appropriate means of correcting the same and the time within which correction shall be made.

(Ord. No. 283, § 12(D), 12-22-1982)

Sec. 70-143. - Sanitary sewer board of appeals.

(a) *Creation of board.* A sanitary sewer board of appeals, consisting of six members, is created to hear and consider all properly submitted appeals to the provisions of this article. The council shall constitute the sanitary sewer board of appeals.

(b) *Authority of board.* The sanitary sewer board of appeals shall hear and consider:

(1) Appeals pursuant to section 70-113 to allow the property owner additional time in which to connect to the system, without penalty or legal action, because of adverse weather conditions.

(2) Applications for deferring partial or total payment of connection charges in the cases of undue hardship pursuant to section 70-251.

(3) Appeals pursuant to sections 70-241, 70-243—70-246 in relation to protests concerning billing and sampling or loading charges.

(c) *Final action.* After hearing and considering an appeal to the provisions of this article, the sanitary sewer board of appeals shall make its decision as to the granting, denying or modification of the decision appealed or relief being sought, and the decision on the matter shall be final.

(Ord. No. 283, § 12(E), 12-22-1982)

Cross reference— Boards and commissions, § 2-221 et seq.

Secs. 70-144—70-160. - Reserved.

Subdivision II. - Finance

Sec. 70-161. - Ordinances for the issuance of bonds.

This article shall be subject to all ordinances providing for the issuance of bonds to be paid for with revenue from the system and shall in no way alter the terms thereof until the bonds issued thereunder are fully retired.

(Ord. No. 283, § 13(B), 12-22-1982)

Sec. 70-162. - Fiscal year.

The fiscal year of the system shall commence on April 1 and end on March 31 in each year.

(Ord. No. 283, § 11(A), 12-22-1982)

Sec. 70-163. - Records and accounts.

The municipality shall keep and maintain proper books and records and accounts separate from all other records and accounts of the municipality in which shall be made full and correct entries of all transactions relating to the system. The municipality shall cause an annual audit of such books and records and accounts of the preceding operating year to be made by a recognized independent certified public accountant and will supply such audit to authorized public officials upon proper request as required by law. The municipality shall use the results of the audit to make adjustments in funds with deficiencies or surpluses. Any adjustments necessary for operation and maintenance costs shall be passed on to users of the system.

(Ord. No. 283, § 11(B), 12-22-1982)

Sec. 70-164. - Specific funds.

(a) *Receiving funds.* The revenues of the system shall be set aside as collected and deposited in a separate depository account at a bank qualified to do business in the state and designated by resolution of the council. Such account shall be designated as the receiving fund and the revenues so deposited shall be transferred from the receiving fund periodically in the manner and at the times specified in section 70-166.

(b) *Operation and maintenance funds (O & M funds).* Out of the revenues of the receiving fund there shall be first set aside a fund, designated as the operation and maintenance fund, in a sum sufficient to provide for the next succeeding period of all current expenses for maintenance thereof as may be necessary to preserve the system in good repair and working order.

(c) *Replacement fund.* There next shall be established and maintained a fund designated as the wastewater plant replacement fund, which shall be used solely for replacement of equipment at the wastewater plant and pumping stations. The amount set aside each year shall conform to the schedule established in the user charge system. The replacement fund shall be collected and deposited in a depository bank account separate from the receiving fund account.

(d) *Debt retirement fund.* Out of the revenues of the receiving fund there shall be set aside a fund, designated as the debt retirement fund, in a sum sufficient to provide for the retirement of debt due.

(e) *Improvement fund.* There may be established and maintained a fund designated as the improvement fund, which shall be used solely for the purpose of making improvements, extensions and enlargements to the system. There shall be deposited into the fund such revenues as collected from the improvement fund charges. Such charges shall be determined by the council. These funds shall be used as a local capital fund and shall be separate from the O M & R funds.

(f) *Surplus fund.* Monies, remaining in the receiving fund at the end of any operating year after full satisfaction of the other funds of this section, shall be used in connection with any other project of the municipality directly related to the purposes of the system. This shall not apply to any excess revenues collected from a class of users for operation, maintenance and replacement. Such excess revenues shall remain in the receiving fund and shall be applied to the cost of operation, maintenance and replacement attributable to that class for the next year, and that user class rate shall be adjusted accordingly.

(Ord. No. 283, § 11(C)(1)—(C)(6), 12-22-1982)

Sec. 70-165. - Bank accounts.

All monies belonging to any of the funds or accounts of section 70-164 may be kept in one bank account in which event the money shall be allocated on the books and records of the municipality within the single bank account in the manner set forth in section 70-164.

(Ord. No. 283, § 11(C)(7), 12-22-1982)

Sec. 70-166. - Deficiencies in funds.

If monies in the receiving fund, established in section 70-164(a), are insufficient to provide the current requirements of the operation and maintenance fund or replacement fund, any monies and/or securities or other funds of the system may be transferred to such fund, to the extent of any deficiency therein. All borrowed (transferred) funds shall be paid back to the funds or securities from which it was borrowed by raising the rates of that class, or classes, for which monies received were insufficient to provide for the current requirements of operation, maintenance and replacement.

(Ord. No. 283, § 11(C)(8), 12-22-1982)

Sec. 70-167. - Investment of funds.

Monies in any fund or account, established by the provisions of this subdivision, may be invested or deposited in any lawful investments or deposits and may be invested in obligations of the United States of America in a manner and subject to any limitations set forth in the laws of the state. Income received from such investment shall be credited to the fund from which such investments were made, or pro rata in the case of a single bank account.

(Ord. No. 283, § 11(C)(9), 12-22-1982)

Sec. 70-168. - Insurance.

The municipality shall maintain and carry insurance on all physical properties of the system, of a kind and in the amounts normally carried by public utility companies and municipalities engaged in the operation of sanitary sewage disposal systems. All monies received from losses under such insurance policy shall be applied solely to the replacement and restoration of the property damaged or destroyed.

(Ord. No. 283, § 11(C)(10), 12-22-1982)

Secs. 70-169—70-180. - Reserved.

DIVISION 3. - DISCHARGE RESTRICTIONS

Sec. 70-181. - Stormwater, groundwater, unpolluted water and industrial cooling water.

(a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater or roof water to any sanitary sewer.

(b) Stormwater, groundwater and all other unpolluted drainage shall be discharged into storm drains or to a natural outlet approved by the municipality.

(c) Industrial cooling water which is unpolluted and not contaminated with oil, algaecides or other pollutants, or unpolluted process waters, may be discharged, upon application to and approval of the municipality, to a storm drain or natural outlet.

(d) Industrial cooling water containing only such pollutants as insoluble oils or grease or other suspended solids shall be pretreated for removal of the pollutants and then discharged to the storm drain or natural inlet.

(Ord. No. 283, § 7(A), 12-22-1982)

Sec. 70-182. - Prohibited discharges.

No person shall discharge or cause to be discharged into a sanitary sewer:

(1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit.

(2) Any water or waste which may contain more than 100 milligrams per liter, by weight, of fat, oil or grease.

(3) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive, liquid, solid or gas.

(4) Any garbage that has not been properly shredded.

(5) Any ashes, cinders, sand, mud, straw, metal shavings, glass, rags, feathers, tar, plastics, woods, paunch manure or any other solid or viscous substance capable of causing obstruction to flow in sewers or other interference with the proper operation of the sewage works.

(6) Radioactive wastes or isotopes of such half-life or concentration, which may exceed limits established by applicable state and federal regulations, shall not be allowed.

(7) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.

(8) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(9) Any waters or wastes having a pH lower than 6.5 or higher than 9.0 or having any other corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the wastewater system.

(10) Any waters or wastes containing toxic pollutants which exceed the limitations set forth in the categorical pretreatment standards or which effect subsection (11) of this section.

(11) Any waters or wastes which cause interference with any sewage treatment process, or constitute a hazard to humans or animals, or create a hazard in the receiving waters of the treatment plant, or cause the wastewater treatment plant to deviate from the NPDES permit requirements or any other state or federal guidelines or regulations.

(12) Any waters or wastes exceeding the following characteristics: 400 mg/l BOD(5), 400 mg/l S.S.

(Ord. No. 283, § 7(B), 12-22-1982)

Sec. 70-183. - Grease, oil and sand interceptors (traps).

Grease, oil and sand interceptors (traps) shall be provided at the expense of the property owner when, in the judgement of the official, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or other harmful ingredients; except that such interceptors shall not be required for single-family and multifamily dwelling units. All interceptors shall be of a type and capacity approved by the municipality and shall be located as to be readily and easily accessible for cleaning and inspection. Grease, oil and sand interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which when bolted into place shall be gastight and watertight. Where installed, all grease, oil and sand interceptors (traps) shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

(Ord. No. 283, § 7(C), 12-22-1982)

Sec. 70-184. - Right of review by municipality.

The municipality may require each entity, who applies for or receives sewer service, or through the nature of the enterprise, creates a potential environmental problem to:

(1) File a written statement setting forth the nature of the enterprise, the source and amount of water used, the amount of water to be discharged with its present or expected bacterial, physical, chemical, radioactive or other pertinent characteristics of the wastes.

(2) Provide a plan map of the building, works or complex, with each outfall to the surface waters, sanitary sewer, storm sewer, natural watercourse, or groundwaters noted and described, and the waste stream identified.

(3) Sample, test and file reports with the official, and the appropriate state agencies on appropriate characteristics of wastes on a schedule, at locations, and according to methods approved by the official.

(4) Place waste treatment facilities, process facilities, waste streams or other potential waste problems under the specific supervision and control of persons who have been certified by an appropriate state agency as properly qualified to supervise such facilities.

(5) Provide a report on raw materials entering the process or support system, intermediate materials, final product and waste byproducts as those factors may affect waste control.

(6) Maintain records and file reports on the final disposal of specific liquids, solids, sludges, oils, radioactive materials, solvents or other wastes.

(7) Provide written notification if any industrial process is to be altered as to include or negate a process waste or potential waste.

(8) Obtain a wastewater contribution permit.

(Ord. No. 283, § 7(D), 12-22-1982)

Sec. 70-185. - Right to exclude or require pretreatment.

On direction of the municipality, an entity may be required to remove, exclude or require pretreatment of any industrial waste in whole or in part for any reasons deemed to be in the municipality's interest. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained in satisfactory and effective operation at no expense to the municipality and shall be designed and operated to ensure that wastewaters discharged meet the characteristics set forth in section 70-182. All entities subject to federal pretreatment standards shall also conform to division 4 of this article as well as this division 3.

(Ord. No. 283, § 7(E), 12-22-1982)

Sec. 70-186. - Right to contract available excess capacity.

The municipality reserves the right to contract with any industrial user to allow such industry to use available excess capacity for discharging wastewaters that exceed the limits of normal strength sewage. If the waters or wastes discharged by an industry under contract exhibits any of the characteristics identified in section 70-182 at any time, the municipality may:

(1) Cancel the contract and reject the wastes.

(2) Require pretreatment to the level defined as normal strength sewage.

(3) Require pretreatment to an acceptable level for discharge to the public sewers.

(4) Require control over the quantities and rates of discharge.

(Ord. No. 283, § 7(F), 12-22-1982)

Sec. 70-187. - Right of entry.

Agents of the municipality, state department of natural resources or U.S. Environmental Protection Agency shall have the right to enter all properties for the purpose of inspecting, measuring, sampling and testing the wastewater discharge in accordance with the provisions of this division, whether or not an easement has been granted.

(Ord. No. 283, § 7(G), 12-22-1982)

Sec. 70-188. - Commercial and industrial waste monitoring.

(a) When required by the municipality, the owner of any property serviced by a building sewer carrying commercial or industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the official. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer from the point at which the building sewer is connected.

(b) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this division shall be determined in accordance with the most recent edition of The Standard Methods for the Examination of Water and Sewage and shall also conform with the latest revision of the Code of Federal Regulations, Title 40, Chapter 1, Part 136, Guidelines Establishing Test Procedures for Analysis of Pollutants. All measurements, tests and analyses shall be determined at the control manhole and upon suitable samples taken at such manhole. It shall be the responsibility of the customer to provide flow measuring and monitoring equipment and sampling equipment for each control manhole.

(c) Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether grab sample or samples should be taken.

(Ord. No. 283, § 7(H), 12-22-1982)

Sec. 70-189. - Right to suspend service.

The municipality reserves the right to immediately and effectively halt or prevent any discharge to the POTW (after informal notice to the discharger) which reasonably appears to present an imminent endangerment to the health or welfare of persons.

(Ord. No. 283, § 7(I), 12-22-1982)

Secs. 70-190—70-210. - Reserved.

DIVISION 4. - PRETREATMENT

Sec. 70-211. - Generally.

This division sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system and enables the municipality to comply with all applicable state and federal pretreatment regulations (40 CFR 403).

(Ord. No. 283, § 8(A), 12-22-1982)

Sec. 70-212. - Federal standards supersede.

Any existing or new federal categorical pretreatment standards shall immediately supersede the limitations imposed under this division if more stringent than limitations imposed under this division. In such a case, the official shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.

(Ord. No. 283, § 8(B), 12-22-1982)

Sec. 70-213. - Modification of federal pretreatment standards.

Where the municipality's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the municipality may apply to the approval authority for modification of specific limits in the federal pretreatment standards. The term "consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent. The municipality reserves the right to establish by resolution more stringent limitations or requirements on discharges to the wastewater disposal system.

(Ord. No. 283, § 8(C), 12-22-1982)

Sec. 70-214. - Dilution prohibited.

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 federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the municipality or the state. Exception is made when applicable to dilution to meet the pH requirement.

(Ord. No. 283, § 8(D), 12-22-1982)

Sec. 70-215. - Spill prevention.

Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the municipality for review, and shall be approved by the municipality before construction of the facility. All existing users shall complete such a plan by January 1, 1984. No user who commences contribution to the POTW after December 12, 1982, shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the municipality. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this division. Copies of the user's spill prevention control and countermeasure (SPCC) and the pollution incidence prevention plan (PIPP) shall be filed with the municipality.

(1) *Immediate notice.* In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(2) *Written notice.* Within five days following an accidental discharge, the user shall submit to the official a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law.

(3) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. No. 283, § 8(E), 12-22-1982)

Sec. 70-216. - Funding of pretreatment program.

(a) It is the purpose of this section to provide for the recovery of costs from users of the municipality's wastewater disposal system for the implementation of the municipal pretreatment program established in this division. The municipality may adopt charges and fees which may include:

(1) Fees for reimbursement of costs of setting up and operating the municipality's pretreatment program.

(2) Fees for monitoring, inspections and surveillance procedures.

(3) Fees for reviewing accidental discharge procedures and construction.

(4) Fees for permit applications.

(5) Fees for filing appeals.

(6) Fees for consistent removal by the treatment works of pollutants otherwise subject to federal pretreatment standards.

(7) Other fees as the municipality may deem necessary to carry out the requirements contained in this section.

(b) The fees adopted in subsection (a) of this section relate solely to the matters covered by the pretreatment program and are separate from all other fees chargeable by the municipality. Fees shall be established according to division 5 of this article.

(Ord. No. 283, § 8(F), 12-22-1982)

Sec. 70-217. - Wastewater contribution permit.

(a) It shall be unlawful to discharge without a wastewater contribution permit to any natural outlet within the municipality, or in any area under the jurisdiction of the municipality, and/or to the POTW any wastewater except as authorized by the official in accordance with the provisions of this article. All major contributing industries proposing to connect to or contribute to the POTW shall obtain a wastewater contribution permit before connecting to or contributing to the POTW. All existing major contributing industries connected to or contributing to the POTW shall obtain a wastewater contribution permit within 180 days after December 22, 1982.

(b) Users required to obtain a wastewater contribution permit shall complete and file with the municipality an application in the form prescribed by the municipality, and accomplished by a fee. Existing users shall apply for a wastewater contribution permit within 30 days after December 22, 1982, and proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the information required in section 70-184. The following information shall also be submitted:

(1) Where known, the nature and concentration of any pollutants in the discharge which are limited by any municipality, 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 (O & M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards.

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

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

b. No increment referred to in subsection (b)(2)a of this section shall exceed nine months.

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

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

(c) Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater contribution permit of users subject to such standards shall be revised to require compliance with such standard within the timeframe prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater contribution permit as required by subsection (b) of this section, the user shall apply for a wastewater contribution permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the official within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by subsections (b)(1) and (b)(2) of this section.

(d) Wastewater contribution permits may contain the following:

(1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.

(2) Limits on the average and maximum wastewater constituents and characteristics.

(3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.

(4) Requirements for installation and maintenance of inspection and sampling facilities.

(5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards of tests and reporting schedule.

(6) Compliance schedules.

(7) Requirements for submission of technical reports or discharge reports.

(8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the municipality, and affording municipality access thereto.

(9) Requirements for notification of the municipality or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.

(10) Requirements for notification of slug discharges.

(11) Other conditions as deemed appropriate by the municipality to ensure compliance with this division.

(e) Wastewater contribution permits shall be issued for a specified time period, not to exceed three years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 90 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the municipality during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) Wastewater contribution permits are issued to a specific user for a specific operation. A wastewater contribution permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the municipality. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit while awaiting the new wastewater contribution permit.

(g) Any user issued a wastewater contribution permit shall submit to the official during the month of June and December, unless required more frequently, a report indicating the nature and concentration of pollutants in the effluent and any other information the official deems necessary as listed in section 70-184.

(h) The official may impose mass limitations on users in cases where they are appropriate. In such cases, the report required by subsection (g) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(i) Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the municipality for review, and shall be acceptable to the municipality before construction of the facility. The review of 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 municipality under the provisions of this division. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the municipality prior to the user's initiation of the changes.

(Ord. No. 283, § 8(G), 12-22-1982)

Sec. 70-218. - Publication of violations.

(a) The municipality shall annually publish in the newspaper a list of the users which, during the previous 12 months, were significantly violating applicable pretreatment standards or other pretreatment requirements. The notification shall also summarize any enforcement actions taken against the user during the same 12 months.

(b) For the purposes of this section, a significant violation is a violation which:

(1) Remains uncorrected for 45 days after notification of noncompliance.

(2) Is a part of a pattern of noncompliance over a 12-month period.

(3) Involves a failure to accurately report noncompliance.

(4) Resulted in the municipality exercising its right to suspend service as pursuant to section 70-189 or section 70-220.

(Ord. No. 283, § 8(H), 12-22-1982)

Sec. 70-219. - Public records.

All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public without restriction, unless the user specifically requests the information be classified confidential on the basis of proprietary processes. When information is classified confidential, the official shall provide proper and adequate facilities and procedures to safeguard the confidentiality of manufacturing proprietary processes, except that confidentiality shall not extend to waste products discharged to the waters of the state.

(Ord. No. 283, § 8(I), 12-22-1982)

Sec. 70-220. - Suspension or revocation of permit; notice of violation; penalties.

(a) The municipality may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the municipality, to meet the provisions of this division.

(b) Any user who violates the following conditions of this section, or applicable state and federal regulations, is subject to having his permit revoked:

(1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;

(2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the users premises for the purpose of inspection or monitoring; or

(4) Violation of conditions of the permit.

(c) Whenever the municipality finds that any user has violated or is violating this division, wastewater contribution permit, or any prohibition, limitation of requirements contained in this division, the municipality may serve upon such a person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the municipality by the user.

(d) The municipality may bring legal action for civil penalties against anyone using the disposal system contrary to this section.

(Ord. No. 283, § 8(J), 12-22-1982)

Secs. 70-221—70-240. - Reserved.

DIVISION 5. - SYSTEM CHARGES AND RATES

Sec. 70-241. - Sewage transmission, treatment and disposal charges.

Charges for sewage transmission, treatment and disposal and debt service to each user connected to the system shall be as follows:

(1) Residential, commercial, institutional, governmental and industrial users within the municipality shall pay rates and charges based on the amount of water used and actually metered in accordance with following schedule of charges:

a. A base charge based on each connection to the system.

b. The amount of the base charge shall be the minimum charge, regardless of water use.

(2) The base charges to be charged, per connection, shall be established by resolution of the council.

(3) The variable charge shall be in addition to the base charge and shall be established by resolution of the council.

(4) For customers with multiple meters, each meter shall be treated as a separate customer for calculation of charges.

(5) Each user of the sewage system must also be connected to the municipal water system and have an installed meter.

(6) Each user of the sewage treatment facility shall be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charge attributable to operation, maintenance and replacement.

(Ord. No. 283, § 10(A), 12-22-1982)

Sec. 70-242. - Meter charge.

For any premises not currently metered there shall be a meter charge to defray the cost of the meter and installation which shall be the current charge as established under article II of this chapter.

(Ord. No. 283, § 10(B), 12-22-1982)

Sec. 70-243. - Connection fees.

