CODE OF ORDINANCES CITY OF EASTPOINTE, MICHIGAN

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Published by Order of the City Council

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Adopted: July 19, 2011

Effective: July 20, 2011

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CURRENT OFFICIALS

of the

CITY OF

EASTPOINTE, MICHIGAN

_____

Elected Officials	
Mayor and City Council	
Monique Owens	Mayor
Harvey M. Curley	Council Person
Cardi DeMonaco	Council Person
Sarah A. Lucido	Council Person

Rob Baker	Council Person
Officials Appointed by City Council	
Robert Ihrie	City Attorney
Elke Doom	City Manager/City Clerk
Randall Blum	Finance Director/Treasurer
Department Heads and Other City Officials	
Brian Fairbrother	Assistant City Manager/ Deputy City Clerk
Carol Sterling	Library Director
George Rouhib	Director of Public Safety
Randall Blum	Finance Director/Treasurer
Linda S. Lince	Executive Assistant
Jody Lynn Ling	Housing Director
Assessment Administration Services L.L.C.	Assessor
Mary VanHaaren	Building Official
Consultants	
Anderson, Eckstein & Westrick	Consulting Engineers

Plante & Moran	City Auditors
McKenna Associates	Planning Consultants

OFFICIALS

of the

CITY OF

EASTPOINTE, MICHIGAN

AT THE TIME OF THIS RECODIFICATION

_____

Elected Officials	
Mayor and City Council	
Suzanne Pixley	Mayor
Veronica Klinefelt	Mayor Pro Tem
Philip J. Guastella	Councilman
Wendy Richardson	Councilwoman
William S. Sweeney	Councilman
Officials Appointed by City Council	
Robert Ihrie	City Attorney
Vacant	City Manager/City Clerk

Gerriann Reimann	Finance Director/Treasurer
Department Heads and Other City Officials	
Randy D. Altimus	Assistant City Manager/ Deputy City Clerk
Gregory Brown	Director of Public Works and Service
Carol Sterling	Library Director
Michael Lauretti	Police Chief
Randall Blum	Deputy Finance Director/ Deputy Treasurer
Linda S. Lince	Executive Assistant
Robert Niedermaier	Fire Chief
Maureen Carter	Director of Parks and Recreation
Jody Lynn Ling	Housing Director
Linda Weishaupt	Assessor/Deputy City Clerk
Mary VanHaaren	Building Official
Steve Horstman	Economic Development/DDA Director
Consultants	
Anderson, Eckstein & Westrick	Consulting Engineers
Plante & Moran	City Auditors

Community Planning & Management, P.C.	Planning Consultants

PREFACE

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

Source materials used in the preparation of the Code were the 1989 Code of Ordinances, as supplemented, and ordinances subsequently adopted by the City Council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1989 Code, as supplemented, and 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 Bill Carroll, Senior Code Attorney, and Karen Kopetskie, 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. Robert J. Hribar, City Attorney, for his cooperation and assistance during the progress of the work on this publication. It is hoped that his 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

ADOPTING ORDINANCE

ORDINANCE NO. 1049

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

THE CITY OF EASTPOINTE HEREBY ORDAINS:

Section 1. Short title. This ordinance shall be known as the "Code of Ordinances Adopting Ordinance" and may be so cited.

Section 2. Adoption of Code of Ordinances. The Code entitled "Code of Ordinances, City of Eastpointe, Michigan," published by Municipal Code Corporation, consisting of Chapters 1 through 50, each inclusive, is adopted.

Section 3. Repealer. All Ordinances of a general and permanent nature enacted on or before November 16, 2010, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 4. Prior ordinances not revived. The repeal provided for in Section 3 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 5. Penalty. Whenever in this Code or any ordinance of the City an act is prohibited or is made or declared to be a misdemeanor or a municipal civil infraction, or whenever in this Code or any ordinance the doing of any act is required or the failure to do any act is declared to be a misdemeanor or municipal civil infraction, the violation of any such provision by any person shall, upon conviction of a misdemeanor, be punished by a fine not exceeding $500.00 or imprisonment for a term not exceeding 90 days, or both, except whenever a specific is otherwise provided. Whenever any such violation shall constitute a municipal civil infraction, a finding of responsibility shall be punished by a civil fine not exceeding $500.00, except whenever a specific penalty is otherwise provided.

Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 6. Code additions or amendments. Additions or amendments to the Code when passed in such form as to indicate the intention of the City Council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 7. Later ordinances. Ordinances adopted after November 16, 2010, which amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 8. Effective date. This ordinance shall become effective July 20, 2011.

CERTIFICATION

We, Suzanne Pixley, Mayor, and Randy D. Altimus, Deputy City Clerk, for the City of Eastpointe, Macomb County, Michigan, do hereby certify that the foregoing Ordinance No. 1049 was approved by the City

Council of Eastpointe, after a second reading thereof, at a regular meeting of said Council held on Tuesday, July 19, 2011, in the Eastpointe City Hall.