A connection fee or fees shall be levied for all direct connections to the sewer system.

(1) The direct connection fee shall be established by resolution of the council.

(2) Services rendered by the municipality for the connection fee include the tap to the sewer main, and the installation of the sewer lead from the sewer main to the property line and the inspection of the connection to the building sewer at the property line; for a direct connection or a special assessment connection.

(Ord. No. 283, § 10(C), 12-22-1982)

Sec. 70-244. - Capacity charge.

There shall be a capacity charge for sewer services in the amount established by resolution.

(Ord. No. 283, § 10(C), 12-22-1982)

Sec. 70-245. - Surcharge.

The rates and charges set forth in this division notwithstanding, if the character of the sewage of any user shall exceed that of normal strength sewage, then and in that event an additional charge shall be made over and above the rates established in this division. Effluent in excess of the maximum limitations imposed by this article shall be deemed prima facie subject to surcharge. If necessary to protect the system or any part thereof, the municipality shall deny the right of any user to empty such sewage into the system. Surcharges required by this section shall be computed as a percentage of the annual cost of operation and maintenance, including replacement, multiplied by the ratio of weight of surchargeable excess of the discharged substance to the total weight of such substance that is treated in that year. This amount shall be collected, on the basis of estimated surchargeable amounts, with each periodic billing and shall be adjusted annually to reflect actual operation, maintenance and replacement costs. Surcharge rates shall be established by resolution of the council and the amount and necessity of the surcharge may be appealed by the user to the sanitary sewer system board of appeals established pursuant to section 70-143(a).

(Ord. No. 283, § 10(D), 12-22-1982)

Sec. 70-246. - Commercial and industrial sampling charges.

There shall be an additional charge for any necessary flow monitoring or laboratory testing of commercial and industrial wastewaters. In addition, in the event of failure by the customer to provide proper data as required under applicable sections of this article, the municipality may perform the monitoring and laboratory testing and charge the customer for such service.

(Ord. No. 283, § 10(E), 12-22-1982)

Sec. 70-247. - Contractual rates.

The provisions of this division relating to rates shall not be construed as prohibiting any special agreement or arrangement between the municipality and the users or class of users whereby the sanitary wastes of unusual flows, strength or character of such user or class of users may be accepted into the system, subject to payment therefor by such user or class of users.

(Ord. No. 283, § 10(F), 12-22-1982)

Sec. 70-248. - Establishment by resolution.

Rates shall be established by resolution of the council and shall be revised as required to maintain the fiscal integrity of the system and the same may be revised and fixed by resolution of the council as may be necessary to produce the amounts required to pay such charges and expenditures and provide the funds necessary for the maintenance of the financial integrity of the system.

(Ord. No. 283, § 10(G), 12-22-1982)

Sec. 70-249. - Deferring charges.

No free service shall be furnished to any user of the system, and there shall be no waiver or forgiveness of charges levied pursuant to the terms of this division. The foregoing notwithstanding, any resident eligible for deferment of payment of such fees pursuant to the laws of the state shall be afforded ample opportunity to request such deferment or partial payment in accordance therewith.

(Ord. No. 283, § 10(H), 12-22-1982)

Sec. 70-250. - Special assessments.

Nothing contained in this division shall be construed as limiting, modifying or amending any special assessments levied against certain properties within the municipality in connection with the construction of sanitary sewers.

(Ord. No. 283, § 10(I), 12-22-1982)

Sec. 70-251. - Collection.

(a) *Nonpayment of special assessment and/or connection and operation, maintenance and replacement charges.* Nonpayment of special assessment and/or connection and operation, maintenance and replacement charges shall subject the property owner to a liability for such charges and penalties as provided in this article for a late or delayed connection.

(b) *Nonpayment of service charge.*

(1) *Penalty.* A ten percent penalty shall be added to bills which remain unpaid more than 30 days after they are due.

(2) *Discontinuance of service.* If a service charge established pursuant to this division remains delinquent for a period in excess of three months, the municipality shall have the right to shut off and discontinue water and/or sewer service to such user. Such service shall not be reestablished until all delinquent charges, penalties and a charge for the reestablishment of such service shall be paid. The turn-on charge shall be as established by the council.

(3) *Collection by litigation.* In addition to discontinuing service to such user, the municipality shall have the option of collecting all such delinquencies and penalties due under this section by legal proceedings in a court of competent jurisdiction.

(4) *Collection by enforcement of lien.* Service charges, including penalties due thereon which remain delinquent for a period in excess of six months, shall constitute a lien on the premises serviced thereby, unless the municipality is served with written notice that a tenant is responsible for such charges. Such a lien shall be perfected by the municipality official or officials in charge of the collection thereon, by certifying annually not later than March 1 of each year to the tax assessing officer the fact and the amount of such delinquency. Thereupon, such charge shall be entered by the tax assessing officer of the municipality upon the next tax roll as a charge against the premises and shall be collected and the lien thereof enforced in the same manner as general taxes against such premises are collected, and the lien thereof enforced.

(Ord. No. 283, § 10(J), 12-22-1982)

State Law reference— Collection of utility rates, MCL 141.121 et seq.; liens for utility charges, MCL 123.161 et seq.

Secs. 70-252—70-260. - Reserved.

ARTICLE V. - WIND POWER GENERATING DEVICES

Sec. 70-261. - Purpose.

The purpose of this article is to protect the natural beauty and historic appearance of Mackinac Island, and to eliminate the possible dangerous effects of wind power generating devices on horses. The natural beauty and historic appearance are features which contribute significantly to the tourism on Mackinac Island, which is the economic base of the city. Wind power generating devices are deemed by the city council to be incompatible with such features. The noise and moving shadows caused by the rotation of turbine blades are deemed to create an unreasonable risk of frightening horses which are a significant component of life on Mackinac Island. Accordingly, the city council believes prohibiting wind power generating devices is necessary for the health, safety and welfare of the city.

(Ord. No. 503, § 1, 6-24-2015, eff. 7-14-2015)

Sec. 70-262. - Definitions.

Wind power generating devices means any device used to generate electrical power by the use of wind, including, but not limited to, devices consisting of turbines, blades and a base, or tower.

(Ord. No. 503, § 2, 6-24-2015, eff. 7-14-2015)

Sec. 70-263. - Prohibited use.

The installation or use of wind power generating devices are prohibited within the city of Mackinac Island.

(Ord. No. 503, § 3, 6-24-2015, eff. 7-14-2015)

Sec. 70-264. - Penalty.

Violations of this article are deemed to be a misdemeanor punishable by a fine not to exceed $500.00, imprisonment for a period of not more than six months, or both.

(Ord. No. 503, § 4, 6-24-2015, eff. 7-14-2015)

Chapter 74 - WATERWAYS[1]

Footnotes:

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Cross reference— Park and harbor commission, § 2-271 et seq.; buildings and building regulations, ch. 10; environment, ch. 26; parks and recreation, ch. 42; streets, sidewalks and other public places, ch. 54; subdivisions and other divisions of land, ch. 58; telecommunications, ch. 62; ferry boats, § 66-461 et seq.; zoning, app. A; SO shoreline overlay, app. A, § 15.01 et seq.

State Law reference— Marine safety, MCL 324.80101 et seq.

ARTICLE I. - IN GENERAL

Secs. 74-1—74-30. - Reserved.

ARTICLE II. - DOCKS, WHARVES, PIERS, LANDING PLACES AND FERRY SERVICES

DIVISION 1. - GENERALLY

Sec. 74-31. - Violations.

The following acts shall be a misdemeanor:

(1) Altering, improving, rebuilding, demolishing, building or constructing any dock, wharf, pier, landing place or similar structure without obtaining permission from the park and harbor commission in the manner provided by section 74-33.

(2) Using any dock, wharf, pier, landing place or similar structure for the embarking or disembarking of passengers who have been or may be carried for hire without first obtaining permission for such use from the park and harbor commission as provided in section 74-34.

(3) Engaging in the business of transporting passengers for hire between the city and the mainland without having first applied for and received from the park and harbor commission a valid license in good standing for the current year in the manner provided in section 74-61.

(Ord. No. 106, § II, 6-5-1946)

Sec. 74-32. - Control of waterfront and boats.

All docks, wharves, piers, landing places and similar structures located within the city limits, without regard to ownership or location, and all boats carrying passengers for hire to and from the city and the mainland are declared to be under the supervision and regulation of the park and harbor commission in the manner and to the extent provided in this article and in such subsequent resolutions as may be adopted by the park and harbor commission.

(Ord. No. 106, § I(1), 6-5-1946)

Sec. 74-33. - Building, rebuilding structures; permission required.

No dock, wharf, pier, landing place or similar structure now in existence within the city limits may be altered, improved, rebuilt or demolished, and no such structure not now in existence may be hereafter built or constructed, until permission therefor shall have been granted by the park and harbor commission. Where, in the opinion of the park and harbor commission, the work to be done is of such substantial proportions as to make it desirable that the plans and specifications therefor shall be approved by the park and harbor commission, the approval of such plans and specifications may be made a condition precedent to the granting of such permission.

(Ord. No. 106, § I(2), 6-5-1946)

Cross reference— Buildings and building regulations, ch. 10.

Sec. 74-34. - Inspection; notification of proposed use.

All docks, wharves, piers, landing places and similar structures located within the city limits which are used for the embarking or disembarking of passengers, shall be subject to periodical inspection by representatives of the park and harbor commission, and no such dock, wharf, pier, landing place or similar structure may be used for the embarking or disembarking of passengers who have been or may be carried until such dock, wharf, pier, landing place or similar structure has been inspected and declared to be safe for such use, and until permission for such use shall have been granted by the park and harbor commission. It is made the express duty of any operator of any vessel desiring to embark or disembark passengers through the use of any such dock, wharf, pier, landing place or similar structure to notify the

park and harbor commission of such proposed use not less than 20 days prior to the date on which he expects to commence such use.

(Ord. No. 106, § I(3), 6-5-1946)

Sec. 74-35. - Operation of piers, docks, wharves; application of article.

The provisions of this article shall be construed to apply to every person whose domicile at the time of the establishment, maintenance or operation of a pier, dock, wharf or landing place for boats is within the state, and to every firm, corporation, copartnership or association, which, at the time of the operation of any pier, dock, wharf or other landing place for boats is controlled or held with others by a majority stock-ownership, or interest-ownership, by a person or persons whose domicile is within the state, or which, during the time of the establishment, maintenance or operation of the pier, dock, wharf or other landing place for boats, ultimately becomes controlled or directed by a management, the personnel of which is domiciled within the state during any part of the period of establishment, maintenance or operation. The provisions of this article shall not be construed to apply to private citizens who establish and maintain a pier, dock, wharf or landing place for boats, for the exclusive use of any boat owned, maintained and operated, or chartered, by such private citizens, exclusively for the personal household and business use of such private citizens; provided, such business is not that of carrying passengers across the water for hire.

(Ord. No. 106, § I(5), 6-5-1946)

Sec. 74-36. - Operation of ferries, boats for hire; application of ordinance.

The provisions of this article shall be construed to apply to every person whose domicile at the time of the operation of the ferry or passenger boat is within the state, and to every firm, corporation, copartnership or association which, at the time of the operation of the ferry or passenger boat, is controlled or held with others by a majority stock-ownership or interest-ownership by a person or persons whose domicile is within the state, or which, during the time of the operation of the ferry or passenger boat ultimately becomes controlled or directed by a management, the personnel of which is a resident, or are residents, of the state, or domiciled therein during the period of operation of such ferry or passenger boat.

(Ord. No. 106, § I(7), 6-5-1946)

Sec. 74-37. - Expenses.

All expense incurred by the park and harbor commission in administering this article shall be paid by the city as an administrative expense of the city.

(Ord. No. 106, § I(13), 6-5-1946)

Secs. 74-38—74-60. - Reserved.

DIVISION 2. - LICENSE

Sec. 74-61. - Docks, piers, wharves; required for operation.

It shall be unlawful for any person, firm, corporation, copartnership or association to establish, maintain or operate a pier, dock, wharf or other landing place for boats, which are in the class commonly

known as commercial passenger craft, at any point on the shore of the city, without having first obtained a license to do so from the park and harbor commission of the city.

(Ord. No. 106, § I(4), 6-5-1946)

Sec. 74-62. - Ferries, boats for hire; required for operation.

It shall be unlawful for any person, firm, corporation, copartnership or association, to establish, maintain or operate a ferry or ferries, or a boat for hire, for carrying and transporting persons across the waters of Lake Huron or the Straits of Mackinac, including contiguous bays or inlets of either, either to or from the city, without having obtained a license to do so from the park and harbor commission of the city.

(Ord. No. 106, § I(6), 6-5-1946)

Sec. 74-63. - Application; bond; expiration.

(a) Any person, firm, corporation, copartnership or association, desiring to establish, maintain or operate such ferry, ferries or passenger boat for hire, or any such pier, dock, wharf or other landing place for boats, shall apply to the park and harbor commission of the city for a license to do so, upon such form as the park and harbor commission may by rule prescribe, which form shall include:

(1) Such information as the commission may desire;

(2) A promise to abide and obey all rules and regulations of the commission;

(3) A promise to pay the license fees as specified in this division as a condition to continuing the privilege of such license;

(4) A consent that the park and harbor commission may effect the collection of license fees in any manner, including the cooperative effort of the licensee, which appears reasonable to the commission;

(5) A designation of the landing facilities which the operator will use in the city;

(6) The type of craft or crafts to be operated;

(7) Whether operation is to be based on a regular schedule of trips, and if so, approximately the schedule expected to be maintained;

(8) Whether the craft or crafts to be operated are owned by the operator or are to be hired for the purpose of such operation; and

(9) The types and amounts of insurance which will be carried by the operator.

(b) The park and harbor commission may, in its discretion, require the applicant for a license under this division to supply a satisfactory cash or surety bond in such amount as may be specified by the commission, as a guarantee by the operator of his or its faithful observance of the rules and regulations established by the commission and payment of the required license fee.

(c) All licenses issued pursuant to this division shall expire on the first Monday of June following the date on which they are issued, and new application for a license shall be made before beginning operations during any licensed year.

(Ord. No. 106, § I(8), 6-5-1946)

Sec. 74-64. - Fees; reports; revocation of license; fee reduction.

(a) Every person, firm, corporation, or association included within the terms of section 74-36, establishing, maintaining or operating a ferry, ferries or passenger boat for hire, for carrying and transporting

persons across the waters of Lake Huron or the Straits of Mackinac, including contiguous bays or inlets of either, either to or from the city, shall pay on or before the 15th day of each month during any such period of operation, beginning with the first day of the month immediately succeeding the month during which operation is commenced, to the park and harbor commission of the city, a sum equal to $0.25 for each round trip full-fare paying person, other than crew and free of fare passengers, and a sum equal to 12½ cents for each round trip half-fare paying passenger, carried and transported during the month immediately preceding, and embarking from and disembarking upon any pier, wharf, dock or landing place within the city.

(b) Every licensee under this division shall be required to file with the commission on printed forms furnished by the commission, and whenever required by the commission, reports covering in full the numbers and kinds of passengers embarked and disembarked during any period designated by the commission.

(c) Nonpayment of fees required by this section when due shall make the license issued pursuant to this division subject to immediate revocation.

(d) The park and harbor commission is authorized to make and approve special arrangements covering the carrying of passengers traveling by craft on an interstate journey, special excursion groups, school children groups and similar groups, pursuant to which the fee which would otherwise be required for the embarking or disembarking of such passengers may be reduced, and such reduction shall be granted in the sole discretion of the park and harbor commission.

(e) A fare-paying person or a fare-paying passenger shall be construed to include any person who shall pay for any service or accommodation or for any commodity or thing under any contract agreement or terms which shall include passenger transportation to or from the city.

(Ord. No. 106, § I(9), 6-5-1946)

Sec. 74-65. - Private docks; fee payment.

In instances where docks, wharves, piers, landing places or similar structures are used to embark or disembark passengers being carried for hire between the city and mainland are privately owned and not a part of the facilities described in Ord. No. 86 of the city, and where the license fees for which provision is made in section 74-64 are paid by the operator of the craft embarking or disembarking such passengers, no license fee need be paid by the owner of such dock, wharf, pier or landing place, but failure of the operator of such craft to pay the required license fee when due shall subject the owner of the dock, wharf, pier or landing place so used to liability for payment of the license fee and such license fee shall be paid by the owner upon demand of the park and harbor commission.

(Ord. No. 106, § I(10), 6-5-1946)

Sec. 74-66. - Licenses not assignable.

No license issued pursuant to this division shall be assignable or transferable.

(Ord. No. 106, § I(11), 6-5-1946)

Sec. 74-67. - Money collected; disposition.

All money collected under the provisions of this division shall be paid by the park and harbor commission into the treasury of the city, as provided in the city Charter.

(Ord. No. 106, § I(12), 6-5-1946)

Sec. 74-68. - Revocation.

The park and harbor commission of the city is authorized to revoke any license issued pursuant to this division whenever the commission is satisfied there has occurred on any ferry or boat, maintained or operated by any licensee under this division, any intentional violation of this division or any other ordinance of the city, or of any of the rules and regulations prescribed by the commission under this article, or of any of the laws of the state.

(Ord. No. 106, § III, 6-5-1946)

Sec. 74-69. - Severability.

If any provision of this article shall ever be found by any court of competent jurisdiction to be invalid or ineffective for any reason, such finding shall not affect the remaining provisions of this article, and such remaining provisions shall continue in full force and effect.

(Ord. No. 106, § IV, 6-5-1946)

APPENDIX A - ZONING[1]

Footnotes:

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Editor's note— Printed herein is the Zoning Ordinance of the city, Ordinance No. 479, as adopted by the City Council on October 16, 2013, effective November 12, 2013. Former Appendix A, §§ 1.01, 1.02, 2.01—2.60, 3.01—3.05, 4.01—4.21, 5.01—5.10, 6.01—6.04, 7.01—7.04, 8.01—8.04, 9.01—9.04, 10.01—10.04, 11.01—11.04, 12.01—12.03, 13.01—13.06, 14.01—14.04, 15.01—15.05, 16.A.01—16.A.03, 16.B.01—16.B.03, 19.01—19.10, 19A.01—19A.07, 20.01—20.11, 21.01—21.07, 22.01—22.10, 23.01—23.03, 24.01—24.07, pertained to similar subject matter. See Code Comparative Table for complete derivation. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation.

State Law reference— Zoning, MCL 125.581 et seq.

ARTICLE 1. - TITLE AND PURPOSE

Section 1.01 - Short title.

This ordinance shall be known and may be cited as the Zoning Ordinance of the City of Mackinac Island.

Section 1.02 - Purpose.

The provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare of the community. These provisions are intended to serve, among other purposes, the following: to provide for adequate light, air, and convenience of access; to assure safety from fire and other dangers; to prevent overcrowding and congestion; to facilitate the efficient provision of sewer, water, recreation, education, police, fire, and other public services; to protect natural resources; and to preserve, maintain, and enhance the historic and natural character of the Island.

ARTICLE 2. - DEFINITIONS

Section 2.01 - Access (fire, delivery).

A means by which emergency and fire vehicles can enter a parcel. Also, a means by which delivery or pick-up vehicles (or drays, carriages, etc.) can enter and leave a parcel.

Section 2.02 - Accessory (use, structure).

Both subordinate and incidental to a principal use or structure. Accessory uses to residential use include; private barns and stables, swimming pools, tool and garden sheds, gazebos, and the like.

Section 2.03 - Adult foster care facility.

A governmental or nongovernmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released from or assigned to a correctional facility.

A. Adult Foster Care Family Home: 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.

B. Adult Foster Care Small Group Home: An adult foster care 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.

Section 2.04 - Agriculture.

The use of land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

Section 2.05 - Apartment.

See dwelling, multiple-family.

Section 2.06 - Bed and breakfast.

An establishment where overnight lodging and breakfast is offered for compensation by resident owners of private single-family homes to unrelated transient individuals and families.

Section 2.07 - Bluff.

A steep headland, promontory, or cliff.

Section 2.08 - Boardinghouse/rooming house/employee house.

The terms shall be considered synonymous for purposes of this ordinance. They are defined as a building, or portion thereof, with or without cooking facilities or access thereto, occupied by persons not consisting of a family as defined in section 2.24 as their residence. Tourist accommodations, such as a hotel or bed and breakfast, are excluded from this definition.

Section 2.09 - Board of zoning appeals.

This term shall mean the Board of Zoning Appeals of the City of Mackinac Island, Mackinac County, State of Michigan. Such board being a quasi-judicial body for making determinations on zoning questions and appeals, and not to act in an executive or legislative capacity.

Section 2.10 - Building.

Any structure, either temporary or permanent, having; a roof or other covering and designed or used for the shelter or enclosure of any person, animal, or property of any kind, including tents, garages, stables, greenhouses, or awnings.