Suzanne Pixley, Mayor

Randy D. Altimus, Deputy City Clerk

SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code 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.
1036	2-15-2011	Omit	1
1037	2-15-2011	Omit	1
1038	2- 1-2011	Include	1
1039	2-22-2011	Include	1
1040	3- 1-2011	Include	1
1041	3-15-2011	Include	1
1042	3-15-2011	Include	1
1043	3-15-2011	Include	1
1044	5- 3-2011	Include	1
1045	6-21-2011	Omit	1

1046	6- 7-2011	Omit	1
1047	7- 5-2011	Include	1
1048	9- 6-2011	Include	1
1049	7-19-2011	Include	1
1050	7-19-2011	Include	1
1051	8-16-2011	Include	1
1052	9-20-2011	Include	2
1053	9-20-2011	Include	2
1054	11- 1-2011	Include	2
1055	11- 1-2011	Include	2
1056	11- 1-2011	Include	2
1057	12-20-2011	Include	2
1058	2-21-2012	Omit	2
1059	2-21-2012	Include	2
1060	4- 3-2012	Include	2
1061	4-17-2012	Include	2
1062	6- 5-2012	Omit	2
1063	5- 1-2012	Include	2
1064	5- 1-2012	Include	2
1065	6- 5-2012	Include	2

1066	6- 5-2012	Include	2
1067	6-19-2012	Include	2
1068	6-19-2012	Include	2
1069	6-19-2012	Include	2
1070	7- 3-2012	Include	2
1071	7- 3-2012	Include	2
1072	7- 3-2012	Include	2
1073	7- 3-2012	Include	2
1074	7- 3-2012	Include	2
1075	8-14-2012	Omit	2
1076	8-21-2012	Include	2
1077	8-21-2012	Include	2
1078	8-21-2012	Include	2
1079	10- 2-2012	Include	2
1080	4-16-2013	Include	3
1081	3-19-2013	Include	3
1083	6-18-2013	Include	3
1084	6-18-2013	Include	3
1085	6-18-2013	Include	3
1086	6-18-2013	Include	3

1087	7- 2-2013	Include	3
1088	7- 2-2013	Include	3
1089	7- 2-2013	Include	3
1090	7-16-2013	Include	3
1091	7-16-2013	Include	3
1092	7-16-2013	Include	3
1093	8-20-2013	Include	3
1094	9- 3-2013	Include	4
1095	9-17-2013	Include	4
1096	12-17-2013	Include	4
1097	12-17-2014	Include	4
1098	2- 4-2014	Include	4
1099	2-18-2014	Include	4
1100	2-18-2014	Include	4
1101	3-18-2014	Include	4
1102	4- 1-2014	Omit	4
1103	5-20-2014	Include	4
1104	6-17-2014	Include	4
1105	6-17-2014	Include	4
1106	6-17-2014	Omit	4

1107	7- 1-2014	Include	4
1108	6-17-2014	Include	4
1109	7- 1-2014	Include	4
1110	9- 2-2014	Include	4
1111	10- 7-2014	Include	4
1112	10-21-2014	Include	4
Res. No. 1578	11- 4-2008	Include	5
Res. No. 1579	11- 4-2008	Include	5
Res. No. 1695	2-21-2012	Include	5
Res. No. 1698	3- 6-2012	Include	5
Res. No. 1756	8-20-2013	Include	5
Res. No. 1779	5- 6-2014	Include	5
Res. No. 1814	4-19-2016	Include	5
1113	11-10-2014	Include	5
1114	11-10-2014	Omit	5
1115	11-18-2014	Include	5
1116	11-18-2014	Include	5
1117	1- 6-2015	Include	5
1119	5-19-2015	Include	5
1120	5-19-2015	Include	5

1121	5-19-2015	Include	5
1122	5-19-2015	Include	5
1123	6-16-2015	Include	5
1124	6-16-2015	Include	5
1125	6-16-2015	Include	5
1126	9- 1-2015	Include	5
1127	11- 9-2015	Include	5
1128	2- 2-2016	Include	5
1129	3- 1-2016	Include	5
1131	9-20-2016	Include	5
1132	11- 1-2016	Include	6
1133	12- 6-2016	Include	6
1134	3-28-2017	Include	6
1135	3-28-2017	Include	6
1136	3-28-2017	Omit	6
1137	4- 4-2017	Include	6
1138	4-18-2017	Include	6
1139	4- 4-2017	Include	6
1140	6-20-2017	Include	6
1141	7-11-2017	Include	6

1142	7-18-2017	Include	6
1143	9- 5-2017	Include	7
1144	9-19-2017	Include	7
1145	11-13-2017	Include	7
1146	12- 5-2017	Include	7
1147	12- 5-2017	Include	7
1152	5-15-2018	Include	7
1153	7-10-2018	Include	7
1154	7-24-2018	Include	7
1155	7-24-2018	Include	7
1156	7-24-2018	Include	7
1158	11-20-2018	Include	7
1159	11-20-2018	Include	7
1160	12- 4-2018	Include	7
1161	2-19-2019	Include	7
1162	2-19-2019	Include	7
1163	2-19-2019	Include	7
1164	3-26-2019	Include	7
1165	4- 2-2019	Include	7
1166	5-21-2019	Include	7

1167	5-21-2019	Include	7
1169	6-18-2019	Include	7
1170	7- 2-2019	Include	7
1171	7- 2-2019	Include	7
1172	7- 2-2019	Include	7
1175	9-17-2019	Include	7
1176	10-15-2019	Include	7
1177	10-15-2019	Include	7
1178	10-15-2019	Include	7
1179	12-17-2019	Include	7
1180	12-17-2019	Include	7
1181	2- 4-2020	Include	7
1182	3-17-2020	Include	7
1185	4- 7-2020	Include	7

PART I - CHARTER[1]

PREAMBLE

We, the people of the City of Eastpointe, Michigan, under the authority and by virtue of the Constitution and General Laws of the State of Michigan, do hereby ordain and establish this Charter for the City of Eastpointe, Michigan, in the following form, with provisions as hereinafter expressed:

Footnotes:

--- (**1**) ---

Editor's note— Printed herein is the Charter of the City of Eastpointe, Michigan, as adopted by the electors of the City on January 7, 1929, as amended. Amendments to the Charter are indicated by

parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

State Law reference— Power to adopt and amend Charter, Mich. Const. 1963, Art. VII, § 22; home rule act, MCL 117.1 et seq.