Section 2.11 - Building line.

A line established, in general, parallel to the front street line between which said building line and the front street line no building shall project, except as otherwise provided by this ordinance.

Section 2.12 - Carriage.

Any horse-drawn passenger vehicle.

Section 2.13 - Child care center.

A facility, other than a private residence, receiving one (1) or more preschool or school-age children for periods of less than twenty-four (24) hours a day, and where parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. May also be referred to as a child care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center.

Section 2.14 - Child care family home.

A private home in which one (1) but fewer than seven (7) minor children are received for care and supervision for periods 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. Care is given for more than four (4) weeks during a calendar year.

Section 2.15 - Child care group home.

A private home in which more than six (6) but not more than (12) minor children are given care and supervision for periods 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. Care is given for more than four (4) weeks during a calendar year.

Section 2.16 - Church or place of worship.

A building wherein persons regularly assemble for religious worship and used only for such purpose and reasonably closely related activities or uses.

Section 2.17 - Clinic.

A building where human patients are admitted, but not lodged overnight, for examination and treatment by more than one professional, such as a physician, dentist, and the like.

Section 2.18 - Cluster.

A type of land development in which structures are built close together to maximize open space.

Section 2.19 - Commercial use.

A use of land involving the exchange of money for goods and/or services, and may include production of tourist and other goods, including fudge shops, craft stores, gift shops, restaurants, and the like.

Section 2.20 - Commercial dock.

The use of land and/or water which is used primarily for commercial uses of a marine nature such as passenger, ferries and freight delivery.

Section 2.21 - Commercial unit.

A clearly defined interior area enclosed by vertical partitions of at least seven feet in height for the purpose of displaying and selling of goods and/or services, and under the exclusive control of the owner/operator.

Section 2.22 - Commercial stable.

Any building or structure used for the shelter and/or feeding of horses or other large domestic animals that are used for commercial purposes such as renting or leasing for riding or pulling drays or carriages; or for the rental of stall space; and any building or structure used for the shelter and/or feeding of more than six horses, or other large domestic animals. Any private stable containing more than six horses shall be considered a commercial stable for purposes of this ordinance.

Section 2.23 - Commercial storage.

A use of land to store, or keep, personal property for individuals or entities other than the owners or residents of the land in exchange for consideration.

Section 2.24 - Condominium act.

Michigan Public Act No. 59 of 1978, as amended (MCL 559.101 et seq.).

Section 2.25 - Condominium structure.

The principal building or structure intended for or constructed upon a lot or condominium unit, together with any attached accessory buildings. In a residential development, the condominium structure would refer to the house and any accessory buildings.

Section 2.26 - Condominium subdivision project.

A condominium project developed under Public Act 59 of 1978, as amended (MCL 559.1010 et seq.), comprising more than two condominium units which is not subject to the provisions of the Subdivision Control Act [now Land Division Act], Public Act No. 288 of 1967, as amended (MCL 560.101 et seq.).

Section 2.27 - Condominium unit.

That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, including the condominium structure and the contiguous limited common element under and surrounding the condominium structure, being the counterpart of a "lot" as defined in this ordinance.

Section 2.28 - Corral.

Any fenced or enclosed area used to confine horses or livestock.

Section 2.29 - Commercial corral.

Any fenced or enclosed area used to confine more than six horses or other large domestic animals.

Section 2.30 - Private corral.

Any fence or enclosed area used to confine six or less horses or other large domestic animals, for personal use only.

Section 2.31 - Dray.

Any horse-drawn cart or wagon used for hauling.

Section 2.32 - Dwelling unit.

Any house or portion thereof having cooking facilities which is occupied usually as a home, residence or sleeping place of one family, either permanently or transiently. In the case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for purposes of this ordinance and shall comply with the provisions thereof relative to dwellings.

Section 2.33 - Dwelling, multiple-family.

A building or portion thereof, used or designed as a residence for three or more families living independently of each other having their own cooking facilities therein. This definition includes three-family houses, townhouses, four-family houses and apartment houses.

Section 2.34 - Dwelling, single-family.

A detached dwelling, designed for or occupied exclusively by one family.

Section 2.35 - Dwelling, two-family.

A detached building, designed for or occupied exclusively by two families living independently of each other, such as a duplex dwelling unit.

Section 2.36 - Dwelling unit, accessory.

A subordinate dwelling unit incorporated within a single-family dwelling. Accessory dwelling units may not be subdivided or otherwise segregated in ownership from the primary residence structure.

Section 2.37 - Essential services.

The phrase "essential services" means the erection, construction, alteration, or maintenance by public utilities, authorities or commissions of underground, surface or overhead, gas, electrical, steam, or water transmission or distribution systems, collections, communication, supply or disposal system, including mains, drains, sewers, pipes, conduits, wires, cable, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles and other similar equipment, and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or authorities or commissions for the public health or safety or general welfare, but not including buildings other than such buildings as are primarily enclosures of shelters of the above essential service equipment.

Section 2.38 - Extractive use.

Any use of land which involves the extraction of materials from the ground for commercial purposes, such as an excavation for a gravel pit operation.

Section 2.39 - Family.

A. One or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, occupying a dwelling unit and living as a single, nonprofit housekeeping unit; or

B. A collective number of individuals living together in one house under one head, whose relationship is one of a permanent and distinct domestic character, and cooking as a single housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or organization, which is not a recognized religious order, nor shall it include a group of individuals whose association is temporary and resort/seasonal in character or nature.

Section 2.40 - Floor area.

A. The floor area in a noncommercial unit is the total gross area of all floors measured from the inside surface of exterior walls and including area occupied by interior partitions and stairwells and excluding crawl spaces, attics without floors, and open porches, balconies, and patios.

B. The floor area for commercial units shall be the total gross area of the floor on the level where business is conducted, measured from the inside surface of exterior walls and including all contiguous areas on that level over which the owner/operator has exclusive control.

Section 2.41 - Greenhouse.

A building or structure constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers, shrubbery, vegetables, trees, and other horticultural and floricultural products.

Section 2.42 - Ground coverage.

The percentage of lot area covered by buildings and other impervious surfaces, such as roofs, paved areas, patios, etc.

Section 2.43 - Height of building.

Building height is the vertical distance between the following two points:

A. In all districts, except the C district on Main Street, the beginning point shall be the top of the foundation. In the C district on Main Street, the beginning point shall be where the sidewalk meets the front of the building.

B. In all districts, the ending point shall be the highest part of the building or any attachment thereto, including facades and parapets.

Section 2.44 - Home occupation.

A use conducted entirely within an enclosed dwelling and/or accessory building, which is clearly incidental and secondary to residential occupancy and does not change the character thereof.

Section 2.45 - Hotel.

A building occupied as a temporary abiding place of individuals, who are lodged with or without meals, in which the rooms are occupied singly for hire, in which no provision is made for cooking in any individual room, including tourist and rooming homes, and any other temporary occupation of a building meeting the definition in this ordinance of a boardinghouse or apartment usage, which is for a rental period of less than 30 days shall be considered a hotel usage.

Section 2.46 - Impermeable surface.

Any surface covering the ground which cannot be penetrated by rain water, including asphalt, cement, and the roofs of buildings.

Section 2.47 - Industrial.

A use of land which involves primarily the production of goods for commercial sale off the premises.

Section 2.48 - Institutional.

A use of land by public, quasi-public, or public service organizations and agencies, such as governmental agencies, schools, parks, clinics and the like, for providing educational, recreational, governmental, or medical services to the public, excluding churches or places of worship.

Section 2.49 - Junk yard.

A place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled in open yards. Excluded are such uses when conducted entirely within a completely enclosed building.

Section 2.50 - Kennel.

Any building or buildings and/or land used, designed, or arranged for the boarding or care of dogs and cats for profit.

Section 2.51 - Landscape buffer.

A landscaped area composed of living material, a fence, wall, berm, or combination thereof, established and/or maintained to provide visual screening, noise reduction, and transition between conflicting types of land uses.

Section 2.52 - Loading area or space.

That area lying adjacent to a building or structure used for the transfer of material between a horse-drawn or other vehicle, and the building or structure.

Section 2.53 - Lot.

A parcel of land occupied or intended for occupancy by a use permitted in this ordinance, including one main building with its accessory buildings, and providing the open spaces, parking spaces, and loading spaces required by this ordinance. Provided that the owner of any number of contiguous lots may have as many of said contiguous lots considered as a single lot for the purpose of this ordinance as he so elects, and in such case the outside perimeter of said group of lots shall constitute the front, rear and side lot lines thereof. A lot shall be equivalent to a condominium unit.

A. A "corner lot" is one which lies at the intersection of two streets which intersect at an angle not exceeding 135 degrees.

B. An "interior lot" is one, other than a corner lot, with only one lot line fronting on a street.

C. A "through lot" is an interior lot that fronts on two streets.

Section 2.54 - Lot area.

The term "lot area" means the total land area within lot lines, as defined, of a lot. For lots fronting or lying adjacent to private roads, lot area shall be interpreted to mean that area within lot lines separating the lot from the private road and not the centerline of said private road.

Section 2.55 - Lot line.

The line bounding a lot as defined herein.

Section 2.56 - Marina.

A use of land and/or water to provide public docks, moorings and facilities for private watercrafts such as sailboats, powerboats and the like.

Section 2.57 - Master deed.

The legal document recording a condominium project to which are attached as exhibits and incorporated by reference the approved by-laws for the project and the approved condominium subdivision plan for the project.

Section 2.58 - Mobile home.

A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

Section 2.59 - Nonconforming use or structure.

A use or structure lawfully existing at the time of adoption of this ordinance, or any amendment thereto, which does not conform to the regulations of the district in which it is located.

Section 2.60 - Planned unit development (PUD).

A land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. A planned unit development shall be available as an overlay development option within certain zoning districts in accordance with the provisions of article 19A of this ordinance.

Section 2.61 - Planning commission.

The Planning Commission of the City of Mackinac Island, as created under City Ordinance Number 266, and as authorized under the Michigan Planning Enabling Act, Public Act No. 33 of 2008, as amended (MCL 125.3801 et seq.).

Section 2.62 - Principal use.

The principal use to which the premises are devoted and the principal purpose for which the premises exist.

Section 2.63 - Private dock.

A use of land and/or water which provides mooring or private watercraft of the owner of the upland property and owner's guests, not involving any commercial or public mooring, or other commercial use.

Section 2.64 - Private stable.

Any building or structure used for the shelter and/or feeding of up to six horses or other large domestic animals, for personal use only.

Section 2.65 - Public utility.

Any persons, firm, corporation, municipal department, board, or commission duly authorized to furnish and furnishing, under federal, state or municipal regulations, to the public, electricity, gas, steam, communications, television, telegraph, water services or sewage disposal.

Section 2.66 - Recreational vehicle.

A vehicle, primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted or drawn by another vehicle which is self-powered, or drawn by horse; such as travel trailers, camping trailers, motor homes and truck campers. A snowmobile is not a recreational vehicle.

Section 2.67 - Setback.

The minimal horizontal distance between the wall of a building, said wall being the surface of the cladding on the exterior of the building, whether it's siding, brick or other material, and the boundary of the lot area as set forth in section 2.54. Steps and unenclosed structures are exempt from consideration provided the exemption results in a minimum of five feet of open space on side yards and ten feet of open space on front and rear yards. Also exempt from consideration are portions of the building that protrude horizontally from the wall, including but not limited to eaves, overhangs and window trim, provided said protrusions do not extend more than two feet as measured horizontally from the wall.

(Ord. No. 538, § 1, 2, 7-20-2016)

Section 2.68 - Single ownership.

Ownership of a parcel of property wherein the owner does not own adjoining vacant property, provided that the owner of any number of contiguous lots of record may have as many of said contiguous lots of record considered as a single lot of record for the purpose of this ordinance as he so elects, and in such case the outside perimeter of said group of lots or record shall constitute the front, rear and side lot line thereof.

Section 2.69 - Street or road.

A public thoroughfare which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, boulevard, highway, road and other thoroughfare, except an alley.

Section 2.70 - Story.

That portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the floor next above, or if there be no floor above it, then the space between the floor and the ceiling next above it.

Section 2.71 - Story, half.

The part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half the floor area of said full story.

Section 2.72 - Structure.

Anything constructed or erected, that is located on the ground, or attached to something located on the ground.

(Ord. No. 537, § 1, 2, 7-20-2016)

Section 2.73 - Structural change or alteration.

Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any substantial change in a roof.

Section 2.74 - Swale.

Defined contour of land with gradual slopes that transport and direct the flow of stormwater.

Section 2.75 - Swimming pool.

Any structure or container located either above or below grade designed to hold water to a depth of greater than 24 inches, intended for swimming or bathing. A swimming pool shall be considered as an accessory building for the purpose of determining required yard spaces and maximum lot coverage.

Section 2.75A - Tasting room.

A use of a location on or off the manufacturing premises of the following Michigan Liquor Control Commission Licensees where the Licensee may provide samples of or sell at retail for consumption on or off premises the alcohol products it manufactures.

A. A licensed Brewer or Microbrewer.

B. A licensed Wine Maker or Small Wine Maker.

C. A licensed Distiller or Small Distiller.

D. A licensed Mixed Spirit Drinks Manufacturer.

E. A licensed Brandy Manufacturer.

(Ord. No. 583 , § 1, 7-15-2020)

Section 2.76 - Tents.

For purposes of this section, tents are described as a building used for commercial purposes, constructed, assembled or erected with the intent of being taken down or moved at a future time, the walls and roof thereof typically consisting of canvas, vinyl, plastic or other non-structural material.

(Ord. No. 540, § 2, 9-28-2016)

Editor's note— Ord. No. 540, § 2, adopted Sept. 28, 2016, added provisions to the Code, but did not specify manner of inclusion. Therefore, at the discretion of the editor, said provisions have been included in App. A as § 2.76, as set out herein. Inasmuch as there were already provisions so designated, App. A §§ 2.76—2-84 have been renumbered as App. A §§ 2.77—2.84, for purposes of maintaining Code format.

Section 2.77 - Unenclosed structures.

Unenclosed structures are structures, or portions thereof, that have not less than three sides fully open to the elements, including open porches, decks, porticos and similar structures. Glass, screens, shutters, blinds and the like will be considered features that enclose a structure.

Section 2.78 - Use.

The purpose for which land or premises of a building thereon is designed, arranged, or intended, or which it is occupied, or maintained, let, or leased.

Section 2.79 - Variance.

A modification of the literal provisions of the zoning ordinance granted when strict enforcement of the zoning ordinance would cause practical difficulties to circumstances unique to the individual property of which the variance is granted.

Section 2.80 - Vegetative disturbance.

The act of adversely impacting natural plant materials, including trees, shrubs, and ground cover on a site.

Section 2.81 - Wetland.

A wetland as defined in Part 303 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.

Section 2.82 - Yard.

An open space of prescribed width or depth on a lot with a building or group of buildings, which lies between the building or group of buildings, and the nearest lot line, and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

A. Front yard. The minimum horizontal distance between the front line of the building, excluding steps and unenclosed porches and the front lot line, and extending the full width of the lot.

B. Rear yard. A space unoccupied except by an accessory building as hereinafter permitted, extending for the full width of the lot between any building other an accessory building and the rear lot line.

C. Side yard. An open unoccupied space on the same lot with the building, between the building and the side lot line, extending from the front yard to the rear yard.

Section 2.83 - Zoning administrator.

The administrative official appointed by the city council who is responsible for the enforcement of this ordinance.

Section 2.84 - Zoning district.

A zoning district is a portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas, and other requirements are established by this ordinance.

ARTICLE 3. - MAPPED DISTRICTS

Section 3.01 - Zoning districts.

For the purpose of this ordinance, the City of Mackinac Island is hereby divided into 11 zoning districts known as:

R-1	Low density residential
R-3	High density residential
R-4	Harrisonville residential
HB	Hotel/boardinghouse
C	Commercial
MD	Market
CD	Cottage
ROS	Recreation/open space

RS	Shoreline residential
M	Marine
L	Lake

Section 3.02 - Zoning map.

The boundaries of these districts are hereby established as shown on a map entitled "The Zoning Map of the City of Mackinac Island, Michigan," which accompanies and is made part of this ordinance.

Section 3.03 - Zoning district boundaries.

Except where referenced on said map to a street line or other designated line by dimensions shown on said map, the zoning district boundary lines follow lot lines or the center lines of streets as they existed at the time of the adoption of this ordinance.

Section 3.04 - Areas not included within a district.

In every case where property has not been included within a district on the zoning map, the same is hereby declared to be in the R-1 low density residential district, except for properties which include frontage on Lake Huron, that are hereby declared to be in the RS shoreline residential district.

Section 3.05 - Interpretation of boundaries.

Questions or uncertainty concerning the exact location of zoning district boundary lines shall be determined by the board of zoning appeals. The board of zoning appeals in interpreting the zoning map shall apply the standards included in sections 3.03 and 3.04 of this article.

ARTICLE 4. - GENERAL PROVISIONS

Section 4.01 - Zoning affects every structure and use.

Except as hereinafter specified, no building, structure, or premises shall hereinafter be used or occupied, and no building, or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with the regulations herein specified for the district in which it is located.

Section 4.02 - Relationship to other laws.

Whenever any provision of this ordinance imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this ordinance shall govern. Regardless of any other provisions of this ordinance, no land shall be used and no structure erected or maintained in violation of any state or federal pollution or environmental protection law or regulation.

Section 4.03 - Severability.

This ordinance, and the various articles, sections, and clauses thereof, are hereby declared to be severable. If any article, section, paragraph, sentence or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the ordinance shall not be affected thereby. If any article,

section, paragraph, sentence, or clause is adjudged unconstitutional or invalid as applied to a particular property, building or other structure, it is hereby provided that the application of such portion of the ordinance to other properties, buildings, or structures shall not be affected thereby.

Section 4.04 - Restoring unsafe buildings.

Nothing in this ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the planning commission, the zoning administrator or other public officials acting in the scope of their authority.

Section 4.05 - Height exemptions.

The height requirements of all zoning districts shall not apply to simple antennas, dish antennas less than four feet in diameter, chimneys, flagpoles, lightning rods, elevator or roof access enclosures, and mechanical equipment such as fans and air conditioning units. The height requirements of all zoning districts shall also not apply to turrets, steeples, cupolas and similar structures that have square footage less than 20 percent of the square footage of the highest floor below the turret, steeple, cupola or similar structure, provided that no portion of such excluded structure be more than six feet above the maximum height of the nonexcluded portion of the building.

Section 4.06 - Historic structures.

Buildings or structures designated as "historic" by the state and/or national registers of historic places, if maintained as historic structures, are exempt from the area, bulk, height, and lot coverage requirements of this ordinance. If the use of such historic buildings or structures is for museum purposes, such use shall be exempt from the use provisions of this ordinance. For historic buildings or structures used for non-museum purposes, the use provisions of this ordinance still apply.

Section 4.07 - Mobile homes.

Mobile homes are recognized as single-family dwelling units and are subject to the following provisions:

A. To maintain the integrity of historic structures and the historic character of the city, no mobile shall be located within 1,000 feet of a state or federally designated historic building or structure.

B. Mobile homes are allowed in zoning districts where single-family dwelling units are permitted, and are subject to the regulations of the district in which they are located.

C. All mobile homes must meet the following standards: The appearance of a mobile home must be compatible with the appearance of surrounding residential structures as determined pursuant to section 18; all mobile homes must be situated on permanent foundations (such as concrete or cinderblock); and space that exists between the floor of a mobile home and the ground, including the foundation, shall render an appearance similar to a permanently constructed single-family home; and the roof of a mobile home must be pitched at an angle similar to that of surrounding residential structures. The city council, upon recommendation of the planning commission, may require the applicant to post a guarantee to insure conformance with these standards.

D. The applicant for zoning approval for a mobile home shall submit additional information along with the application and site plans as required in article 20, showing how the mobile home complies with the standards outlined in section 4.07C.

Section 4.08 - Extractive uses.

No excavation activity larger than 5,000 square feet in size and deeper that three feet in depth (except for basement excavations) shall be commenced without the issuance of a zoning permit for such activity. Excavation activities shall be permitted only as a special land use in the R-1 district. Such activity will be permitted only if the criteria outlined in article 19 are met. Site plan review requirements, as stated in article 20, apply to extractive uses, except that two separate site plans will be required, (a) an

operational site plan, and (b) a reclamation site plan. Each site plan will contain the information required in article 20 plus the following: the operational site plan will show the limits of excavation, the methods of excavation, dray or truck routes in and out of the site, and barriers used for safety around the hole; the reclamation site plan will show how the site will be restored and revegetated to condition suitable for development or other uses. The city council, upon recommendation of the planning commission, may require the applicant to post a guarantee to insure conformance with the standards in this ordinance.