CHAPTER I. - NAME AND BOUNDARIES[2]

Footnotes:

--- (**2**) ---

State Law reference— Incorporation, consolidation of territory and alteration of boundaries of home rule cities, MCL 117.6 et seq.

Sec. 1. - Name.

The municipal corporation heretofore created and now existent, known and designated as the City of Eastpointe, since 1929, shall be and become, on July 1, 1992, a body corporate and politic as a City under the name of "EASTPOINTE," and shall include within its domain all the territory hereinafter described, together with such additional territory as may be annexed to it from time to time, in the manner prescribed by law, and it may exercise such powers as are or shall be conferred upon it by law, over lands lying beyond its territorial limits.

(Amended 11-5-1991)

Sec. 2. - Boundaries.

The City of Eastpointe shall include all the territory described as follows:

Containing all lands in the Township of Erin within the following described boundary lines: Commencing at the Southwest corner of Sec. 31, and thence extending Northerly along the West line of Sec. 31, Sec. 30, and Sec. 19 to a point 270 feet Northerly of the Southwest corner of aforesaid Sec. 19; thence extending Easterly on a line 270 feet Northerly of and parallel to the South line of Sec. 19 and Sec. 20 to a point 270 feet Northerly of the Southeast corner of the West ½ of the Southwest ¼ of Sec. 20; thence extending Southerly along the East line of the West ½ of the Southwest ¼ of Sec. 20, the West ½ of the West ½ of Sec. 29, and the West ½ of the Northwest ¼ of Sec. 32 to the Southeast corner of the West ½ of the Northwest ¼ of said Section 32; thence extending Westerly along the South line of the West ½ of the Northwest ¼ of Section 32, and Northeast ¼ of Section 31 to center post of said Section 31; thence extending Southerly along the East line of the Southwest ¼ of Sec. 31 to the Southeast corner of said Southwest ¼ of Section 31; thence extending Westerly along the South line of Section 31 to the Southwest corner of Section 31, same being point of beginning.

Also including all lands in the Township of Warren within the following described boundary lines: Commencing at the Southeast corner of Section 36, and thence extending Westerly along the South line of said Section 36 to the Southwest corner of the East ½ of the East ½ of Section 36; thence extending Northerly along the West line of the East ½ of the East ½ of Section 36, and the East ½ of East ½ of Section 25 to a point 200 feet North of the Southwest corner of the East ½ of the Northeast ¼ of said Section 25; thence extending Easterly on a line 200 feet North of and parallel to the South line of Northeast ¼ of Section 25 to a point 200 feet West of the Easterly boundary of said Northeast ¼ of Section 25; thence extending Northerly on a line 200 feet Westerly of and parallel to the East boundary of the Northeast ¼ of Section 25, to the North line of said Section 25; thence Easterly to the Northeast

corner of said Section 25; thence Southerly along the East line of Section 25 and Section 36 to the Southeast corner of said Section 36, same being the point of beginning.

Also including all lands in the Township of Erin within the following described boundary lines: Commencing at the South ¼ post of Section 31, and thence extending Northerly along the North and South ¼ line of Section 31 to the center post of Section 31. Thence Easterly along the East and West ¼ line of Section 31, and the East and West ¼ line of Section 32 to the Southeast corner of the West ½ of the Northwest ¼ of fractional Section 32. Thence Northerly along the East line of the West ½ of the Northwest ¼ of Section 32, and the East line of the West ½ of the West ½ of Section 29, to the Northwest corner of the East ½ of the Northwest ¼ of Section 29. Thence Easterly along the North line of Section 29, and the North line of fractional Section 28 to the North ¼ post of Section 28. Thence Southerly along the East line of the Northwest ¼ of fractional Section 28 to the center post of fractional Section 28. Thence Southerly along the boundary common to the Township of Erin, and the Township of Lake, now the Village of St. Clair Shores, to the boundary line common to County of Macomb and County of Wayne. Thence Westerly along said boundary, and the South line of Sections 31 and 32 to the South ¼ post of Section 31, which is the point of beginning.

Sec. 3. - Change of boundary.

Territory may be detached from said City or added thereto, or consolidation may be made with one or more other cities or villages at any time.

CHAPTER II. - POWERS[3]

Footnotes:

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

Sec. 1. - General powers.