Section 4.09 - Landscape buffers.

Upon any improvement for which a site plan is required, a landscape buffer shall be constructed along all adjoining boundaries between a property zoned C or HB District and any property zoned R-1, R-3, R-4 or CD District. A landscape buffer may also be required as a condition of approval for site plans, special land uses, planned unit developments, or as directly stated as a requirement of a particular zoning district. The following requirements shall apply:

A. Landscape buffers shall have a minimum width of ten feet and shall be planted with grass, ground cover, shrubbery, or other suitable plant material. The location, placement, spacing and types of plant materials will be such that an efficient horizontal and vertical obscuring or screening effect between land uses will be achieved.

B. All plants comprising the buffer will be continuously maintained in a sound, healthy, vigorous growing condition, free of diseases, insect pests, refuse and debris.

C. Minimum sizes of trees and shrubs planted as a part of a landscape buffer are as follows:

   1. Deciduous shrubs. Minimum two feet in height.

   2. Deciduous trees. Minimum two inches in caliper (diameter).

   3. Evergreen shrubs. Minimum two feet in height.

   4. Evergreen trees. Minimum five feet in height.

D. The choice and selection of plant materials will be such that the root system will not interfere with public utilities and that fruit and other plant debris (except leaves) will not constitute a nuisance within public rights-of-way, or to abutting property owners.

E. All plant materials must meet current recommended minimum standards of the American Association of Nurserymen.

F. Landscape buffers shall be in place at the date of occupancy approval, as provided in section 21.06, unless an extension of up to six months is granted by the Planning Commission and a performance guarantee is deposited to ensure completion of the improvements in accordance with section 4.18.

G. Berms (earthen mounds) and/or certain types of fences may be installed in lieu of a landscape buffer for the purposes of screening when the planning commission determines, based upon a particular situation, that a fence and/or berm would effectively achieve the public purposes and private benefits inherent in this provision. Fences installed in lieu of or in conjunction with a landscape buffer will be constructed of wood, stone or brick to provide an effective screen and to maintain the natural and historic character of the Island. Chain link or other wire mesh type fences may be permitted only if covered with wood strips or plant materials.

Section 4.10 - Commercial stables and corrals.

Commercial stables and corrals shall be permitted only as special land uses in any district, provided that the following standards have been complied with:

A. No commercial stable structure shall exceed 40 feet in height.

B. No commercial stable structure shall be located within 100 feet of any adjacent building used for residential purposes (see City Ord. No. 127).

C. All commercial stables shall have a floor area of at least 40 square feet per horse per stall and a total ground floor area of at least 150 square feet per horse.

D. Commercial corrals shall be allowed only as an accessory use to a commercial stable.

E. Where a commercial stable or corral use borders a residential use, a landscape buffer shall be installed according to the provisions of section 4.09 of this ordinance.

F. The means of ingress and egress of horses, drays, carriages and bicycles between a commercial stable or corral, and a public street shall be designed as to minimize congestion on the public streets. The means of ingress and egress shall be shown on the site plan required under article 20.

G. Commercial stables and corrals shall meet all other regulations of the district in which it is situated.

Section 4.11 - Private corrals and stables.

Private stables are considered an accessory use to any residential use, may be attached or detached to the residential building, and shall be subject to the following regulations:

A. A private stable shall not be constructed prior to the completion of the primary residential building.

B. No portion of a private corral shall be closer than five feet from any neighboring property.

C. No private corral shall be occupied until an inspection is completed by the Zoning Administrator.

D. A detached private stable and any portion of a private stable which is attached to a residence, shall have side setbacks of 20 feet and a rear setback of 20 feet, and shall not be located closer than 30 feet from any primary residential dwelling on adjoining property.

E. Private stables shall not exceed 24 feet in height.

F. Private stables shall be located in the rear or side yard of the property and no portion of the private stable shall extend beyond the front of the residence facing a street.

Section 4.12 - Accessory buildings to residential uses.

Where residential uses are permitted, accessory buildings, except as otherwise permitted in this ordinance, shall be subject to the following regulations:

A. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this ordinance applicable to the main building. Detached accessory buildings shall not be erected in any front yard. Detached accessory buildings located on corner lots shall not be erected in any area that can be designated as a front yard.

B. An accessory building not exceeding one story or 14 feet in height may not occupy more than 25 percent of a rear yard; provided that in no instance shall the accessory building exceed the ground floor area of the main building.

C. An accessory building or structure of less than 100 square feet or area shall not require a zoning permit provided that said building or structure meets all yard requirements for accessory buildings.

D. No detached accessory building shall be located closer than ten feet to any principal building nor shall it be located closer than five feet to any side or rear lot line; provided however, no accessory building shall be located closer than 20 feet from the principal building on any adjacent property.

E. Any accessory building shall not be constructed prior to the completion of the primary residential dwelling.

F. Accessory dwelling units are allowed only within the R-1, R-3, R-4, HB, MD, and CD districts.

G. Only one accessory dwelling unit, as defined in this ordinance, shall be permitted per lot, subject to the following:

1. The owner of the lot shall occupy either the principal or accessory dwelling unit.
2. The floor area shall not exceed 50% of the floor area of the principal dwelling unit.
3. The accessory dwelling unit shall not be less in floor area than 400 square feet.
4. The accessory dwelling unit shall have the same architectural style as the principal dwelling unit.
5. An accessory dwelling unit within or attached to the principal dwelling shall have an interior entry. An exterior entry to an accessory dwelling unit shall not be visible from a street.
6. The accessory dwelling unit shall comply with the density requirements of the district in which it is located.
7. The accessory dwelling unit shall comply with all other requirements for principal structures for the district in which it is located.

(Ord. No. 550, § 1, 9-13-2017)

Section 4.13 - Sewage disposal, solid waste disposal and other public services.

Upon any improvement for which a site plan is required, the applicant must supply information demonstrating the following:

A. That sewage waste generated on the property will be treated properly in accordance with City and/or LMAS District Health Department standards.

B. That adequate arrangements are made for the storage and disposal of solid waste, ensuring that it does not cause undue odor, unsightliness, be accessible to animals, or attract animals or flies.

C. That a safe means of fire escape is provided for all inhabited buildings and structures meeting the requirements of NFPA 1 and NFPA 101.

D. That a minimum sixteen foot (16′) wide and thirteen foot six inches (13′ 6″) high access way capable of servicing the largest fire apparatus shall be constructed from the nearest public street to each building and structure located more than one-hundred (100) feet from such public street to provide an adequate means of access for fire and emergency vehicles.

E. That an approved water supply capable of the required fire flow for the structures shall be provided in accordance with NFPA 1 section 18.3

F. That adequate maneuvering space is provided to allow access by delivery or pick-up vehicles (or drays, carriages, etc.).

G. That adequate arrangements are made for the provision of utility services, including water and sewer supply, electric, phone, cable, propane tanks and similar equipment.

Section 4.14 - Essential public service facilities.

Except with respect to the location, construction and use of buildings and building sites, the development and use of land by public utilities to provide essential public services is exempt from regulation under this ordinance.

Section 4.15 - Recreational vehicles prohibited.

To protect the historic and natural character of the island, the storage of, or residence within, a recreational vehicle is prohibited within the city.

Section 4.16 - Bicycle spaces.

For the uses listed below, a minimum number of off-street bicycle parking spaces shall be provided. Each bicycle space shall be at least one foot by six feet in area, or a standard space in a bicycle rack.

A. Multiple-family dwellings shall require at least two (2) bicycle spaces per each dwelling unit.

B. Boardinghouses shall require at least one (1) bicycle space per each occupant.

C. Hotels and bed and breakfast establishments shall require at least one (1) bicycle space per each bedroom.

D. Institutional uses shall require at least one (1) bicycle space per each building occupant, based on the average number of building occupants.

E. Churches or places of worship shall require at least one (1) bicycle space per each six (6) seats or twelve (12) feet of pew space in the main unit of worship.

Section 4.17 - Conditions.

Reasonable conditions may be required in conjunction with the approval of a special land use, planned unit development or other land uses or activities permitted by discretionary decision (i.e., variances). The conditions may include; conditions necessary to insure 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 or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all of the following:

A. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

C. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards.

The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of changes granted in conditions.

Section 4.18 - Guarantees.

To ensure compliance with the terms of this ordinance and any conditions imposed upon the approval of a site plan for a proposed use, the planning commission or city council may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond be furnished by the developer to the City. Such guarantee shall be deposited with the city clerk at the time of the issuance of the approved permit. In fixing the amount of such performance guarantee, the planning commission or city council shall limit it to reasonable improvements required to meet the standards of this ordinance and to protect the natural resources or the health, safety and welfare of the residents of the City and future users or inhabitants of the proposed project or project area including, but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. The term "improvements" does not include the entire project which is the subject of zoning approval, nor to improvements for which a performance guarantee has been deposited pursuant to Public Act No. 288 of 1967, as amended. The planning commission/city council and the project developer shall establish an agreeable procedure for the rebate of any cash deposits required under this section, in reasonable proportion to the ratio of the work completed on the required improvements as work progresses. Said agreement shall be written as an element of the conditions surrounding the approval of the permit.

Section 4.19 - Bed and breakfast.

Bed and breakfasts shall be permitted in the MD, R-3, R-4, HB and C zoning districts, but a bed and breakfast shall be allowed in an MD, R-3 or R-4 zoning district only as a special land use subject to all of the requirements and limitations set forth in article 19 of this ordinance.

Bed and breakfasts shall not be permitted in any other zoning district. Bed and breakfasts shall conform to the following conditions:

A. Not more than 35 percent of the total floor area nor more than five sleeping rooms of the dwelling unit shall be used for bed and breakfast sleeping rooms.

B. There shall be no separate cooking or kitchen facilities used for the bed and breakfast guests.

C. There shall be at least two exits to the outdoors from such establishments.

D. Sleeping rooms used for bed and breakfast guests shall have a minimum size of 120 square feet for two occupants with an additional 30 square feet for each additional occupant to a maximum of four occupants per room.

E. Lavatory facilities. Lavatory and bath facilities shall be available to all guests using a bed and breakfast.

F. Length of stay. The maximum stay for a guest of a bed and breakfast shall be 14 days.

G. Signs. Sign located on the premises of the bed and breakfast shall conform to the following limitations:

(1) Signs shall be no more than six square feet in area.

(2) No sign shall be placed on the roof of a bed and breakfast.

(3) Illumination of signs in an MD, R-3 or R-4 district shall only be by indirect light and no sign shall be self-illuminating.

(4) No more than one sign per bed and breakfast is permitted.

(5) Portable signs are prohibited.

Section 4.19.1 - Use of docks, wharves, piers, etc.

Docks, wharves, piers and all other man-made projections which extend into or over Lake Huron are subject to all of the terms of this zoning ordinance.

Section 4.20 - Foundation height limitations.

Foundations in all zoning districts, except within the CD district, shall be limited to the following height restrictions:

A. On level lots, the top of the foundation shall not be more than three feet above the highest point where the grade meets the footprint of the building (excluding decks, porches and stairs).

B. On sloping lots, the top of the foundation shall not be more than an average of five feet above the grade as measured around the perimeter of the entire foundation, unless the planning commission determines that the natural terrain makes compliance reasonably impossible.

C. For purposes of these foundation height measurements, back filling around the perimeter of the foundation shall be uniform in depth as it relates to the natural undisturbed grade, unless otherwise approved by the Planning Commission.

D. In the CD district, foundations shall be subject to the restrictions set forth within section 4.20 A, B, and C, or may be of a height equal to the average of the heights of the adjacent home foundations.

Section 4.21 - Fences.

Fences, as defined herein, are subject to site plan review and the following provisions:

A. Definition. A fence means a structure forming a barrier, generally designed to prevent entrance or to depict a boundary or to enclose an area. This definition shall not include hedges or other vegetative barriers, free standing entrance structures such as trellises, garden fences and fences that are required as screening of trash sites and equipment on commercial premises.

B. Location.

1. Fences must be located on the applicant's property.
2. No fence may be placed in the public right-of-way.
3. Fences on a common property line may be approved provided the adjoining owner provides written consent to such location.
4. The fence shall not be located in a place or manner that interferes with drainage or the maintenance of any utility.
5. No fence shall be allowed in a location or of a height that impedes clear vision of any drive, sidewalk or street.

C. Material. Fences shall be constructed of materials of wood, stone, metal, or other historically appropriate materials upon determining the same by the Planning Commission.

D. Height.

1. Fences in front yards shall be no higher than four feet except for entrances consisting of decorative gateways or trellises, which may be constructed as high as ten feet.
2. Fences in side and rear yards shall be no higher than six feet.

E. Design.

1. Fences shall be properly constructed to be structurally sound, secure, safe and properly maintained.
2. The finished side of a fence shall face outward from the property on which it is located, any necessary bracing shall be on the inside of the fence.
3. Any gate shall swing into the property being fenced.

F. Colors.

1. Any fences painted or stained shall use colors that are compatible with the architecture of the main building on the property.
2. Iridescent or day-glow colors are not allowed.

G. Prohibited Types of Fences.

1. Barbed wire, razor wire, concertina wire, or other hazardous type.
2. Single-strand wire
3. Chicken wire.
4. Wood stockade with the exception of the same when utilized in an appropriately historical location, setting and context.
5. Electric fencing with the exception of animal containment and invisible pet fences.
6. Chain link fences in the front yard, except within the R-4 District.

Section 4.22 - Home occupations.

A home occupation shall be allowed when conducted entirely within an enclosed dwelling and/or assessor building, and shall not require a zoning permit, conditioned upon the following requirements being met:

A. The person(s) engaged in the home occupation must reside on the premises;

B. The home occupation shall be clearly incidental and secondary to residential occupancy and shall not change the character of the residential nature of the premises;

C. All activities shall be carried on within enclosed structures. There shall be no outside display of any kind. A small announcement sign not to exceed two square feet in area and attached to the front wall of the principal structure shall be permitted. All other signs are prohibited.

D. The home occupation shall not create a nuisance, endanger the health, safety, welfare or enjoyment of any other person in the area by reason of noise, vibration, glare, fumes, odor, unsanitary or unsightly conditions, fire hazards, or the like, involved in or resulting from such home occupation.

E. The home occupation shall not otherwise create customer or client traffic that exceeds that normally created by residential use.

A home occupation that is compliant with the standards of this section shall not require a business license, nor shall any business license be issued. Provided however, business activities requiring licensing under the Michigan Occupational Code shall require a city business license as a home occupation.

(Ord. No. 551, § 1, 9-13-2017)

Section 4.23 - Adult foster care facilities.

It is the intent of this section to establish standards for adult foster care facilities, which will ensure compatibility with adjacent land uses and maintain the character of the neighborhood. The following regulations shall apply to adult foster care facilities.

A. A State licensed Adult Foster Care Small Group Home serving six 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 Planning Commission may, by issuance of a special land use permit in accordance with article 19, authorize the establishment of Adult Foster Care Small Group Homes serving between 6 and 12 persons in the R-1, R-3, and R-4 zoning districts. Such uses shall be subject to the following standards:

1. A site plan, prepared in accordance with article 20, shall be required to be submitted.

2. 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.

3. The property shall be maintained in a manner that is consistent with the character of the neighborhood.

4. At its discretion, the Planning Commission may require a landscape buffer in accordance with section 4.9.

5. Appropriate licenses with the State of Michigan shall be maintained.

Section 4.24 - Child care facilities.

It is the intent of this section to establish standards for child care facilities, which will ensure compatibility with adjacent land uses and maintain the character of the neighborhood. The following regulations shall apply to child care facilities.

A. A State licensed Child Care Family Home shall be considered a residential use of property and a permitted use in all residential districts.

B. The Planning Commission may, by issuance of a special land use permit in accordance with article 19, authorize the establishment of Child Care Group Homes in the R-1, R-3, and R-4 zoning districts. Such uses shall be subject to the following standards:

1. A site plan, prepared in accordance with article 20, shall be required to be submitted.
2. The property is maintained in a manner that is consistent with the character of the neighborhood.
3. An outdoor play area of at least 500 square feet shall be provided on the premises. Said play area shall not be located within the front yard setback.
4. All outdoor play areas shall be enclosed by a fence that is designed to discourage climbing, and is at least four feet in height, but no higher than six feet.
5. The hours of operation do not exceed 16 hours within a 24 hour period.
6. Appropriate licenses with the State of Michigan shall be maintained.

C. The Planning Commission may, by issuance of a special land use permit in accordance with article 19, authorize the establishment of Child Care Centers in the R-3, R-4, HB and C zoning districts. Such uses shall be subject to the following standards:

1. A site plan, prepared in accordance with article 20, shall be required to be submitted.
2. The property is maintained in a manner that is consistent with the character of the neighborhood.
3. An outdoor play area of at least 1,000 square feet shall be provided on the premises. Said play area shall not be located within the front yard setback.
4. All outdoor play areas shall be enclosed by a fence that is designed to discourage climbing, and is at least four feet in height, but no higher than six feet.
5. Appropriate licenses with the State of Michigan shall be maintained.

Section 4.25 - Commercial unit size and area of operation.

Any commercial use shall be conducted within any commercial unit, which shall have a minimum floor area of 400 square feet. Rental bicycle liveries, rental non-motorized marine vessel liveries, freight docks, ferry docks, and horse drawn vehicle businesses shall be specifically exempted from this requirement.

(Ord. No. 486, § 1, 11-24-2014, eff. 12-14-2014)

Section 4.26 - Environmental protection.

Environmental protection standards are established to protect the short and long-term health, safety, and welfare of the City by preventing erosion and flooding and protecting water quality. All uses and activities established after the effective date of this ordinance shall comply with the following standards. Site alternations, re-grading, filling or the clearing of vegetation, or any other activity deemed detrimental to any environmentally sensitive area or resource prior to the submission of plans for subdivision or land development shall be a violation of this ordinance.

A. Stormwater management standards. Where it is determined that the public storm drainage system lacks sufficient capacity to control drainage to off-site properties and drainageways, the City may require on-site detention storage of storm water. The particular facilities and measures required on-site shall reflect the natural features, wetlands, and watercourses on the site; the potential for on-site and off-site flooding, water pollution, and erosion; and the size of the site. Stormwater management shall comply with the following standards:

1. The design of storm sewers, detention facilities, and other stormwater management facilities shall comply with all applicable standards of the City of Mackinac Island.

2. Where required by Public Act 451 of 1994, as amended, a Soil Erosion and Sedimentation Control (SESC) permit shall be obtained from the LMAS District Health Department. Additionally, the Planning Commission shall have the authority to require the submittal of a Soil Erosion and Sedimentation Control plan where it is determined that the natural conditions of the site and/or the complexity of the proposed development so warrant.

3. Stormwater management conveyance, storage and infiltration measures and facilities shall be designed to prevent flood hazards and water pollution related to stormwater runoff and soil erosion from the proposed development.

4. The use of swales and vegetated buffer strips is encouraged in cases where it is safe as a method of stormwater conveyance so as to decrease runoff velocity, allow for natural infiltration, allow suspended sediment particles to settle, and to remove pollutants.

5. Alterations to natural drainage patterns shall not create flooding or water pollution for adjacent or downgradient property owners.

6. Discharge of runoff from any site, which may contain oil, grease, toxic chemicals, or other polluting materials is prohibited. If a property owner desires to propose measures to reduce and trap pollutants, the owner must meet the requirements of the Michigan Department of Environmental Quality and/or the City of Mackinac Island, based upon professionally accepted principles, such a proposal shall be submitted and reviewed by the City, with consultation of appropriate experts.

7. Drainage systems shall be designed to protect public health and safety and to be visually attractive, taking into consideration viable alternatives.

8. Maintenance of detention basins shall be the responsibility of the property owner in accordance with applicable standards established by the City of Mackinac Island and/or County and State agencies.

B. Steep slope development standards.

1. General design standards.

   a) Structures shall be designed in a manner that requires a minimum amount of alteration to any steep slopes on the site. Except where a geologic hazard investigation report recommends otherwise, multi-level building design and/or terracing shall be used in steep slope areas. Otherwise, structures shall be sited on existing level areas of the site.

   b) Particular caution shall be taken to prevent increases in the rate of stormwater runoff and erosion downgradient of any steep slope development site. Additionally, the Planning Commission shall have the authority to require the submittal of a Soil Erosion and Sedimentation Control plan where it is determined that the natural conditions of the site and/or the complexity of the proposed development so warrant.

2. Specific Design Standards.

   a) Any site disturbance of slopes exceeding fifteen (15%) percent shall be minimized.

   b) No site disturbance shall be allowed on slopes exceeding twenty-five (25%) percent, except under the following circumstances.

i) Grading for a portion of a driveway accessing a single family dwelling when it can be demonstrated that no other routing which avoids slopes exceeding twenty-five (25%) percent is possible.

ii) Upon submission of a report by a certified soil or geotechnical engineer indicating that the steep slope may be safety developed and execution of a provision agreeing to hold the City of Mackinac Island harmless from any claims of damages due to approval of such development. If development is allowed to proceed under this subsection, no more than fifteen (15%) percent of such areas shall be developed and/or re-graded or stripped of vegetation.

c) Finished slopes of all cuts and fills shall not exceed three-to-one (3:1), unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately.

C. Shoreline development standards.

1. The following regulations shall apply to all properties having frontage on the Lake Huron shoreline.

A. No natural vegetation occurring on a lot shall be unnecessarily removed or disturbed during the construction of a building or structure. As much of the natural plant material existing on the lot shall be left as undisturbed as possible on all sides of the building or structure.

B. Shoreline landscape buffers may be required by the planning commission to reduce water pollution caused by stormwater runoff. The width and composition of such landscape buffers shall be determined by the planning commission. All plantings shall consist of native trees and shrubs and herbaceous vegetation.

C. Landscape buffers required by this section shall be continuously maintained in a sound, healthy, vigorous growing condition, free of diseases, insect pests, refuse and debris.

D. Landscape buffers shall be in place at the date of occupancy approval, as provided in section 21.06, unless an extension of up to six months is granted by the Planning Commission and a performance guarantee is deposited to ensure completion of the improvements in accordance with section 4.18.

D. Wetland protection standards.

1. Any activities undertaken within a regulated wetland shall require a permit from the Michigan Department of Environmental Quality in accordance with the Part 303 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended. Such permit must be obtained prior to the issuance of a zoning permit from the City.

2. Should available sources of wetland information, consultants report or the MDEQ determine the potential or known presence of a wetland, the Planning Commission may require a wetland determination by a recognized expert prior to approving a site plan.

Section 4.27 - Exterior lighting.

A. To the extent feasible, all outdoor lighting in all use districts shall be directed toward and confined to the ground areas of the site, and shall be so arranged as to reflect lights away from all adjacent residential districts or adjacent residences.

B. Lighting in nonresidential districts, used for the external illumination of buildings, may be allowed so as to feature said buildings, but shall be arranged and shielded so as not to interfere with the vision of persons on adjacent streets or adjacent property.

C. All illumination of any outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.

D. Decorative lighting for holidays and special Island events shall be exempt from the provisions of this section for the duration of the holiday and special event.

Section 4.28 - Airport approach protection plan area.

The erection or modification of any structure within an adopted airport approach protection plan area shall require a permit from the Michigan Department of Transportation Bureau of Aeronautics.

Section 4.29 - Tents and other temporary buildings.

A. Short Term Tents. A tent may be used for commercial purposes in districts where such commercial use is allowed without prior site plan approval or a zoning permit, provided, all of the following are met:

1. The city zoning administrator, or designee, is notified in advance of the construction or erection of the tent;
2. The tent does not stay erected for more than 72 continuous hours;
3. The tent is otherwise compliant with all requirements applicable to the zoning district.

B. Special Events Tents. A tent may be used for commercial purposes in districts where such use is allowed without prior site plan approval or a zoning permit, provided, all of the following are met:

1. The city zoning administrator, or designee, is notified in advance of the construction or erection of the tent;
2. The tent does not stay erected for more than seven consecutive days; and
3. The tent is used during, and in association with, any of the following special events: Chicago Yacht Club Race, Bayview Yacht Club Race, Detroit Regional Chamber of Commerce, Grand Hotel Jazz Fest and Republican Leadership Conference or other similar events approved by the city council;
4. The tent is otherwise compliant with all requirements applicable to the zoning district.

C. Seasonal Tents. A tent may be used for commercial purposes on a seasonal basis in districts where such commercial use is allowed, commencing May 1 st and continuing through October 31 st of any given year upon issuance of site plan approval and a zoning permit authorized by the Planning Commission based on the following criteria:

1. Whether the tent has been previously used in the proposed location;
2. Whether any negative impact on the surrounding area created by the commercial activity to be conducted within the tent is unreasonably increased by the use of a tent as opposed to a permanent structure;
3. Any other reasons why a tent is being proposed for use in lieu of a permanent structure in light of the public policy favoring history and architecture on Mackinac Island;
4. The tent is otherwise compliant with all requirements applicable to the zoning district;
5. Any other reason relating to the health, safety and welfare of the residents and visitors to Mackinac Island.

D. Contractor's Tents. A tent may be used by licensed contractors for temporary storage of their tools, or weather protection, while working on a construction project. No site plan approval or zoning permit is required for this type of use.

(Ord. No. 540, § 3, 9-28-2016)

Editor's note— Ord. No. 540, § 3, adopted Sept. 28, 2016, added provisions to the Code, but did not specify manner of inclusion. Therefore, at the discretion of the editor, said provisions have been included in App. A as § 4.29, as set out herein.

Section 4.30 - Seasonal enclosures.

A. Definition. Seasonal enclosures, for purposes of this section, mean enclosures attached to an existing primary structure on a parcel of land that is erected and maintained only during a time period after November 1 st and before May 1 st of any given year, specifically excluding various tents as defined in Ordinance No. 540, City of Mackinac Island Code section 4.29. Provided said enclosure is otherwise fully compliant with all provisions of the City of Mackinac Island Zoning Ordinance.

B. No Permit Required. Seasonal enclosures may be constructed or maintained in all zoning districts without a zoning permit and shall be exempt from site plan and architectural review.

(Ord. No. 564, §§ 1, 2, 1-30-2019)

Editor's note— Ord. No. 564, §§ 1, 2, adopted Jan. 30, 2019, added provisions to the Code, but did not specify manner of inclusion. Therefore, at the discretion of the editor, said provisions have been included in App. A as § 4.30, as set out herein.

ARTICLE 5. - NONCONFORMING USES AND STRUCTURES

Section 5.01 - Definition of nonconforming uses.

Nonconforming uses are those which are not allowed by the existing provisions of the zoning ordinance but were lawfully established prior to the time the ordinance or any amendment thereto made such use unlawful.

Section 5.02 - Definition of nonconforming structures.

Nonconforming structures are those which do not conform to a dimensional provision or requirement of the zoning ordinance but were lawfully established prior to the time the ordinance or any amendment thereto caused the structure to be unlawful.

Section 5.03 - Regulations pertaining to nonconforming structures.

A nonconforming structure shall not be repaired, restored, extended, enlarged or substituted for except in accord with the following requirements:

A. This ordinance shall not prohibit the repair, improvement or modernization of a nonconforming structure to correct deterioration, obsolescence, depreciation and wear, provided that such repair does not exceed a value equal to 50 percent of the structure's replacement cost.

B. Any nonconforming structure damaged by fire, explosion, flood, erosion or other means, shall not be repaired or reconstructed in such fashion that it exceeds the present size, shape, location, design or other specifications and measurements currently existing or currently approved in said structure.

C. Structural changes, including enlargement or extension of a nonconforming structure, may be permitted by the planning commission, provided the enlargement or extension meets all current zoning requirements and does not increase any existing nonconforming condition, with the following exception: approved additions to structures which are nonconforming due to height may be allowed up to the height of the existing structure.

Section 5.04 - Determination of replacement cost.

The determination of the current construction cost for replacement of an existing building or structure, or portion thereof, shall be made on the basis of an appraisal by an individual prequalified by the City Assessor. The cost of such determination shall be borne by the applicant.

Section 5.05 - Nonconforming lots of record.

Any nonconforming lot or record or nonconforming lot described in a deed or land contract executed and delivered prior to the effective date of this ordinance or an amendment thereto, shall be used only for a use permitted in this ordinance. If the permitted use of a nonconforming lot requires a variation of the setback or yard requirements of this ordinance in excess of 15 percent of the requirements, than such uses shall only be permitted if a variance is granted by the board of zoning appeals under the terms of this ordinance. The reduction by 15 percent or less of dimensional requirements for lawful nonconforming lots may be granted by the zoning administrator in a manner consistent with the spirit and intent of the setback provisions in the district in which the lot is located. When the minimum dimensional requirements of this ordinance can be met by the combination of two or more nonconforming contiguous lots owned by the same person, said lots may be combined for use and no variance is necessary.

Section 5.06 - Regulations for nonconforming uses.

A. A nonconforming use shall not change in the type or nature of the original nonconforming use, including, but not limited to, expansion of the structure in which the use is conducted, unless the owner demonstrates to the zoning board of appeals that the change will not materially change the nonconformity of the use.

B. The nonconforming use is allowed to continue until it has been voluntarily surrendered by the owner as evidenced by a written notice of surrender or by the discontinuance of the use for a period of two years. A nonconforming use shall not be affected by any damage or destruction of the structure in which it is located.

ARTICLE 6. - "R-1" LOW DENSITY RESIDENTIAL

Section 6.01 - Purpose.

To establish and preserve quiet, low density residential neighborhoods, safe and free from congestion by pedestrians, bicycles and horses, and free from other uses except those which are both compatible with and convenient to the residents of such a district.

Section 6.02 - Permitted uses R-1.

Single- and two-family residential dwellings and accessory buildings/uses thereto, and churches or places of worship are permitted in this district.

Section 6.03 - Area, bulk, height, lot coverage, and density requirements.

A. Lot size. The lot size for this district shall not be less than 15,000 square feet, nor less than 100 feet wide at the building line.

B. Buildings and structures shall be setback from property lines as follows (except as noted below):

1. Front yard. Minimum 25 feet or in line with the adjacent residences.*
2. Side yard. Minimum five feet on one side and ten feet on the other.
3. Rear yard. Minimum 25 feet.
4. On the secondary streets of McGulpin, French Lane, Mahoney and Mission, setbacks are:
    a. Side yard. Five feet minimum.
    b. Rear yard. Fifteen feet minimum.

* "In line" determined by zoning administrator averaging existing setbacks of all structures within 150 feet of proposed structure on the same side of the street, within the same zoning district.

C. No principal building shall be less than 12 feet in height, nor shall any building exceed 35 feet, or 2½ stories, in height.

D. The maximum permitted lot coverage by impervious surfaces (such as roofs, cement and asphalt areas, etc.) shall be 35 percent.

E. The maximum permitted density shall be three dwelling units per acre.

Section 6.04. - Accessory buildings in residential districts.

[Repealed.]

ARTICLE 7. - "R-3" HIGH DENSITY RESIDENTIAL

Section 7.01 - Purpose.

To establish and preserve quiet neighborhoods of single- and multiple-family homes, free from other uses except those which are both compatible with and convenient to the residents of such a district, and to provide adequate housing opportunities for permanent and seasonal residents.

Section 7.02 - Permitted uses R-3.

Multiple-family, two-family and single-family residential dwellings and accessory buildings/uses thereto, and churches or places of worship are permitted in this district.

Section 7.03 - Special land uses.

The following uses are permitted by special land use approval of the planning commission, provided that they are in compliance with the standards that follow and the procedures and standards in article 19:

A. Institutional, provided:

1. That a landscape buffer is provided along all property boundaries, which abut residential uses, in accordance with the requirements of section 4.09.
2. That off-street bicycle parking be provided in accordance with the requirements of section 4.16.
3. That the institutional use and/or structure complies with all other district regulations.

B. Boardinghouse, provided:

1. That a landscape buffer is provided along all property boundaries, which abut residential uses, in accordance with the requirements of section 4.09.
2. That off-street bicycle parking be provided in accordance with the requirements of section 4.16.
3. That the boardinghouse use and/or structure complies with all other district regulations.

Section 7.04 - Area, bulk, height, lot coverage, and density requirements.

A. Lot size. The lot size for this district shall not be less than 5,000 square feet, nor less than 50 feet wide at the building line.

B. Buildings, and structures shall be setback from property lines as follows:

1. Front yard. Twenty-five feet minimum or in line with adjacent residences.*
2. Side yard. Minimum five feet on one side and ten feet on the other.

3. Rear yard. Twenty-five feet minimum.

4. On the secondary streets of McGulpin, Church, Bourisaw, French Lane, Mahoney and Mission, setbacks are:

    a. Side yard. Five feet minimum.

    b. Rear yard. Fifteen feet minimum.

* "In line" determined by zoning administrator averaging existing setbacks of all structures within 150 feet of proposed structure on the same side of the street, within the same zoning district.

C. No principal building shall be less than 12 feet in height, nor shall any building exceed 35 feet, or 2½ stories, in height.

D. The maximum lot coverage by impervious surfaces shall be 40 percent.

E. The maximum permitted density for family residential use shall be 20 dwelling units per acre. For use as a boardinghouse, the maximum allowable density shall be one occupant per 500 square feet of lot area within which the building is placed. An occupant is a person who occupies a bed or sleeping area within the building for one or more overnight periods. In the event the building contains both family residential use and boardinghouse use (nonfamily residential use), the one occupant per 500 square feet of lot area density limitation shall apply to the entire building.

ARTICLE 7A. - "R-4" HARRISONVILLE RESIDENTIAL

Section 7A.01 - Purpose.

To establish and preserve a quiet neighborhood of primarily single- and two-family homes within the area of the Island commonly known as Harrisonville, free from other uses except those which are both compatible with and convenient to the residents of Harrisonville, and to provide adequate housing opportunities for permanent and seasonal residents.

Section 7A.02 - Permitted uses R-4.

Single-family and two-family residential dwellings and accessory buildings/uses thereto, and churches or places of worship are permitted in this district.

Section 7A.03 - Special land uses.

The following uses are permitted by special land use approval of the planning commission, provided that they are in compliance with the standards that follow and the procedures and standards in article 19:

A. Multiple-family residential, provided:

    1. That a landscape buffer is provided along all property boundaries, which abut single-family or two-family residential uses, in accordance with the requirements of section 4.09.

    2. That the multiple-family use and/or structure complies with all other district regulations.

B. Boardinghouse, provided:

    1. That a landscape buffer is provided along all property boundaries, which abut residential uses, in accordance with the requirements of section 4.09.

    2. That off-street bicycle parking be provided for each tenant or guest residing at or visiting the boardinghouse during the tourist season (Memorial Day through Labor Day).

    3. That the boardinghouse use and/or structure complies with all other district regulations.

C. Commercial storage, provided:

    1. The minimum lot size is 10,000 square feet.

2. Commercial storage is the only use of the property.
3. All items stored are kept within a building and not visible from outside the building.
4. No building shall exceed 24 feet, or one story, in height.
5. The maximum lot coverage by impervious surfaces shall be forty (40%) percent.
6. Buildings and structures shall be setback from property lines as follows:

   Front: 25 feet.

   Rear: 25 feet.

   Side: 5 feet and 10 feet.

7. The storage property must be accessed by its own driveway used exclusively for the storage facility.
8. The hours of operation, being the time that the storage area may be accessed by customers, shall be from 8:00 a.m. to 9:00 p.m.
9. The lighting of the storage facility and area must be approved by the Planning Commission to minimize the effect of the lighting on the neighboring properties and general area.
10. A landscape buffer shall be provided along all property boundaries, which abut residential uses, in accordance with the requirements of section 4.09.

D. Institutional, provided:

1. That a landscape buffer is provided along all property boundaries, which abut residential uses, in accordance with the requirements of section 4.09.
2. That off-street bicycle parking is provided in accordance with the requirements of section 4.16.
3. That the institutional use and/or structure complies with all other district regulations.

Section 7A.04 - Area, bulk, height, lot coverage, and density requirements.

A. Lot size. The lot size for this district shall not be less than 10,000 square feet, nor less than 75 feet wide at the building line.

B. Buildings, and structures shall be setback from property lines as follows:

1. Front yard. Twenty-five feet minimum or in line with adjacent residences.*
2. Side yard. Minimum five feet on one side and ten feet on the other.
3. Rear yard. Twenty-five feet minimum.

* "In line" determined by zoning administrator averaging existing setbacks of all structures within 150 feet of proposed structure on the same side of the street, within the same zoning district.

C. No principal building shall be less than 12 feet in height, nor shall any building exceed 35 feet, or 2½ stories, in height.

D. The maximum lot coverage by impervious surfaces shall be 40 percent.

E. The maximum permitted density for family residential use shall be 10 dwelling units per acre. For use as a boardinghouse, the maximum allowable density shall be one occupant per 500 square feet of lot area within which the building is placed. An occupant is a person who occupies a bed or sleeping area within the building for one or more overnight periods. In the event the building contains both family residential use and boardinghouse use (nonfamily residential use), the one occupant per 500 square feet of lot area density limitation shall apply to the entire building.

ARTICLE 8. - "HB" HOTEL/BOARDINGHOUSE

Section 8.01 - Purpose.

To establish areas for the housing of seasonal employees and visitors and for the provision of adequate overnight accommodations for tourists, free from other uses except those which are compatible with and convenient to the residents of such district.

Section 8.02 - Permitted uses.

Hotels, boardinghouses, multiple-, two- and single-family residential dwellings and accessory buildings/uses thereto, institutional, hotel-related commercial (those commercial uses designed to service hotel uses and are located on the same property as the hotel use, such as restaurants and gift shops), and churches or places of worship are permitted in this district.

Section 8.03. - Area, bulk, height, lot coverage, and density requirements.

A. Lot size. The lot size for this district shall not be less than 7,500 square feet, nor less than 60 feet wide at the building line.

B. Buildings and structures shall be setback from property lines as follows:

   1. Front yard. Thirty feet minimum.
   2. Side yards. Ten feet minimum.
   3. Rear yard. Thirty feet minimum.

C. No principal building shall be less than 12 feet in height, nor shall any building exceed 40 feet, or 3½ stories, in height.

D. The maximum lot coverage by impervious surfaces shall be 40 percent.

E. The maximum permitted density shall be as follows:

   1. Hotels. Sixty bedrooms per acre.
   2. Boardinghouse (nonfamily residential units). One occupant per 300 square feet of lot area maximum.
   3. Family residential units. Twenty dwelling units per acre maximum.

Section 8.04 - Other provisions.

A. Off-street bicycle parking shall be provided in accordance with the requirements of section 4.16.

B. Within the HB District, where a hotel, boardinghouse, institution, church or place of worship, or hotel-related commercial use is located adjacent to a single-family residential use, a landscape buffer shall be provided along all property boundaries which abut such single-family residential use, in accordance with the requirements of section 4.09.

ARTICLE 9. - "C" COMMERCIAL

Section 9.01 - Purpose.

To establish and preserve a cohesive business district suited to the needs of travelers, tourists, vacationers, and seasonal and permanent residents.

Section 9.02 - Permitted uses.

A. Commercial, hotel, and institutional uses, and churches or places of worship are permitted in this district.

B. Apartment units and boardinghouses located in commercial structures shall be permitted provided that they are in compliance with the following standards:

1. The minimum usable floor area per residential apartment unit shall be 250 square feet.
2. Off-street bicycle parking shall be provided in accordance with the requirements of section 4.16.
3. That the boardinghouse use and/or structure complies with all other district regulations.

Section 9.03 - Special land use.

A. Kennels, provided that they are in compliance with the standards that follow and the procedures and standards in article 19:

1. The minimum lot size is 15,000 square feet.
2. No building or enclosure holding animals shall be located closer than 100 feet from any dwelling unit and 30 feet from any lot line.
3. Where a kennel use borders a residential use, a landscape buffer shall be installed according to the provisions of section 4.09 of this ordinance.

B. Tasting Rooms, provided they are in compliance with the standards that follow and the procedures and standards in Article 19:

1. A Tasting Room may not be located less than 1,000 feet from an existing Tasting Room. This distance shall be measured from the intersection of the customer access to the Tasting Room and the public street.
2. Operating hours of the Tasting Room business shall be conducted between 10 a.m. and 10 p.m. only.
3. Of the area devoted to the Tasting Room business, not less than 50% shall be utilized for retail sales, including non-alcohol products and alcohol products sold for off-premises consumption. Only alcohol products manufactured by the licensee may be sold by the Tasting Room business, whether for on-premises consumption or off-premises consumption.
4. No use shall be made of the licensed premises that would require a dance permit or entertainment permit from the Michigan Liquor Control Commission.
5. A site plan shall be submitted to the Planning Commission with all information necessary to show compliance with the standards required in this ordinance. Any future change in the site plan shall require a submission of a revised site plan and approval by the Planning Commission.
6. The Tasting Room must remain in compliance with all laws, rules and requirements of the Michigan Liquor Control Commission, and all city, state and federal ordinances, laws or regulations that relate directly or indirectly to the Tasting Room business.

(Ord. No. 583 , § 2, 7-15-2020)

Section 9.04 - Unit size, bulk, height, and density requirements.

A. Where a commercial district borders a residential district or use, the structure shall be setback a minimum of 15 feet from the abutting lot line.

B. No principal building shall be less than 12 feet in height, nor shall any building exceed 40 feet, or three stories, in height.