The said City, as such, shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property in fee simple or lesser interest or estate by purchase, gift, bequest, devise, condemnation, appropriation or lease with privilege to purchase, for any municipal purpose, including ways, public parking grounds, parks, recreational grounds and airports, which shall be deemed to include the use of such grounds for amusements and all athletic sports and educational activities; may sell, lease, hold, manage and control such property, and may make any and all rules and regulations by ordinance or resolution which may be deemed proper or which may be required to properly regulate and control all property used for public or any of the aforesaid purposes; or to carry out fully the provisions of any conveyance, deed, or will, in relation to any gift, devise or bequest or the provision of any lease by which it acquired property or according to the judgment of any court, in the condemnation of property for any purpose; may acquire, construct, own, lease, operate and regulate public utilities; may regulate and control food, food supplies and food products; maintain, operate, license, own and control public fuel supplies and markets of every kind, and may own, operate, license and control airports, aeroplanes and all aeronautical equipment, may regulate and control the storing, handling, disposing and sale of explosives of every character; the construction of cellars and basements so far as the same in any manner affects the public health; may take all needful and necessary steps for the care and relief of the poor and indigent, delinquents and juvenile offenders, those mentally or physically deficient, and the removal and remedying of the causes thereof; shall own and control all highways, streets, alleys and public places within its boundaries, and the Council may regulate and provide for all such highways, streets, alleys and public places; may adopt a City plan; may provide a plan of streets and alleys for a

distance of three miles beyond the City limits and require that all streets and alleys in said district, dedicated to the public, shall conform therewith; may provide for the restriction or exclusion of business from certain districts of the City; may establish the building line with relation to streets; the width and depth of lots; the amount of air space around houses; may enact a building and housing code and may require building permits for all buildings or structures erected in the City; may regulate the planting and setting of trees, shrubs, flowers or plants and the care thereof; may exercise jurisdiction over all diseased or noxious trees, shrubs, and plants; may provide for taking a census of the City; may assess, levy and collect taxes for general and special purposes on all the subjects or objects which the City may lawfully tax; may borrow money on the faith and credit of the City by the issue and sale of bonds or notes of the City; may appropriate the money of the City for any and all lawful purposes; may create, provide for, construct, regulate and maintain all things in the nature of public works and improvements; may levy and collect assessments for local improvements; may define, prohibit, abate, suppress, regulate or prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the City, and all nuisances and causes thereof; may regulate the construction, height, and the material used in all buildings and the maintenance and occupancy thereof; may regulate, license or prohibit the construction, location, size, height, and the materials used in all billboards and the maintenance and use of the same; may provide for the regulation and control of all weights and measures and the use thereof; may regulate, license, control or prohibit the sale or peddling of goods, wares, merchandise or any kind of property by persons going about from place to place in the City for that purpose; may regulate, license and control, cab drivers, draymen, teamsters, taxicabs, jitneys, and other forms of conveyance; may regulate, license and control hotels, rooming houses, boarding houses, restaurants, candy and soft drink manufacturers and distributors, either wholesale or retail, and other business and occupations; may regulate the location of and license telegraph, telephone and electric light poles within the City; may construct, maintain and regulate fountains and public drinking places, including watering troughs; may license dogs, and other animals; may regulate and control the use, for whatever purpose, of the streets, alleys and other public places; may create, establish, combine, organize and abolish offices and departments, provided, that said Council shall not abolish the office of City Manager; provide for the election or appointment of and fix the salaries and compensation of all officers and employees, except as herein otherwise provided; may make and enforce local police and sanitary regulations; may provide for the issuance of bonds of said City for the purpose of providing the first cost of installation and connection of sewers and water works on and to property when such installation and connections shall have been ordered by the proper health authorities, and to provide for a lien on such property for the money so used; may license and impose a license fee on street cars, telephone, gas meters, electric meters; water meters, or any other device for measuring service, also telephone, telegraph, electric light and power poles and wires; all said license fees shall be exclusive of and in addition to other lawful taxes upon such property or the holder thereof. May provide for the approval of all plats of lands, subject to such terms and conditions as may be deemed best; may do any and all things needful, necessary or proper to furnish, supply, control and regulate water supply, sewage, sewage disposal, sanitation, and sanitary control within or without the boundaries of said City, upon such terms and conditions as the Commission shall decide; may regulate and control the disposition and handling of garbage, ashes, dead animals and any other article or thing detrimental to public health or good sanitation; and may pass such ordinances and adopt such resolutions as may be deemed expedient to or necessary to maintain and promote the peace, good government and welfare of the City and for the performance of the functions thereof; may build and equip or acquire by purchase, gift, bequest, devise or agreement, City hospitals, and provide for the management, operation, and maintenance of the same; may exercise all powers which now or hereafter it would be competent for this Charter to enumerate as fully and completely as though said powers were specifically enumerated herein; and no enumeration of particular powers by this Charter shall be held as exclusive or in anywise a limitation on said City to legislate on other subjects; and all such powers, whether expressed or implied, shall be exercised and enforced in the manner as shall be provided by ordinance, resolution or the general laws of the state.

Sec. 2. - Grade separation.

The City shall have power to provide for and change the location and grade of all street crossings of any railroad track; and to compel any railroad company or street railway company to raise or lower their railroad tracks 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 City may require, and to keep them in repair; also to require and compel railroad companies to keep flagmen or watchmen at railroad crossings; to regulate and prescribe the speed of all locomotives and railroad trains and street railway cars within the City; and regulate the obstructing of crossings by trains, engines, cars or otherwise.

Editor's note— This section has been preempted by the Federal Railroad Safety Act of 1970 (49 USC 20101 et seq.), however, there are no tracks in the city.

Sec. 3. - Municipal court.

The Council shall have the power to create a municipal court and if such court be created to fix the remuneration of its judges and other officers and employees thereof; prescribe the power, jurisdiction and duties of such court, and make such other provisions, relating thereto, as the Council shall deem necessary.

Editor's note— The municipal court has been replaced by the 38th District Court.

Sec. 4. - Powers beyond boundaries.

All the powers possessed by said City may be exercised beyond the boundaries of the City so far as the laws of the State will permit.

Sec. 5. - Rights to property of Halfway.

After the adoption of this Charter, the City shall continue to be vested with all property, moneys, contracts, rights, credits, effects, and records, files, books and papers belonging to it as formerly incorporated as the Village of Halfway. No right or liability either in favor of or against the Village of Halfway, existing at the time of the taking effect of this Charter, and no suit or prosecution of any character shall in any manner be affected by such change, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the Village of Halfway shall continue to be the debts and liabilities to the City of Eastpointe and all fines and penalties imposed and all taxes and assessments levied and uncollected at the time of such change shall be collected, and all licenses issued by the Village of Halfway shall be and remain the same as if such change had not been made; provided that when a different remedy is given in this Charter, or in any ordinance, pursuant hereto, which can be made applicable to any rights existing upon the adoption of this Charter or subject thereto, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly, unless the newly provided remedy shall be expressly declared to be exclusive.

CHAPTER III. - ORGANIZATION

Sec. 1. - Plan of government.

The form of government provided for in this Charter shall be known as the "Commission-Manager Plan." There is hereby created a Council of four Councilmen and one Mayor, elected in the manner hereinafter specified, which shall have full power and authority, except as herein otherwise provided, to exercise all powers conferred upon the City.

Sec. 2. - Legislative body.

The Mayor and Council shall constitute the legislative and governing body of said City, possessing all the powers herein provided for, with power and authority to pass such ordinances and adopt such resolutions as they shall deem proper in order to exercise any or all of the powers possessed by said City. The Mayor shall be the Executive head of the City and shall possess the same voting powers as that of a Councilman.

(Amended 4-1-1963)

State Law reference— Mandatory that charter provide for a legislative body, MCL 117.3(a).

Sec. 3. - Election of mayor, etc.

The Mayor and members of the Council shall be elected on a non-partisan ticket from the City at large and shall be subject to recall as hereinafter provided. No person shall be eligible to the Office of Mayor or Councilman, who is not twenty-one (21) years of age, a Citizen of the United States, and a resident of the City of Eastpointe at least two (2) years. Furthermore, no person shall be eligible to hold the office of Mayor or Council member who is in default to the City. The holding of such office by any person who is in such default shall create a vacancy unless such default shall be cured within thirty (30) days after written notice thereof by the Council or unless such person shall in good faith be contesting the liability of such default.

(Amended 4-5-1948; Res. No. 1669, § A, 6-21-2011)

Editor's note— Pursuant to the consent judgment and decree in United States v. City of Eastpointe, Civil Action No. 4:17-CV-10079 (U.S. District Court, Eastern District of Michigan, Southern Divisions, June 19, 2019, which decree expires four years from its effective date, beginning with the first general municipal election November 5, 2019, all elections are conducted using ranked choice voting. Ranked choice voting is the method of casting and tabulating votes in which voters rank candidates in order of choice and tabulation proceeds in rounds. The consent decree only applies to elections involving members of the Council and not the Mayor.

Sec. 4. - Term of office.

Each member of the Council shall be elected to serve a term of two years, provided, however, that at the first election under this Charter the two candidates for Councilmen receiving the highest number of votes and the Mayor shall be deemed to be elected and serve until April 1931; the remaining two shall be deemed to be elected and serve until April, 1930. The Mayor shall be elected for a term of two years. The Mayor and Council shall be the judge of election and qualification of its own members. The term of all elective officers shall commence at eight o'clock p.m. on the first Monday following their election.

Editor's note— The terms were increased to four years by Code §§ 2-20, 2-22, adopted pursuant to MCL 168.644e et seq.

Sec. 5. - Time of organization.

At eight o'clock p.m., on the first Monday following the regular Municipal Election, the Council shall meet at the usual place for holding the meetings of the legislative body of the City, for the purpose of organization. The Mayor shall preside at the first meeting under this Charter. Thereafter the Council shall meet at such times as may be prescribed by ordinance or resolution, except that it shall meet regularly not less than once each month. The Mayor, any two members of the Council, or the Managers, may call special meetings of the Council, upon at least ten hours written notice to each member, served personally or left at his usual place of residence, provided, however, any special meeting at which all members of the Council are present shall be a legal meeting for all purposes, without such written notice. All meetings of the Council shall be public and any citizen may have access to the minutes and records thereof at all reasonable times. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings in the English language.

Sec. 6. - Quorum.

A majority of all the members elected to the Council shall constitute a quorum, but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The Council shall act only by ordinance or resolution.

Sec. 7. - Mayor.

The Mayor shall be presiding officer and executive head of the City, and perform such other duties as are or may be imposed or authorized by the laws of the State or this Charter. In times of public danger or emergency, he may, with the consent of the Council, take command of the police and such other departments and subordinates of the City, as may be deemed necessary by the Council, and maintain order and enforce laws. The Council shall also at the said first regular meeting after election, elect, by ballot, another member of the Council, Mayor pro tem, who, during the absence or disability of the Mayor to perform his duties, shall act in the name and stead of the Mayor, and shall, during the time of such absence or disability, exercise all the duties and possess all the powers of the Mayor. The Mayor shall receive compensation of eight hundred dollars ($800.00), per year, payable in monthly installments.