C. The following density requirements apply in this district:

1. Hotel. Minimum of 230 square feet per room is to be determined by the total square feet of the hotel divided by the total number of hotel rooms.

2. Boardinghouse (nonfamily residential units). One occupant per 250 square feet of lot area maximum.

3. Family residential units (apartment). Thirty dwelling units per acre.

ARTICLE 10. - "MD" MARKET

Section 10.01 - Purpose.

To establish and preserve a district (formerly called the Historic District) containing several historically significant structures and other buildings primarily fronting Market Street, which together form a neighborhood with unique historic character.

Section 10.02 - Permitted uses.

Single-, two-, and multiple-family residential dwellings and accessory buildings/uses thereto, churches or places of worship, commercial, hotel, and institutional uses are permitted in this district.

(Ord. No. 547, § 1, 4-26-2017)

Section 10.03 - Special land use.

Boardinghouses are permitted by special land use approval of the planning commission provided they are in compliance with the standards that follow and comply with the requirements of article 19:

1. That a landscape buffer is provided along all property boundaries, which abut residential uses, in accordance with the requirements of section 4.09.

2. That off-street bicycle parking be provided in accordance with the requirements of section 4.16.

Section 10.04 - Area, bulk, height, lot coverage, and density requirements.

A. Lot size. The lot size for this district shall not be less than 5,000 square feet, no less than 50 feet wide at the building line.

B. Buildings and structures shall be set back from property lines as follows:

1. Front yard. Ten feet minimum.

2. Side yards. Ten feet minimum.

3. Rear yard. Fifteen feet minimum.

C. No principal building shall be less than 12 feet in height, nor shall any building exceed 30 feet, or 2½ stories, in height.

D. The maximum permitted lot coverage by impervious surfaces shall be 35 percent.

E. The following density requirements apply in this district:

1. Family residential uses. The maximum density for family residential uses shall be seven dwelling units per acre.

2. Boarding house (non-family residential use). The maximum density for boarding house (non-family residential use) shall be one occupant per 500 square feet of lot area.

3. Hotel. The total number of rooms shall not exceed the number resulting from the following formula: total square footage of the hotel area (excluding porches, decks and other exterior areas) divided by 450.

(Ord. No. 547, § 2, 4-26-2017)

ARTICLE 11. - "CD" COTTAGE

Section 11.01 - Purpose.

To establish and preserve areas of large residential estates characterized by unique Victorian or other style architecture, large landscaped yards, and quiet low density residential use.

Section 11.02 - Permitted uses.

Single-family residential dwellings and accessory buildings/uses thereto are permitted in this district.

Section 11.03 - Area, bulk, height, lot coverage, and density requirements.

A. Lot size. The lot size in this district shall not be less than one acre.

B. Buildings and structures shall be setback from property lines as follows:

1. Front yard. Twenty-five feet minimum.
2. Side yards. Fifteen feet minimum.
3. Rear yard. Twenty-five feet minimum.

C. No primary dwelling building shall be less than 24 feet and two stories nor higher than 40 feet and three stories, in height.

D. The maximum permitted lot coverage by impermeable surfaces shall be 30 percent.

E. The maximum density permitted in this district is one principal dwelling unit per acre.

(Ord. No. 552, § 1, 9-13-2017)

Section 11.04 - Accessory buildings.

Accessory buildings in the cottage district shall be subject to the regulations set forth in section 4.12 except that the accessory buildings in the cottage district shall be allowed to have a height not exceeding 14 feet or one-half the height of the primary dwelling, whichever is greater.

ARTICLE 12. - "ROS" RECREATION/OPEN SPACE

Section 12.01 - Purpose.

To establish and preserve public and private areas for outdoor recreation and open space purposes, to provide recreation opportunities for residents and visitors, and to preserve scenic views to Lake Huron which serve to enhance the historic and natural character of the island.

Section 12.02 - Permitted uses.

Outdoor recreation, both public and private and related uses, including parks, golf courses, tennis courts, softball diamonds, and open spaces, and facilities customarily related thereto, are permitted in this district.

Section 12.03 - Setback, height, and lot coverage requirements.

A. Setbacks. Any outdoor recreation building, structure, accessory structure, or impervious surfaces shall not be located any closer than 20 feet from a public street.

B. No building or structure shall exceed 20 feet, or one story, in height.

C. The maximum permitted lot coverage by impermeable surfaces shall be ten percent.

ARTICLE 14. - "RS" SHORELINE RESIDENTIAL

Section 14.01 - Purpose.

To establish a district which allows for low density residential use in a manner which protects, and is compatible with, the unique characteristics of the Lake Huron shoreline.

Section 14.02 - Permitted uses.

Single-family residential dwellings and accessory buildings/uses are permitted in this district.

Section 14.03 - Area, bulk, height, lot coverage, and density requirements.

A. Lot size. No lot in this district shall be less than 10,000 square feet in size.

B. Buildings and structures shall be setback from property lines and the shoreline as follows:

Shoreline setback. Sixty feet minimum from the water's edge.

Side yards. Twenty feet minimum.

Street setback. Forty feet minimum.

(If there is no shoreline edge on the lot, the setback from the property line opposite the street side property line shall be 40 feet).

C. No primary dwelling building shall be less than 12 feet in height, nor exceed 20 feet, or 1½ stories, in height.

D. The maximum permitted lot coverage by impervious surfaces shall be 30 percent.

ARTICLE 15. - "M" MARINE

Section 15.01 - Purpose.

To establish a zoning district for the historic harbor area of Mackinac Island encompassing the entire area between the east and west breakwaters lakeward from the ordinary high water mark. To regulate the necessary uses thereof with recognition of historical uses and further recognizing that this harbor provides the transportation link for most goods and passengers being transported to and from Mackinac Island.

Section 15.02 - Permitted uses.

Private docks, marinas, and commercial docks, as defined in this ordinance, and other commercial and residential uses are permitted in this district dependent upon the zoning district of the upland adjoining the water area in question. For areas adjoining uplands zoned residential, private docks only will be permitted. For areas adjoining uplands that are zoned commercial, commercial docks, marinas, private docks and all uses permitted in commercial districts shall be permitted. For areas adjoining uplands zoned ROS or HB, private docks and marinas shall be permitted.

Section 15.03 - Permitted use regulation.

Regulations for permitted uses in "M" District:

A. Private dock regulations.

1. No building or structure greater than four (4) feet in height or 10 percent of the dock area, permanent or temporary, shall be allowed to be placed on any private dock within this district.

2. No deck of a dock shall extend more than four feet above the ordinary high water mark and no other portion of the dock shall extend more than ten feet above the ordinary high water mark.

3. All dredging, construction, bulk heading and development shall be subject to the requirements of all codes and ordinances of this city and applicable state and federal laws and regulations.

4. Construction or alteration shall follow the procedure set forth in article 20 for required site plan review, the same as other construction or alterations on shore.

B. Marina regulations.

1. No building or structure greater than four (4) feet in height or 10 percent of the dock area, permanent or temporary, shall be allowed to be placed on any marina dock within this district.

2. No deck of a dock shall extend more than four feet above the ordinary high water mark and no other portion of the dock shall extend more than ten feet above the ordinary high water mark.

3. All dredging, construction, bulk heading and development shall be subject to the requirements of all codes and ordinances of this city and applicable state and federal laws and regulations.

4. Construction or alteration shall follow the procedure set forth in article 20 for required plan review, the same as other construction or alterations on shore.

5. No part of the marina structure shall unreasonably impede the circulation of water within the harbor.

C. Commercial dock and commercial use regulations.

1. Every commercial use within the "M" Marine District shall comply with all requirements set forth for the Commercial District in the Zoning Ordinance unless said requirements are inconsistent with the specific requirements of this section.

2. Buildings and structures shall not exceed 25 feet in height above the surface of the deck or the height of any existing building that is being replaced, shall not be more than one and one-half stories, and shall not exceed more than 40 percent of the dock area.

3. All dredging, construction, bulk heading and development shall be subject to the requirements of all codes and ordinances of this city and applicable state and federal laws and regulations.

4. Construction or alteration shall follow the procedure set forth in article 20 for required plan review, the same as other construction or alterations on shore.

ARTICLE 16. - "L" LAKE

Section 16.01 - Purpose.

To establish a zoning district to regulate uses and structures in the water area surrounding Mackinac Island which are outside the historic harbor area ("Marine District"), said water area to be considered those areas lakeward from the ordinary high water mark, recognizing the historical uses, the need for open viewing areas and scenic atmosphere of Mackinac Island.

Section 16.02 - Permitted uses.

Private docking only is permitted in this district.

Section 16.03 - Private dock regulations.

1. No building or structure, permanent or temporary, shall be placed on any private dock within this district.
2. No deck of a dock shall extend more than four feet above the ordinary high water mark and no other portion of the dock shall extend more than ten feet above the ordinary high water mark.
3. All dredging, construction, bulk heading and development shall be subject to the requirements of all codes and ordinances of this city and applicable state and federal laws and regulations.
4. Construction or alteration shall follow the procedure set forth in article 20 for required site plan review, the same as other construction or alterations on shore.

ARTICLE 18. - ARCHITECTURAL REVIEW

Section 18.01 - Intent.

The regulations set forth in this article are adopted to promote and protect the public health, safety and welfare, particularly in view of the following facts:

1. One of the great scenic islands of the Great Lakes area lies within the borders of the city, rich in Indian lore and historic interest dating back to the year 1670.
2. Because of this history and the natural beauty of the island, the city has become a world renown recreational resort.
3. The city is, in effect, the steward for mankind for the preservation of both its natural beauty and its historical monuments.
4. The welfare of the city requires the protection and enhancement of the attractiveness of the city as a recreational resort, as contributing to the economic soundness of the city and the economic and social welfare of its inhabitants.

Section 18.02 - Purpose.

For the reasons set forth in Section 18.01 above, this article establishes procedures and standards for architectural review for certain structures, developments, site, grading and improvements within the City of Mackinac Island.

Section 18.03 - Definitions.

The following definitions shall apply for purposes of this article only.

1. Commercial structure shall mean a building and structure used for solely commercial purposes, mixed commercial and residential purposes, hotels, churches or places of worship, and institutional buildings.
2. Noncommercial structures shall mean all other buildings or structures including single family residences, duplexes, multifamily residential dwellings (apartments), bed and breakfast establishments, and boardinghouses.

Section 18.04 - Architectural review required.

All plans for new construction, additions, or exterior alterations to a property in a historic district as provided in the Mackinac Island Code of Ordinances shall comply with the requirements for approval of a certificate of appropriateness from the Mackinac Island Historic District Commission in lieu of the Architectural Review requirements contained in this article.

Within all other parts of the city of Mackinac Island, no building shall be constructed or structurally altered in exterior appearance, including site grading of the surrounding grounds, unless and until the architectural plans have been submitted to the city and have been reviewed in accordance with the requirements of this article.

Section 18.05 - Information to be submitted.

When architectural review is required by section 18.04, applications shall be accompanied by the following information:

A. The name and address of the applicant or developer, including the names and addresses of any officers of a corporation or partners of a partnership.

B. A legal description of the property.

C. Drawings, sketches and plans showing the architectural exterior features, heights, appearance, color and texture of the materials of exterior construction and the placement of the structure on the lot, and any additional information determined necessary by the planning commission to determine compliance with the requirements of this article.

D. Photographs of existing site conditions, including site views, existing buildings on the site, streetscape views in all directions, and neighboring buildings within 150 feet of the site.

E. For projects requiring site plan review, a site plan shall also be submitted in accordance with article 20.

Section 18.06 - Standards for review.

In reviewing the architectural design of projects, consideration should be given to the architectural exterior features, heights, appearance, color and texture of the materials of exterior construction and the placement of the structure on the lot such that the same are congruous and in harmony with those of the structures within and contiguous to the district in which the property is located and the historical character of the island, and further that the structure would not be unsightly grotesque or detrimental to the stability of the value and welfare of the surrounding property, structures, residence and to the general and economic welfare and happiness of the community as a whole.

The following is a list of architectural review standards that shall be applied when considering a project for zoning approval, or when architectural review is otherwise required by section 18.04. The purpose of these standards is to ensure that any construction will be harmonious to its surrounding neighborhood and to the historic character of Mackinac Island. It is recognized that Mackinac Island has several unique neighborhoods each with a distinct architectural character, which are important to preserve for future generations to appreciate, enjoy and foster. All design, construction and materials must satisfy appropriate State of Michigan construction codes adopted by the City of Mackinac Island.

In consideration of the architectural style of existing buildings within 150 feet of the subject property, the planning commission may modify or waive certain requirements outlined below, provided that any such modification is in keeping with the intent of this article, and that such modification will result in an architectural design which is more compatible with the historic character of the surrounding neighborhood and Mackinac Island as a whole.

A. Non-commercial structures in all areas except the R-4 District.

1. *Foundations.* Foundation materials shall in some way be treated (painted, parged, stuccoed or otherwise detailed) to provide a finished appearance. Natural and synthetic stone native to, or characteristic of, the Great Lakes basin are excepted.

2. *Walls.* The majority of all exterior wall surfaces shall be covered with materials that provide the appearance of wood shingles, horizontal lap siding, vertical board and batten siding, or natural stone native to the Great Lakes basin. Accent panels and window or door trim may be of any material. Log exteriors may be allowed where consistent or congruous with the character of the surrounding neighborhood.

3. *Windows.* The maximum glass area for any of the exterior wall surfaces (excluding approved attached or detached greenhouse type structures and fully enclosed porches) is 50 percent. A minimum of 70 percent of the individual window units shall be either the single hung or double hung type, or single hung or double hung in appearance. Mirrored or dark tinted glass

with visible light transmittance of less than 60 percent shall not be allowed. The replacement of windows identical in appearance to existing windows does not require architectural review. The installation of new windows or the replacement of existing windows with a new window type shall be required, as determined appropriate by the Planning Commission, to match the type (i.e., single hung, double hung) and appearance (i.e., with muntins) of the original windows or what would have been typical historically.

4. *Doors.* Doors shall be the hinged type, or at a minimum shall look like hinged doors. On residential or residential accessory buildings, horizontal tracked doors shall be allowed, but roll-up or tilt-up style garage doors shall not be allowed.

5. *Roofs.* All roofs shall be in keeping with the roofs of surrounding buildings and the historic nature of Mackinac Island. The minimum pitch for the main portion of the roof shall be 6 vertical and 12 horizontal. Roof coverings for the main portion of the roof shall have an individual unit shingled appearance and be of materials such as wood, asphalt, fiberglass, or metal. Ribbed or standing seam metal roofs may also be allowed, as determined appropriate by the Planning Commission.

6. *Porches.* Front porches or stoops, when provided, shall be covered with a roof that is compatible with, but does not necessarily match, the structure's main roof.

7. *Colors.* When architectural review is required by this ordinance, colors shall be reviewed and shall be in keeping with surrounding buildings and the historic nature of Mackinac Island. Neon, florescent or iridescent colors are prohibited. Changing the color of a building or structure (repaint) does not require architectural review but any such repaint is subject to the prohibition against neon, florescent or iridescent colors and shall be in keeping with the colors of surrounding buildings and the historic nature of Mackinac Island.

8. *Monotony of design.* For new construction or additions involving multiple units, monotony of design shall be avoided. Variation of detail, form and siting shall be used to provide visual interest.

9. *Chimneys.* All chimneys shall be stylistically consistent with the appearance of the building. Existing chimneys that are stylistically significant shall be preserved.

B. Non-commercial structures located within the R-4 District.

1. *Foundations.* For foundations that have in excess of 24 inches above grade on average of exposed block, the material shall in some way be treated (painted, parged, stuccoed or otherwise detailed) to provide a finished appearance. If the exposed foundation is less than 24 inches on average above grade, this requirement shall not apply. Natural and synthetic stone native to, or characteristic of, the Great Lakes basin on the exterior of the foundation are also exempt from this requirement.

2. *Walls.* The majority of all exterior wall surfaces shall be covered with materials that provide the appearance of wood shingles, horizontal lap siding, vertical board and batten siding, or natural stone native to the Great Lakes basin. Accent panels and window or door trim may be of any material. Log exteriors may be allowed where consistent or congruous with the character of the surrounding neighborhood.

3. *Windows.* The maximum glass area for any of the exterior wall surfaces (excluding approved attached or detached greenhouse type structures and fully enclosed porches) is 50 percent. A minimum of 70 percent of the individual window units shall be either the single hung or double hung type, or single hung or double hung in appearance. Mirrored or dark tinted glass with visible light transmittance of less than 60 percent shall not be allowed.

4. *Doors.* Doors shall be the hinged type, or at a minimum shall look like hinged doors. On residential or residential accessory buildings, horizontal tracked doors shall be allowed, but roll-up or tilt-up style garage doors shall not be allowed.

5. *Roofs.* All roofs shall be in keeping with the roofs of surrounding buildings and the historic nature of Mackinac Island. Roof coverings for the main portion of the roof shall have an

individual unit shingled appearance and be of materials such as wood, asphalt, fiberglass, or metal. Ribbed or standing seam metal roofs may also be allowed, as determined appropriate by the Planning Commission.

6. *Porches.* If front porches or stoops are covered with a roof, said roof shall be compatible with the structure's main roof.

7. *Colors.* When architectural review is required by this ordinance, colors shall be reviewed and shall be in keeping with surrounding buildings and the historic nature of Mackinac Island. Neon, florescent or iridescent colors are prohibited. Changing the color of a building or structure (repaint) does not require architectural review but any such repaint is subject to the prohibition against neon, florescent or iridescent colors and shall be in keeping with the colors of surrounding buildings and the historic nature of Mackinac Island.

8. *Monotony of design.* For new construction or additions involving multiple units, monotony of design shall be avoided. Variation of detail, form and siting shall be used to provide visual interest.

C. Commercial structures in all areas.

1. *Siding.* The surface of all exterior walls accessible to the public or exposed to public views shall be clad in wood to reflect a traditional/historic appearance. Materials having the appearance of wood or other historically appropriate materials may be allowed, as determined appropriate by the Planning Commission.

2. *Windows.*

a. Windows on the street level for display purposes shall be framed in wood or like material with a minimum trim width of 3½ inches, must be a minimum of 18 inches above the walking surface, and the top of the window shall not be more than 12 feet above the walking surface.

b. The maximum glass area for upper level exterior wall surfaces is 50 percent. A minimum of 70 percent of the individual window units shall be either of single or double hung type, or single hung or double hung in appearance. Mirrored or dark tinted glass with a visible light transmittance of less than 60 percent shall not be allowed.

c. The replacement of windows identical in appearance to existing windows does not require architectural review. The installation of new windows or the replacement of existing windows with a new window type shall be required, as determined appropriate by the Planning Commission, to match the type (i.e., single hung, double hung) and appearance (i.e., with muntins) of the original windows or what would have been typical historically.

d. The requirements of this subsection shall not apply to approved attached or detached greenhouse type structures.

3. *Building entryways.* Entryways shall be recessed into the building walls. No doors shall be opened directly onto the public right-of-way. No sliding, revolving, roll-up, tilt-up or overhead garage style doors shall be allowed.

4. *Roofs.* All roofs shall be consistent with types and appearance of those on surrounding architecture.

5. *Overhangs.* Overhangs, canopies, and projecting elements extending over the public right of way shall have prior municipal approval from the City Council. All such elements shall be compatible with the architecture of the building. No access to the roof of an overhang, canopy or the like will be allowed.

6. *Awnings.* The style of awnings shall be appropriate to the architecture of the building and be in keeping with the traditional shed or sloped style found historically. No backlit awnings shall be allowed. The City of Mackinac Island sign ordinance (Ordinance No. 351, as amended)

must be followed in regards to lettering. Color choices shall meet the commercial "colors" standard as set forth in the following paragraph.

7. *Colors.* When architectural review is required by this ordinance, colors shall be reviewed and shall be in keeping with surrounding buildings and the historic nature of Mackinac Island. Neon, florescent or iridescent colors are prohibited. Changing the color of a building or structure (repaint) does not require architectural review but any such repaint is subject to the prohibition against neon, florescent or iridescent colors and shall be in keeping with the colors of surrounding buildings and the historic nature of Mackinac Island.
8. *Utility features.* Placement of such features as venting, central air/heating, satellite dishes, ATM and vending machines and the like will be reviewed for visibility and noise impact. Such features shall be disguised or shielded from view and muffled to suppress noise levels. No window mounted heating/ventilating/air conditioning (HVAC) units shall be allowed.
9. *Lighting.* Exterior lighting and fixtures, as well as interior lighting intended to be viewed from the outside, shall be appropriate to the architecture of the building and to the historic nature of the neighborhood. Architectural outlining, flashing, strobe, neon or the like shall not be allowed. Decorative lighting for holidays and special Island events shall be allowed only for the duration of the event.
10. *Chimneys.* All chimneys shall be stylistically consistent with the appearance of the building. Existing chimneys that are stylistically significant shall be preserved.

(Ord. No. 542, § 1, 2, 11-9-2016)

Section 18.07 - Exemptions from review standards.

If a specific application of the architectural review standards set forth in this article is determined by the planning commission to be inappropriate, or to serve no useful purpose, or is contrary to any other applicable law or regulation, including but not limited to building, fire or mechanical codes, the contrary or inappropriate architectural review standards shall not apply.

(Ord. No. 539, § 1, 2, 7-20-2016)

Section 18.08 - Review process.

Where required or requested in accordance with section 20.03, preliminary plan review shall occur prior to architectural review. In matters involving single-family residences less than 3,500 square feet in size, the zoning administrator or planning commission may refer the application for architectural review to the city architect for comment and recommendations. For all other matters, the application shall be referred to the city architect for comment and recommendations. The recommendations of the city architect shall be submitted to the zoning administrator, who shall present the recommendations along with the application and site and architectural plans to the planning commission for action. Final review and approval will be by the planning commission.

ARTICLE 19. - SPECIAL LAND USES

Section 19.01 - Purpose.

The development and execution of this ordinance is based upon the division of the city into districts within which the permitted uses of land and buildings and the bulk and location of buildings and structures in relation to the land are uniform. It is recognized, however, that there are special land uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land, of the public need for the particular use, and/or particular location.

Section 19.02 - Application.

An application for a special land use shall be filed with the planning commission on a form prescribed by the commission that shall contain as a minimum such plans and data required for a site plan review in article 20. The application shall also include a statement in writing by the applicant and adequate evidence showing that the proposed special land use will conform to the standards set forth in this article. The application shall also be accompanied with a fee to cover expense for public hearings. Four copies of the application form and the necessary attachments shall be submitted to the planning commission.

Section 19.03 - Hearing on application.

Upon receipt in proper form of the application and statement referred to in this article, one (1) notice that a request for special land use approval has been received shall be published in a newspaper of general circulation in the City. The publication shall occur not less than fifteen (15) days before the date the application will be considered. The notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. The notice to such persons shall also be given not less than fifteen (15) days before the date the application will be considered. 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 occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned and leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four 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. The notice shall:

A. Describe the nature of the special land use request.

B. Indicate the property which is the subject of the special land use request.

C. State when and where the special land use request will be considered.

D. Indicate when and where written comments will be received concerning the request.

Section 19.04 - Determination.

For each application for a special land use, the planning commission shall make determination to approve, approve with conditions, or deny the application. Final decision on the special land use application shall be made within 125 days of receipt of application by the planning commission, unless an extension is agreed upon by the applicant and planning commission.

Section 19.05 - Basis for decision.

The planning commission shall incorporate their decision in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision and any conditions imposed.

Section 19.06 - Standards.

All special land uses authorized in this ordinance shall not be approved by the planning commission unless the commission finds that the requirements specified in the particular zoning district for such special land use have been met and that the following standards are met:

1. That the establishment, maintenance or operation of the special land use will not be detrimental to or endanger the public health, safety or general welfare.

2. That the special land use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor shall it substantially diminish and impair property values within its neighborhood.

3. That the establishment of the special land use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage and necessary facilities are being or will be provided.
5. That adequate measures are being or will be taken to provide ingress or egress so designed to minimize congestion in the public streets.
6. That the special land use shall, in all other respects, conform to the applicable regulations of the district in which it is located and to any additional conditions or procedure as specified in article 20.

Section 19.07 - Conditions and guarantees.

Reasonable conditions and guarantees may be attached to the final approval of a special land use consistent with the provisions of sections 4.17 and 4.18.

Section 19.08 - Effect or denial of a special land use.

No application for a special land use which has been denied wholly or in part by the planning commission shall be resubmitted for a period of one year from the date of said order, except on grounds of newly discovered evidence or change of conditions found to be sufficient to justify reconsideration by the planning commission.

Section 19.09 - Durations, voiding and extensions of special land use.

Unless otherwise specified by the planning commission, any special land use granted under this article shall be null and void unless construction and/or use is commenced within one year from the date of the granting of the permit. The planning commission, upon application by the owner, may grant an extension thereof for good cause for a period not to exceed one year.

Section 19.10 - Appeal.

Upon denial of an application for a special land use determination by the planning commission, the applicant may appeal to the board of zoning appeals.

ARTICLE 19A. - PLANNED UNIT DEVELOPMENT (PUD) OVERLAY

Section 19A.01 - Purpose.

The purpose of this section is to permit coordinated development of sites with unique conditions such as significant natural features or open space, land that exhibits development constraints, the opportunity to mix compatible uses and types of structures, or the opportunity to cluster units to preserve open space and natural features.

The PUD overlay standards are provided as a design option within the R-3, R-4, HB, C and MD districts to encourage: flexibility in the regulation of land development; innovation in land use; variety in the design, layout and type of structures utilized; the preservation of significant natural features and open spaces; the efficient provision of public services and utilities; the provision of adequate housing; the compatibility of design between neighboring properties; and, the use and improvement of existing sites when the regulations contained in the underlying district do not provide adequate flexibility.

Section 19A.02 - Permitted uses.

Permitted uses may include those uses allowed in the underlying zoning district to which the PUD overlay is applied, in addition to single-family, two-family and multiple-family residential dwellings, boardinghouses, hotels, commercial uses, recreational uses and accessory buildings/uses thereto.

Section 19A.03 - Area, bulk, height, lot coverage and density requirements.

All requirements set forth in the regulations of the underlying district to which the PUD overlay is applied shall remain in effect unless flexibility is allowed in this section as follows:

A. Lot size. The lot size utilized may be reduced to provide flexibility necessary to meet the purpose of this section.

B. Setbacks. The setbacks applied in this district may be reduced to provide the flexibility necessary to meet the purpose of this section.

C. Impervious surface. If necessary to provide the flexibility necessary to meet the purpose of this section, the impervious surface may be determined on the entire parcel designated as PUD overlay regardless of the number of lots contained therein.

D. Density. The density requirements in the underlying zoning district may be increased up to an additional 35 percent upon a determination that open space or natural features will be preserved and city services can accommodate the increased density. If necessary to provide flexibility necessary to meet the purpose of this section, the density surface may be determined on the entire parcel designated as PUD overlay regardless of the number of lots contained thereon.

E. Landscape buffer. A landscape buffer may be required by the planning commission/city council along the perimeter of the development where necessary to minimize noise and light impacts on adjoining property.

Section 19A.04 - Application for PUD overlay.

An application for a planned unit development overlay shall be filed with the zoning administrator along with a site plan conforming to the requirements of section 20.04. Following receipt of a complete application, a public hearing before the planning commission shall be scheduled preceded by the public notice detailed below. Within a reasonable time following the public hearing, the planning commission shall submit a report to the city council stating its conclusions, recommendations and basis for any conditions that should be imposed on the application for the planned unit development overlay. Additionally, the planning commission shall submit a copy of the minutes of every meeting at which the application was considered, including a summary of the comments received at the public hearing and all documents related to the planned unit development overlay application. Upon receipt of these documents, the city council may schedule a public hearing on the application and after deliberation may move to deny, approve, or approve with conditions the request. Such action shall specify the council's conclusions on the request, the basis for its decision, the decision, and any conditions relating to an affirmative decision. The city council may move to adopt the planning commission's report as its own or prepare a separate report.

Any public hearing conducted on a planned unit development overlay application shall be preceded by public notice which meets the following requirements:

(1) The notice shall be published in a newspaper of general circulation not less than 15 days in advance of such hearing.

(2) Notice shall be sent not less than 15 days before the hearing by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. 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 occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other district 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. The notice shall:

(a) Describe the nature of the planned unit development overlay application.

(b) Indicate the property which is the subject of the planned unit development overlay application.

(c) State when and where the planned unit development overlay application will be considered.

(d) Indicate when and where written comments will be received concerning the application.

Section 19A.05 - Eligibility and standards for approval.

Planned unit developments may be allowed as an overlay in zoning districts where permitted, upon determination that the following criteria or standards are met:

(1) The planned unit development overlay site shall be under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit.

(2) The site size shall be a minimum of two acres of contiguous land.

(3) The site has open space, natural features or historic features which will be preserved through development under the PUD overlay standards, or the PUD overlay will provide a variety of uses and designs which preserve common open space.

(4) Natural features and unique site characteristics located on a tract shall be preserved or enhanced wherever and whenever possible. Natural features and unique site characteristics include, but are not limited to: free-flowing springs, significant stands of trees, individual trees of significant size and rock formations, as well as visual amenities such as of Lake Huron, neighboring islands, the city harbor, and the Mackinac Bridge.

(5) All required open spaces within a planned unit development overlay shall be arranged to provide easy access and benefit to the maximum number of lots and/or dwelling units and shall be on the same tract of land. If open space is proposed to be deeded to the City of Mackinac Island, it must be acceptable to the city with regard to size, shape, location, improvements and purpose of use. Additionally, planned unit development open space not dedicated for public use shall be preserved in perpetuity by the leasing or conveyance of title (including beneficial ownership) to a corporation, association, or legal entity, or by the reservation by means of a deed restriction. The terms of such lease or other instrument must include provisions guaranteeing the continued use of such land for the intended purposes and continuity of proper maintenance for those portions of the open space land requiring maintenance. The developer shall file with the county register of deeds and the city council legal documents embodying the aforesaid guarantees ensuring the use of the common open space for the designated purposes. If the development is to be subdivided, the aforementioned restrictions shall be recorded at the time of final plat approval.

(6) The PUD overlay site will result in a recognizable benefit to the ultimate uses of the project and to the community.

(7) In relation to development permitted in the underlying zoning district, the proposed type and density of use does not result in an unreasonable use of public services, facilities and utilities. In addition, the PUD overlay does not place an unreasonable burden upon the site or surrounding land.

(8) The proposed use will not adversely affect the present or planned surrounding land uses, including the public utility and circulation system, surrounding properties, or the environment.

(9) That there is compatible relationship between the existing streets within the vicinity further defined as: adequate service drives, entrance and exit driveways and parking areas to ensure the safety and convenience of pedestrian, bicycle and horse traffic and emergency vehicles.

(10) The PUD overlay site is generally consistent with the goals, objectives and future land use of the city's master plan.

(11) The PUD overlay is designated to protect and preserve significant natural and historical features, open space, surface and groundwater bodies, and the integrity of the land.

(12) Public water, sanitary sewer (or other approved waste system), and storm drainage facilities are available or will be provided as part of the site development.

(13) Compliance with all requirements set forth in section 19A.03.

(14) The PUD overlay shall be consistent with the intent and spirit of this ordinance.

Section 19A.06 - Effective approval.

Upon approval of the PUD overlay, the site plan submitted with the application shall be the final approved PUD overlay site plan. No use of the site shall be permitted inconsistent with said plan.

Section 19A.07 - Amendments and deviations from final approved PUD overlay site plan.

(1) Notice. Deviations from the approved final PUD Overlay Site Plan may occur only when an applicant or property owner notifies the zoning administrator of the proposed amendment, accompanied by a site plan illustrating the proposed change.

(2) Procedure. Within 14 days of receipt of a request to amend the final PUD overlay site plan, the zoning administrator shall determine whether the change is major, warranting review by the planning commission and city council, or minor, allowing administrative approval, as noted below.

(3) Minor changes. The zoning administrator may approve the proposed revision upon finding the change would not alter the basic design or any conditions imposed upon the original plan approved by the city council. The zoning administrator shall inform the planning commission and city council of such approval in writing.

(4) Major changes. Where the zoning administrator determines the requested amendment to the approved final PUD overlay site plan is major, or if there is a request to expand the land area included within the PUD overlay, resubmittal to the planning commission and city council shall be required, which shall follow the procedure outlined in section 19A.04.

(5) Violations. Any deviation from the approved final PUD overlay site plan, except as authorized in this ordinance, shall be considered a violation of this ordinance.

Section 19A.08 - Mission Point Planned Unit Development District.

The Mission Point Planned Unit Development District, as noted on the official zoning map and approved by the city council, shall remain in effect and shall be granted all rights and privileges under the terms of its original approval in accordance with the former R-4 Planned Unit Development District, which was repealed by Ord. No. 479, effective November 12, 2013.

All future planned unit development applications to the city shall be made in accordance with the requirements and procedure as outlined in this article 19A.

ARTICLE 20. - SITE PLAN REVIEW

Section 20.01 - Purpose.

The purpose of this article is to provide for coordination and cooperation between the landowner and the planning commission in order that the owner may accomplish his objectives in the utilization of this land within the regulations of this zoning ordinance and with minimum adverse effect on the use of adjacent streets and on existing and future uses in the immediate area and vicinity.

This article shall also apply to any construction and/or modifications of any structures, docks, marinas, or uses on land or in water within the "M" Marine District and "L" Lake District.

Section 20.02 - Scope.

Except as set forth below, the zoning administrator shall not issue a zoning permit for construction of any buildings, structures or uses until a site plan, submitted in accordance with the city zoning ordinance,

shall have been reviewed and approved by the planning commission and city council in the case of planned unit development; and the planning commission only for all other area, on land or in water, used for which a site plan is required by this ordinance.

The following buildings, structures, or uses shall be exempt from the site plan review procedure:

A. Interior, accessory and subordinate buildings requiring no new additional means of access thereto from adjoining public streets and complying with all zoning ordinance requirements.

B. Buildings or structures otherwise specifically exempted from site plan review in other sections of this zoning ordinance.

(Ord. No. 539, § 1, 2, 7-20-2016)

Section 20.03 - Optional preliminary plan review.

An applicant may, at his or her discretion, submit preliminary sketches of proposed site and development plans to the planning commission for review prior to final approval. Additionally, the zoning administrator shall have the authority to require the submittal of preliminary sketches of proposed site and development plans to the planning commission for review prior to final approval where, in his or her opinion, the complexity and/or scale of the site or the proposed development so warrants. The purpose of such procedure is to allow discussion between the applicant and the planning commission to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.

Applications for preliminary plan review shall be made by filing with the zoning administrator. Preliminary plans shall include as a minimum the following:

A. The name and address of the applicant or developer, including the names and addresses of any officers of a corporation or partners of a partnership.

B. A legal description of the property.

C. Sketch drawings showing tentative site plans, property boundaries, placement of structures on the site, and nature of development.

Section 20.04 - Applicable procedure.

Requests for final site plan review shall be made by filing with the zoning administrator the following:

A. The application shall be accompanied with a fee to cover the cost of processing the review.

B. Copies of the completed application form for site plan review, in a number as determined by the City, which shall contain, as a minimum, the following:

1. The name and address of the applicant or developer, including the names and addresses of any officers of a corporation or partners of a partnership.
2. The legal description of the subject parcel of land.
3. The area of the subject parcel of land.
4. The present zoning classification of the subject parcel.
5. A general description of the proposed development.
6. Condominium subdivision project site plans shall also include the name and address of the planner, design engineer or surveyor who designed the project layout and any interest he holds in the land.

C. Copies of the proposed site plan, in a number as determined by the City, which shall include, as a minimum, the following:

1. The plan shall be drawn to [a] scale of not greater than one inch equals 20 feet for a development of not more than three acres and a scale of not less than one inch equals 100 feet for a development in excess of three acres with north point and scale shown on the plan drawing.
2. The plan shall show an appropriate descriptive legend. North arrow, scale, date of preparation and the name and address of the individual or firm preparing the same.
3. The property shall be identified by lot lines and general location together with dimensions, angles, and size correlated with the legal description of the property.
4. The topography of the site with at least two- to five-foot contour intervals and all natural features such as wood lots, streams, wetlands, unstable soils, bluff lines, rock outcroppings, and similar features shall be shown.
5. Existing manmade features upon the site and within 100 feet of the same shall be identified.
6. The location, proposed finished floor and grade line elevations, size of proposed main and accessory buildings, the relationship of buildings to one another and to any existing structures on the site, the height of all buildings and square footage of floor space therein shall be disclosed. Site plans for multiple family residential development shall also include a density schedule showing the number of dwelling units per acre, including a dwelling schedule showing the unit type and number of each such units.
7. All proposed and existing streets, driveways, sidewalks and other bicycle or pedestrian circulation features upon and adjacent to the site shall be shown, together with the location, size and number of on-site parking areas, service lanes thereto, and parking and delivery or loading areas.
8. The location, use and size of open spaces together with landscaping, screening, fences, walls and proposed alterations of topography or other natural features shall be indicated.
9. The proposed operations on the site shall be described, in writing, in sufficient detail to indicate the effect, if any, upon adjoining lands and occupants with any special features which are proposed to relieve any adverse effects to adjoining land and occupants. Any potential demands for future community services will be described, together with any special features which will assist in satisfying such demands.
10. Any earth-change plans required by state law shall also be submitted with the application.
11. On site lighting, surface water drainage for the site, proposed sanitary sewage disposal, water supply, solid waste storage and disposal, other utility services (i.e., propane tanks, electrical service, transformers), and utility easements shall be included in the plans.
12. A general description and location of stormwater management system shall be shown on the grading plan, including pre- and post-site development runoff calculations used for determination of stormwater management, and location and design (slope) of any retention/detention features.
13. Such other information as may be determined to be necessary by the planning commission because of any peculiar features of the proposed development.

Section 20.05 - Action on application and plans.

A. The zoning administrator or Planning Commission secretary shall record the date of the receipt of the application and plans, and transmit copies thereof to the planning commission, and place the request on the next available planning commission agenda.

B. The planning commission shall have the authority to approve, disapprove, modify, or alter the proposed plans in accordance with the purpose of the site plan review provisions of the city zoning ordinance and the criteria contained thereon. Any required modification or alteration shall be stated in writing, together with the reasons for such modification, and delivered to the applicant. The planning

commission may either approve the plans contingent upon the required alterations or may require a further review after the same have been included in the revised site plan by the applicant. The decision of the planning commission shall be made within 100 days of the date of receipt of plans by the zoning administrator.

C. Copies of the approved final site plan, in a number as determined by the City, including required modifications or alterations shall be maintained as part of the city records for future review and enforcement.

Section 20.06 - Criteria for review.

In reviewing the application and site plan and approving, disapproving or modifying same, the planning commission shall be governed by the following standards:

A. That all requirements pertaining to the district in which development is proposed are adequately met.

B. That there is a compatible relationship between the existing streets within the vicinity further defined as: adequate service drives, entrance and exit driveways and parking areas to insure the safety and convenience of pedestrian, bicycle and horse traffic.

C. That the buildings and structures to be located upon the premises are so situated to minimize adverse effects upon owners and occupants of adjacent properties, in relationship to lighting, loading activities, noise producing activities, erosion and flooding, and site access.

D. That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the character of the area.

E. That the adverse effects of the proposed development and activities emanating therefrom which affect adjoining residents or owners shall be minimized by appropriate screening, fencing, landscaping, setback and location of buildings, structures and entryways.

F. That the lot layout and individual building design is harmonious with the historic and natural character of the island to insure an optimal relationship between the proposed development and existing contiguous land uses.

G. That the proposed development will be adequately served by essential public facilities and services, such as streets, police and fire protection, water, sewer (if appropriate), stormwater management, and refuse disposal.

H. That all provisions of the city zoning ordinance are complied with unless appropriate variance therefrom has been granted by the board of zoning appeals.

I. That all structures and objects associated with utilities including but not limited to electrical transformers, telephone boxes and wires be underground, covered or addressed as to minimize the visual or adverse effects on the surrounding areas.

J. That the site plan is in compliance with all applicable local, state and federal laws.

Section 20.07 - Conformity to approved site plan.

Any property which is the subject of site plan approval must be developed in strict compliance with the approved site plan, inclusive of any amendments, which have received the approval of the planning commission. The site plan, as approved, shall become a part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan.

Section 20.08 - Violation of site plan approval.

Sites not developed in conformance with an approved site plan are in violation of this ordinance.

Section 20.09 - Commencing construction.

Approval of the site plan shall be valid for a period of one year. If a building permit has not been obtained and on-site development activity actually commenced within one year, the site plan approval shall be null and void. The planning commission, upon application by the owner, may grant an extension thereof for good cause for a period not to exceed one year.

Section 20.10 - Amendment to site plan.

The zoning administrator shall have the authority to determine if a proposed change requires an amendment to an approved final site plan. A site plan may be amended upon application and in accordance with the procedure herein for a final site plan. The zoning administrator may approve minor changes in an approved final site plan, provided that a revised final site plan drawing is submitted showing such minor changes, for purposes of record.

Section 20.11 - Performance bond.