(Amended 4-5-1954)

Editor's note— The compensation is now determined by the local officers compensation commission, which is created in Code § 2-370.

State Law reference— Mandatory that charter provide for election of mayor, MCL 117.3(a).

Sec. 8. - Council.

Each Councilman shall be paid for his services the sum of fifty dollars ($50.00) per month. Except for the purpose of inquiry, the Council and each of its members shall deal with the Administrative Branch of the City Government solely through the Manager, except in the Department of Finance and Law, and neither the Council nor any member thereof, shall give any order or direction, either publicly or privately, to any of the subordinates of the Manager.

(Amended 4-5-1954)

Editor's note— The compensation is now determined by the local officers compensation commission, which is created in Code § 2-370.

Sec. 9. - Vacancy.

A vacancy in any elective office, shall be filled by appointment by a majority of the remaining members of the Council. Such appointee shall hold office until the next regular Municipal Election or any special election, at which election a successor shall be elected for the unexpired term of the member in whose office the vacancy occurs. Provided, however, that the term of no member shall be lengthened by his resignation and subsequent appointment.

State Law reference— Authority that charter prescribe method for filling vacancy in office, MCL 201.37.

Sec. 10. - Absence from meetings.

Absence from five consecutive regular meetings shall operate to vacate the seat of a member, unless the absence is excused by the Council, by resolution setting forth such excuse and entered upon the Journal.

Sec. 11. - Bonds of officers.

The Mayor and each member of the Council before entering upon the duties of his office, shall give a bond to the City of Eastpointe, in the sum of five thousand dollars ($5,000) (City to pay the premium thereon) conditioned upon the faithful performance of the duties of his office. Said bond and the sureties thereof to be approved by the Attorneys of said City, and when so approved, recorded by the Manager in a record book kept for that purpose in the office of said Manager, and when so recorded, said bonds shall be filed with the City Treasurer.

Editor's note— Bonds are covered by a city insurance policy.

Sec. 12. - Justices of the peace.

Until otherwise provided by law, there shall be elected two Justices of the Peace as provided in Act No. 398, Local Acts of 1907 of the State of Michigan as amended, and there shall be elected annually two constables on the first Monday in April. Provided, however, that there shall be elected at the first election held under this Charter, two constables, who shall hold office until their successors are elected and qualified.

Editor's note— The cited Act has been repealed. The city no longer has justices of the peace or constables.

Sec. 13. - Departments.

The Administrative functions and powers of the City shall be divided into six departments as follows: Law, Finance, Public Works and Service, Public Welfare, Public Safety, and Public Health, subject to modifications as hereinafter provided.

Editor's note— The current departments are Law, Finance, Public Works and Service, Assessing, Building, Police, Fire, Parks and Recreation.

Sec. 14. - Directors of departments.

There shall be a director of every Department who shall have the supervision and control thereof and who, with the exception of the Director of Law, shall be appointed by and immediately responsible to the City Manager for the Administration of the Department.

(Amended 11-4-1930; Res. No. 1695, § A, 2-21-2012)

Sec. 15. - Supervision of manager.

The Director of every Department except that of Law shall be subject to the supervision and control of the Manager in all things except as otherwise herein specifically provided.

(Amended 11-4-1930; Res. No. 1695, § B, 2-21-2012)

Sec. 16. - Duties of departments.

The Council shall, by ordinance, determine and prescribe the functions and duties of each department, subject to the expressed provisions contained herein, and may by a vote of a majority of its members create new departments, combine existing departments, and establish temporary departments for special work.

Sec. 17. - Appointments.

The Council may appoint a City Manager and a City Attorney, and in the event a City Manager is not appointed, the Council may appoint a City Clerk who shall perform all duties of a city clerk herein called for to be performed by the Manager, each of whom shall be appointed for an indefinite period and be removable by the Council.

(Amended 4-6-1931; Res. No. 1579, § 2, 11-4-2008; Res. No. 1695, § C, 2-21-2012)

Sec. 18. - Manager.

The Manager shall be the chief administrative officer of the City. He shall be chosen by the Council solely on the basis of his executive and administrative qualifications. The Manager shall have had at least one year experience as manager or assistant manager in some city or village, and shall, during his term of office, reside in the City of Eastpointe; provided, however, he shall be a citizen of the United States of America. The Manager shall file a bond satisfactory to the Council.

Sec. 19. - Responsibility of manager.

The Manager shall be responsible to the Council for the proper administration of the affairs of the City and to that end shall make all appointments, including the heads of departments, except as herein otherwise specifically provided.

Sec. 20. - Manager to attend meetings.

He shall be required to be present at all meetings of the Council and be entitled to be present at all meetings of its committees and to take part in all discussions, but shall have no vote.

Sec. 21. - Compensation of manager.

The Manager shall receive a compensation to be fixed by the Council. If the Council at any time shall desire to remove the Manager, it may at any time upon the affirmative vote of a majority of the Council.

Sec. 22. - Assistant manager.

There shall be a City Assessor and also an Assistant City Manager, the latter shall be Deputy Clerk and shall perform the duties of the City Manager in case the Manager is sick, absent from the City or unable to perform his duties for any other reason.

(Amended 4-5-1954)

Sec. 23. - Clerk.

The Manager shall be Clerk of the Council, and shall, with the Mayor, sign and attest all Ordinances; and the Journal or Record of the Council's proceedings shall be prepared, kept and signed by the Manager and approved in writing by the Mayor. In addition, the Manager shall be the City Clerk and as such Clerk shall perform such other duties as are prescribed by this Charter, the General Laws of the State, or by the Council.