The city council, upon recommendation of the planning commission, shall have the right and authority to require the developer to file with the city clerk following approval of the site plan and at the time of the application for a building permit, a performance bond or bank letter of credit in such amounts as may be determined by the said commission to insure installation of improvements in accordance with the approved site plan, including but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. Such bond, if required shall continue for the duration of the construction and development of the site and any cash deposits shall be rebated in a reasonable proportion to the ratio of work completed on the required improvements.

ARTICLE 21. - ADMINISTRATION AND ENFORCEMENT

Section 21.01 - Zoning administrator.

The duty of administering and enforcing the provisions of this ordinance shall be executed by the city zoning administrator. The candidate for this appointed position shall be selected by the city council as an official annual appointment. The zoning administrator shall be reimbursed for services rendered in an amount determined by the city council. The city council can remove the zoning administrator from office for misfeasance, malfeasance, or nonfeasance in office.

Section 21.02 - Duties of the zoning administrator.

It shall be the duty of the zoning administrator to: receive zoning applications and site plans (as required under article 20) from applicants, coordinate any required architectural reviews with the city architect, present zoning applications and site plans to the planning commission for a determination of compliance with this ordinance, issue zoning permits and denial notices to applicants, to enforce the requirements of this ordinance, and any permit or violation notice issued under it, and other related duties as may be assigned by the city council. The zoning administrator shall develop forms for carrying out the procedures required by this ordinance and procedures for handling suspected violations of this ordinance. Said forms and procedures shall become official upon adoption by the planning commission. In preparing these forms and procedures, the zoning administrator shall seek assistance from the planning commission and city attorney.

Section 21.03 - Zoning permits.

Unless otherwise exempted elsewhere in this Zoning Ordinance, it shall be unlawful for any person to commence excavation for, or construction of any building or structure, or to make any additions to or change the use of any existing building or structure, without first obtaining a zoning permit from the zoning administrator. No zoning permit shall be issued for the construction, alteration or remodeling of any building or structure until an application and site plan have been submitted, reviewed and approved in accordance with the provisions of this article.

The applicant for the zoning permit must be either the owner of the parcel(s) in question, a lessee with at least a 20-year term interest in the land, or an agent authorized to act on the owner's behalf. Proof of the applicant's interest in the parcel(s) shall be produced upon the request of the planning commission.

If the zoning permit is issued, the approved work must be commenced within one year of the date of issuance or the permit will expire, unless said permit has been extended upon request of the applicant and approval of the planning commission. Any such extension shall not exceed one year and shall not be granted if the applicable zoning and building standards relating to the permitted work have changed.

If the approved work does commence within one year of the issuance, or extension, of the zoning permit, the permit shall remain in effect until the approved work is complete, provided however, if the approved work is not completed within two years of the date of issuance, or extension, of the zoning permit, the permit shall expire, and all construction that was done pursuant to the zoning permit shall be removed by the owner of the property and the premises restored to the condition existing prior to the issuance of the zoning permit. If any such construction is not removed, it shall constitute a public nuisance and be subject to immediate abatement.

After the zoning permit has been issued, the parcel in question shall be inspected on three occasions: (1) when the proposed structure is staked out on the property; (2) when the footings for the foundation are found; and (3) when construction is completed. The applicant shall notify the zoning administrator of the proposed inspection dates, and shall not begin a later stage of work until the previous stage has been approved. After the final inspection has been completed, if the applicant is found to be in compliance with this article, the zoning administrator shall issue an occupancy permit as authorized in section 21.06.

Every zoning permit is conditioned upon the applicant and owner agreeing to all the terms and provisions set forth on the permit and the terms and provisions of this article. In addition, the planning commission may impose other conditions, including but not limited to, a cash deposit, a certified check, an irrevocable letter of credit or surety bond to cover the estimated costs of improvement and/or to cover the actual costs incurred by the city in enforcing any necessary abatement of a public nuisance resulting from the issuance of the zoning permit.

(Ord. No. 539, § 1, 2, 7-20-2016)

Section 21.04 - Relation to building permit.

No building permit required under the city construction code (Ord. No. 210) shall be issued until first, the applicant obtains a zoning permit from the zoning administrator, indicating that the proposed construction activity is in compliance with this ordinance.

Section 21.05 - City architect.

A city architect shall be appointed by the mayor subject to confirmation by the city council. The city architect shall review all applications and site plans in accordance with the procedures and criteria in article 18 and article 20, and advise the city on other matters as may be requested. Reimbursement for services rendered by the city architect will be determined by the city council.

Section 21.06 - Occupancy.

It shall be unlawful to use, or permit the use, of any structure or premises hereafter altered, extended, or erected, until the zoning administrator has made an inspection of the premises and has found that the structure complies with all provisions of this ordinance. Upon a finding of compliance, the zoning administrator shall issue an occupancy permit to the applicant.

Section 21.07 - Violations and penalties.

Any person who violates any provision of this ordinance or any amendment thereto, who fails or refuses to comply with any of the regulatory measures or conditions adopted hereto, including but not

limited to approved zoning permits, site plans, special use permits, planned unit developments, shall, upon conviction, be guilty of a misdemeanor and be punished for each offense by a fine of not less than $100.00 or more than $500.00 and the costs of prosecution, or in the case of default payment thereof, by imprisonment in the county jail for a period not exceeding 90 days, or by both such fine and imprisonment in the discretion of the court. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

The use of land, dwellings, buildings, or structures used, erected, altered, razed or converted in violation of any provision of this ordinance, are hereby declared to be nuisances per se. The court shall order such nuisance abated and the owner and/or agent in charge of such land, dwelling, building, or structure shall be adjudged guilty or maintaining a nuisance per se. The costs of abating such nuisance shall become a lien upon the land.

ARTICLE 22. - BOARD OF ZONING APPEALS

Section 22.01 - Creation and membership.

A board of zoning appeals is hereby established having the powers authorized in Public Act No. 110 of 2006, as amended. The board of zoning appeals shall consist of the city council.

Section 22.02 - Officers.

The board shall elect from its membership a chairman, a vice-chairman and such other officers as it may deem necessary. The city clerk shall be the secretary of the board, without vote.

Section 22.03 - Rules of procedure.

The board shall adopt rules of procedure. Copies of such procedures shall be made available to the public at the office of the board.

A. Meetings of the board shall be held at the call of the chairperson, and at other times as the board in its rules of procedure may specify. The time of regular meetings shall be specified in the rules of procedure. There shall be a fixed place of meeting and all hearings shall be open to the public.

B. A quorum shall be the same as required for the city council.

C. The board shall keep minutes of its proceedings, showing the action of the board and the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official action, all of which shall be filed promptly in the office of the board and shall be a public record. Such records shall include the findings of fact and conclusions reached by the board on all matters upon which it passes judgment.

D. The board may call on any other city departments for assistance in the performance of its duties, and it shall be the duty of such other department to render assistance to the board as may reasonably be required.

Section 22.04 - Jurisdiction.

The board of zoning appeals, in conformity with the provisions of this ordinance and of Act No. 110 of 2006, as amended, may reverse or affirm, wholly or in part, or may modify the order, requirements, decisions, or determination appealed from, and shall make such order, requirements, decisions or judicial determination as in its opinion ought to be made in the premises, and to that end shall have the powers to hear and decide all matters referred to it or upon which it is required to act under this ordinance. This includes action on requests for variances, appeal from administrative decisions, and requests for ordinance interpretation.

Section 22.05 - Variances.

Subject to the provisions of section 22.06, the board, after public hearing, shall have the power to decide applications filed as hereafter provided, for variances:

A. Where, by reason of the exceptional narrowness, shallowness or shape of a specific piece of property on the effective date of this ordinance, or by reason of exceptional topographic conditions or other extraordinary situation or condition of the land, building or structure, or of the use of development of property immediately adjoining the property in question, the literal enforcement of the requirements would involve practical difficulties; provided, that the board shall not grant a variance on a lot of less area than the requirements of its zone district, even though such lot existed at the time of passage of this ordinance if the owner or members of his immediate family owned adjacent land which would without practical difficulties be included as part of the lot.

B. Where there are practical difficulties in the way of carrying out the strict letter of such ordinance relating to the construction, structural changes in equipment, or alterations of buildings or structures, so that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done.

C. For the vertical extension of a building existing at the time of enactment of this ordinance of such height as the original drawings of said building indicated, provided such building was actually designed and constructed to carry additional stories necessary for said height limit.

D. To permit the erection or structural alteration, in a district where such use is permitted, of a structure to a height above the limit specified for such district.

Nothing herein contained shall be construed to give or grant to the board of zoning appeals the power or authority to alter or change the text or stated intent of any part of this ordinance. The board of zoning appeals shall not have the power to alter or change the zoning district classification of any property, nor to permit any use in a district in which it is not permitted.

Section 22.06 - Criteria for variances.

No variance in the provisions or requirements of this ordinance shall be authorized by the board unless the board finds from reasonable evidence that all the following facts and conditions exist:

A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.

B. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

C. That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the intent and purposes of this ordinance or the public interest.

D. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought is not of a general or recurrent nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

Section 22.07 - Conditions of approval.

In authorizing a variance, the board may, in addition to the specific conditions of approval called for in this ordinance, and pursuant to standards in section 4.17, attach thereto such other conditions regarding the location, character, landscaping or maintenance reasonable necessary to the furtherance of the intent and spirit of this ordinance and the protection of the public interest.

Section 22.08 - Variance and appeal procedure.

The following procedure shall be required:

A. An appeal from any ruling of the planning commission or administrative officer administering any portion of this ordinance may be taken by any person aggrieved or any governmental department affected.

B. The board of zoning appeals shall not consider any application for ordinance interpretation, variance or appeal without the payment by the applicant or appellant to the city treasurer of a fee. Such application or appeal shall be filed with the zoning administrator, who shall transmit the same, together with all plans, specifications and other papers pertaining to the application or appeal, to the board of zoning appeals.

C. When an application or appeal has been filed in proper form and with the required date, the secretary of the board shall immediately place the said application or appeal upon the board's calendar for its next meeting. Before granting any appeal the board shall hold a public hearing. A notice of the time and place of such public hearing shall be published in a newspaper of general circulation in the city at least 15 days prior to the hearing. Additionally, notices of the public hearings shall be served personally or by mail at least 15 days prior to the date of such hearing, upon the applicant or the appellant, the owners of record of property within 300 feet of the premises in question; which notices, if by mail, shall be addressed to the respective property owners of record at the address given in the last assessment roll. The notice shall contain the address, if available, and location of the property for which the ruling by the board of zoning appeals is sought, as well as a brief description of the nature of the appeal. Any party may appear at such hearings in person or by an agent or by an attorney.

D. Upon the day for hearing any application or appeal, the board may adjourn the hearing in order to permit the obtaining of additional information, or to cause further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the board so decides.

Section 22.09 - Decisions of the board.

The board shall decide all applications and appeals within 30 days after the final hearing thereon. A copy of the board's decision shall be transmitted to the applicant or appellant, and to the planning commission by the zoning administrator. Such decision shall be binding upon the zoning administrator and observed by him and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the board. A decision of the board shall not become final until the expiration of five days from the date such decision is made unless the board shall find the immediate effect of such decision is necessary for the preservation of property of personal rights and shall so certify of the record.

Section 22.10 - Stay of proceedings.

An appeal shall stay all proceedings in the furtherance of the action appealed from, unless the zoning administrator certifies to the board of zoning appeals after notice of appeal shall [have] been filed with him, that by reason of fact stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may, or due cause shown, be granted by the board of zoning appeals or by the circuit court on application, after notice to the planning commission.

ARTICLE 23. - CHANGES AND AMENDMENTS

Section 23.01 - Amendment.

The city council may, from time to time, amend, supplement, or change by ordinance, the boundaries of districts or regulations herein established, pursuant to procedures outlined in Public Act No. 110 of 2006, as amended.

Section 23.02 - Petitions.

Petitions submitted to the council for any change of district boundaries shall include a legal description of the property proposed to be changed, together with names of abutting streets and the street numbers of the property. There shall also accompany the petition a sketch fully dimensioned to correspond with the legal description of the property proposed to be changed.

Section 23.03 - Public hearing.

A public hearing shall be held by the planning commission before a recommendation is made on any proposed amendment, supplement or change, notice of which hearing shall be given by publishing said notice at least once in a newspaper of general circulation in the City of Mackinac Island, stating the time and place of such hearing, not less than 15 days from the date of such hearing. A summary of the hearing, along with a recommendation for action, and the reasons for recommendations, shall be prepared by the planning commission and submitted to the city council. City council may hold additional public hearings if deemed necessary, before making a final decision on a rezoning or zoning amendment request.

Section 23.04 - Factors for review.

In reviewing an application for any change to the zoning district map, factors that should be considered by the planning commission and the city council shall include the following:

A. Whether the requested zoning district change is consistent with the goals, policies and future land use map of the Mackinac Island Master Plan.

B. The compatibility of all the potential uses allowed in the requested zoning district with surrounding land uses and zoning districts in terms of land suitability, impacts on the environment, density, and influence on property values.

C. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning district. Consideration of impact on drains and roads is specifically required.

D. Whether the uses allowed under the requested zoning district would be equally or better suited to the area than uses allowed under the current zoning of the land.

Section 23.05 - Conditional rezoning.

A. Intent. It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of Section 405 of the Zoning Enabling Act, Public Act 110 of 2006, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

B. Application and offer of conditions.

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.

2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.

3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.

5. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this ordinance.

6. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this ordinance.

7. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the city council provided that, if such withdrawal occurs subsequent to the planning commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning commission for a new public hearing with appropriate notice and a new recommendation.

C. Planning commission review. The planning commission, after public hearing and consideration of the standards for approval set forth in section 23.04, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

D. City council review. After receipt of the planning commission's recommendation, the city council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The city council's deliberations shall include, but not be limited to, a consideration of the standards for approval set forth in section 23.04. Should the city council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the city council shall, in accordance with the Public Act 110 of 2006, as amended, refer such amendments to the planning commission for a report thereon within a time specified by the city council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

E. Approval.

1. If the city council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the city council to accomplish the requested rezoning.

2. The Statement of Conditions shall:

   a. Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the city council.

   b. Contain a legal description of the land to which it pertains.

   c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.

   d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

   e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be recorded with the Register of Deeds of Mackinac County by the owner with a copy of the recorded document provided to the city within 45 days of its recording.

f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

3. Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The city clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.

4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the owner with the Register of Deeds of Mackinac County. The owner shall provide a copy of the recorded document to the City within 45 days of the date of its recording. The city council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.

5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

F. Compliance with conditions.

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this zoning ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

2. No permit or approval shall be granted under this ordinance for any use or development that is contrary to an applicable Statement of Conditions.

G. Time period for establishing development or use. Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 36 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the city council if: (1), it is demonstrated to the city council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and (2), the city council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy; and (3), the written request shall be made to the city council requesting the extension within 6 months of the end of the 36 month period.

H. Reversion of zoning. If approved development and/or use of the rezoned land does not occur within the time frame specified under subsection G above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the city council requesting that the planning commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

I. Subsequent rezoning of land. When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to subsection H above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the city clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.

J. Amendment of conditions.

1. During the time period for commencement of an approved development or use specified pursuant to subsection G above or during any extension thereof granted by the city council, the council shall not add to or alter the conditions in the Statement of Conditions.
2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

K. City right to rezone. Nothing in the Statement of Conditions nor in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and Public Act 110 of 2006, as amended.

L. Failure to offer conditions. The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

ARTICLE 24. - CONDOMINIUM SUBDIVISION PROJECTS

Section 24.01 - Purpose.

To permit condominium subdivision projects to be constructed according to the spirit and intent of this ordinance, and to provide certain minimum standards to protect the health, safety and welfare of the public.

Section 24.02 - Compliance with regulations.

A condominium subdivision project shall comply with all regulations applicable to the zoning district in which it is situated, in addition to the requirements in this article 24.

Section 24.03 - Specifications for private street.

Each private street in a condominium subdivision project shall have a paved driving surface of asphalt or other approved material.

Section 24.04 - Maintenance plan.

The developer of a condominium subdivision project shall provide the city with a maintenance plan for all private streets within the condominium subdivision project.

Section 24.05 - Lot width, lot area, and setback requirements.

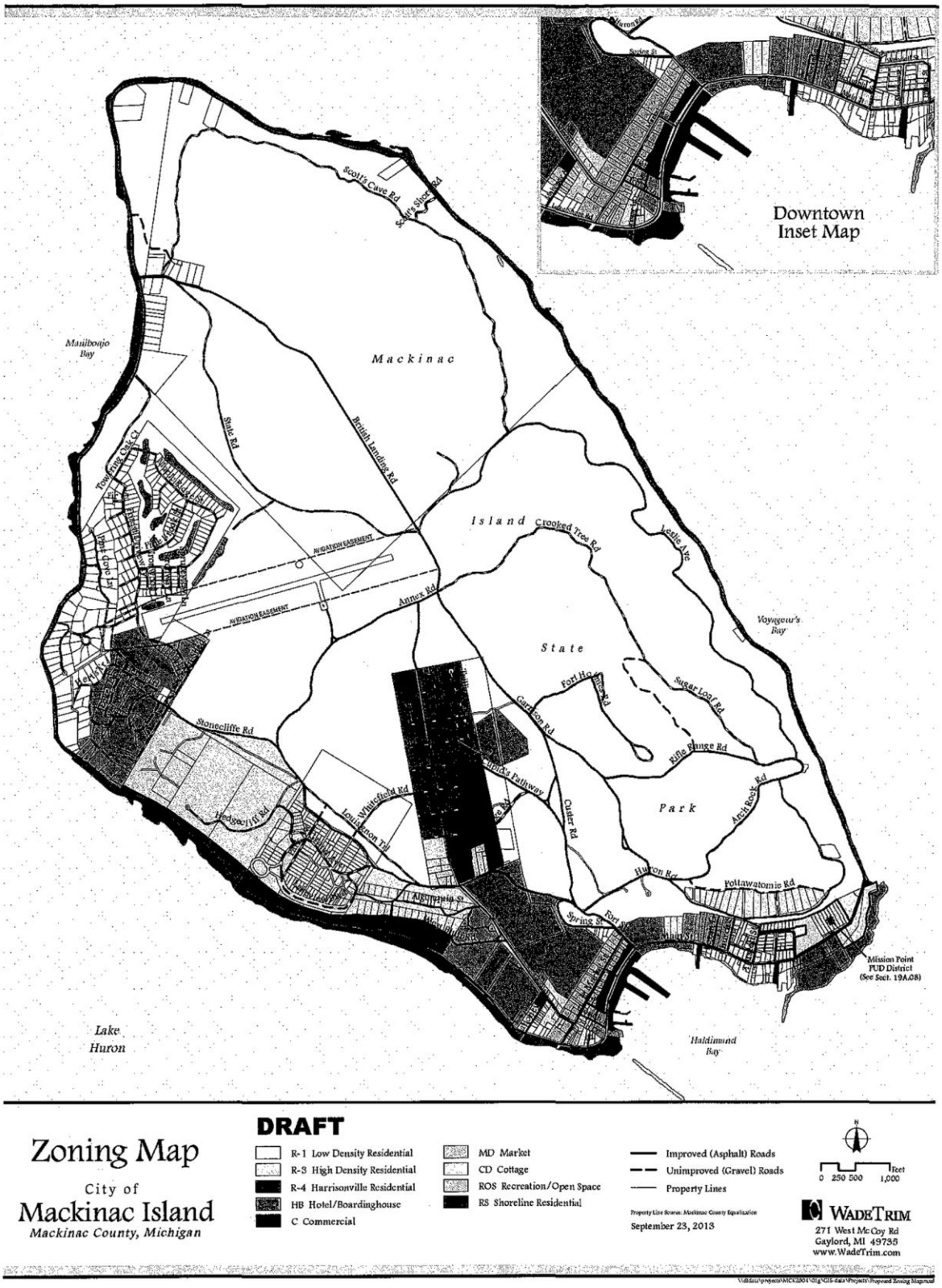
Any subdivision of an individual condominium unit shall conform to the requirements of this ordinance for minimum lot width, lot area and building setback requirements.

Section 24.06 - Subdivision of a lot.

Subdivision of a condominium unit shall be subject to the same limitations and requirements as the subdivision of a lot.

Section 24.07 - Easements.

The developer of a condominium subdivision project shall provide the City of Mackinac Island with all easements necessary for the purposes of construction, operating, inspecting, maintaining, repairing, altering, replacing and/or removing pipelines, mains, conduits and other installations of a similar character for the purpose of providing public utilities, including conveyance of sewage, water and storm water run-off across, through and under the property subject to said easement, and excavating and refilling ditches and trenches necessary for the location of said structures.



CODE COMPARATIVE TABLE - ORDINANCES

This is a chronological listing of the ordinances of the city used in this Code. Repealed or superseded laws at the time of the codification and any omitted materials are not reflected in this table.

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