(Amended 4-5-1948)

Sec. 24. - Department of law.

The Director of Law shall be an attorney at law who shall have practiced in the State of Michigan for at least five years. He shall be the chief legal advisor of and attorney for the City and all departments and offices thereof in matters relating to their official powers and duties. It shall be his duty, either personally or by such assistants as he may designate, to perform all services incident to the Department of Law; to attend all meetings of the Council; to give advice in writing, when so requested, to the Council, the City Manager or the director of any department; to prosecute or defend, as the case may be, all suits or cases to which the City may be a party; to prosecute for all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required of him by law; to prepare all contracts, bonds and other instruments in writing in which the City is concerned, and to endorse on each his approval of the form and correctness thereof; and to perform such other duties of a legal nature as the Council may by ordinance require. In addition to the duties imposed upon the Director of Law by this Charter or required of him by ordinance or resolution of the Council, he shall perform any duties imposed upon the chief legal officers of municipalities by law.

Sec. 25. - Opinion by attorney.

The Council, City Manager, the Director of any department or any officer or Board, not included in any department, may require the opinion of the City Attorney upon any question involving their respective powers and duties.

Sec. 26. - Director of finance.

The Director of Finance shall have direct supervision over the Department of Finance and the administration of the financial affairs of the City, including the keeping of accounts and financial records and collection of taxes, special assessments and other revenue, and such other duties as the Council may by ordinance prescribe or as directed by the City Manager.

(Res. No. 1695, § D, 2-21-2012)

Sec. 27. - City treasurer.

The Director of Finance shall be the City Treasurer, and shall perform all the duties required by this Charter, the General Laws of the State, or which the Council shall by ordinance prescribe or as directed by the City Manager.

(Res. No. 1695, § E, 2-21-2012)

Sec. 28. - Director of public works.

The Director of Public Works and Service shall, except as otherwise provided in this Charter, or by the Council, manage and have charge of the construction, improvement, repair, maintenance of streets, sidewalks, alleys, lands, bridges, viaducts and other public highways; of sewers, drains, ditches, culverts, canals and water courses; of municipal water supply, and all works, lands, water, lands under water, dams, pumping station, ways, mains, pipes, and all other works connected therewith, of all public buildings, public places and grounds; of the establishment, development and maintenance of parks and playgrounds but not the management and supervision of such parks; of all sewage and garbage disposal and reduction plants and all other public utilities owned or operated by the City. He shall have charge of the enforcement of all the obligations of privately owned or privately operated public utilities enforceable by the City; of the making and preservation of surveys, maps, plans, drawings and estimates for public work; of the cleaning, sprinkling and lighting of the streets and public places.

Sec. 29. - Director of public welfare.

The Director of Public Welfare shall have the supervision and management of all charitable, correctional and reformatory institutions and agencies belonging to the City; the supervision of the use of recreational facilities of the City, including parks and playgrounds; the inspection and supervision of public entertainment; the study and research into the causes of poverty, delinquency, crime, and the relief and prevention thereof; and other welfare and social problems in the community, and such other duties as the Council may by ordinance prescribe.

Sec. 30. - Director of public safety.

The Director of Public Safety shall have supervision of and enforce all the laws and ordinances relating to buildings, weights and measures, city pounds, the preservation of the public peace and order, and all other laws and ordinances, the enforcement of which is not specifically provided for in this Charter. He shall have the control and management of the Police and Fire departments, which departments shall consist of a chief of each and such other officers, patrolmen, firemen and other employees or members as the Manager may determine. Provided, however, that the Council may by ordinance provide for the so-called two-platoon system in the Fire Department.

Sec. 31. - State fire wardens.

The Director of Public Safety and the Chief of the Fire Department shall be vested with all the powers of State Fire Wardens.

Sec. 32. - Powers of sheriffs.

The Director of Public Safety and all members of the Police Department shall have the same powers as sheriffs and constables in the serving of civil and criminal process, in the making of arrests, both within and without the City, but within the State. They shall have the power to arrest, without process, all persons, who in the presence of the officer, shall be engaged in the violation of any law, and to detain such person until complaint can be made and process issued for their arrest, which complaint shall be made as speedily as possible after such arrest.

Sec. 33. - Chief of fire department.

The Chief of the Fire Department or person in charge of the department at any fire, may cause any building to be razed or destroyed, when deemed necessary, in order to arrest the progress of a fire, and no action shall be maintained against any person or against the City therefor.

Sec. 34. - Powers of director of safety.

The Director of Public Safety shall have such other powers and perform such other duties as the Council may by ordinance prescribe.

Sec. 35. - Director of public health.

The Director of Public Health shall be a man of recognized qualifications in Public Health administrations, and shall have and exercise for the City all the powers and authority conferred upon Boards of Health and Health Officers by the General Laws of the State and by this Charter. It shall be his duty to enforce all laws and ordinances pertaining to public health, and such other duties as the Council may by ordinance prescribe.

Editor's note— This is a county function now.

Sec. 36. - Purchasing agent.

The Council shall by ordinance provide for the creation of the office of Purchasing Agent, prescribe his duties and the rules and regulations relative thereto. The Manager or some officer, other than any person connected with the Department of Finance to be designated by the Manager, shall act as

purchasing agent, and if so designated, shall act under the direction of said Manager, and if other than the Manager, he shall file a bond satisfactory to the Council.

Sec. 37. - Requisition.

No purchase shall be made except on a requisition by the head of a department, countersigned by the Manager and approved by the Director of Finance. No purchase shall be made in excess of appropriations.

Sec. 38. - City auditor.

The Council may by ordinance provide for the office of City Auditor and when such office is provided for, the Auditor shall be appointed by and be under the direction of the Council.

Sec. 39. - Board of supervisors.

The Council shall designate who shall represent the City on the Board of Supervisors of Macomb County, provided, however, that the City Assessor and City Attorney shall by virtue of their office be members of the Board of Supervisors and the Council may designate the Mayor and one of its members to serve on said board.

(Amended 11-7-1950)

Editor's note— The election of the board of supervisors is now governed by MCL 46.401 et seq.

Sec. 40. - Powers of supervisors.

The representatives of the City aforesaid, shall be endowed with all the rights, powers and duties conferred upon supervisors of townships by the General Laws of this State, except where otherwise provided for in this Charter.

Sec. 41. - Salaries.

The Manager shall fix, subject to the approval of the Council, the salary or compensation of the heads of all departments and all the employees thereof, except the Department of Law; provided that this shall not be deemed to include officers or employees required in the conduct of elections, either primary, general or special. The Council shall fix the salary of the Manager and the City Attorney. Compensation of assistant and subordinate employees of the Departments of Law, other than Associate Counsel, and the compensation of the deputy and subordinate employees of the Clerk's office, shall be fixed by the Director of Law and the Clerk, respectively, subject to the approval of the Council.

(Res. No. 1695, § F, 2-21-2012)

Sec. 42. - Duties of appointive officers.

All appointive officers of the City shall perform such duties as shall be prescribed by ordinance, this Charter, the General Laws, and which may be required by the Council and the heads of Departments.

Sec. 43. - Relatives.

Relatives by blood or marriage of the Mayor or any Councilman, or the Manager, within the second degree of consanguinity or affinity, are hereby disqualified from holding any appointive office or employment during the term for which the said Mayor or any Councilman was elected, or during the tenure of office of said Manager.

Relatives by blood or marriage of any Department Head within the second degree of consanguinity or affinity, are hereby disqualified from being employed in the same Department, subsequent to the appointment of the Department Head.

(Amended 4-1-1957)

Sec. 44. - Council to fix compensation.

The compensation of all officers and employees of the City, including all election officials, shall be fixed by the Council, except as otherwise specifically provided herein.

Sec. 45. - Oath of office.

Every officer shall, before he enters upon the duties of his office, subscribe and file with the Manager an oath to support the Constitution of the United States and the Constitution of the State of Michigan, and faithfully perform the duties of the office to the best of his ability.

State Law reference— Oath of public officers, Const. 1963, Art. XI, § 1.

Sec. 46. - Bonds of officers.

The Council may require any officer or employee to give a bond for the faithful performance of his duty in such amount as it may determine, and the premium thereof shall be paid by the City, except that of the Manager.

Sec. 47. - When bond to be filed.

Any officer of employee, required by the provisions of this Charter, the General Laws of the State, by any ordinance of the City of Eastpointe, or by the Council, to give bond, shall not enter upon the duties of his office or employment until such bond shall be duly filed, approved and recorded.

Sec. 48. - Bonds to be filed with clerk.

All such bonds, except as herein otherwise provided, shall be approved by the Council and filed with the Clerk, excepting the bond of the Clerk, which shall be filed with the Treasurer.

Sec. 49. - Elective officers not to hold office.

No elective officer shall hold any office or employment, except that to which he was elected, compensation for which is paid out of Municipal money, nor be elected or appointed to any office created or the compensation of which was increased or fixed by the Council while he was a member thereof, until the expiration of one year from the date when he ceased to be a member of the Council, except as herein otherwise provided.

(Amended 2-18-1957)

State Law reference— Incompatible offices, MCL 15.181 et seq.

Sec. 50. - Bonds to be surety bonds.

All bonds required under the provisions of this Charter shall be surety company bonds.

Sec. 51. - Deposits and payments by city.

All taxes, special assessments and license fees accruing to the City, shall be collected by the City Treasurer. All moneys received by any officer or employee of the City for or in connection with the business of the City shall be paid promptly into the City Treasury, and shall be deposited with such responsible banking institution as may be designated by the Council and furnishing such security as the Council may determine, and all interest on such deposits shall accrue to the benefit of the City. The Council shall provide for the prompt and regular payment and deposit of all City moneys as required by this section. All fees received by any officer or employee in this official capacity shall belong to the City except as in this Charter otherwise provided. All appointive officers and employees shall receive an annual salary to be determined by the Council and no fees, percentages or commissions shall be paid to any appointive officer or employee.

CHAPTER IV. - REGISTRATION, NOMINATION AND ELECTION[4]

Footnotes:

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State Law reference— Michigan election law, MCL 168.1 et seq.; mandatory for Charter to provide for time, manner and means of holding elections, MCL 117.3(c).

Sec. 1. - Registration.

The registration and re-registration of electors in the City of Eastpointe, shall be conducted as provided for in the Constitution and General Laws of the State of Michigan.

(Amended 4-6-1942)

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

Sec. 2. - Nomination.

The method of nomination of all candidates for the office of Mayor or Councilman shall be by petition.

(Res. No. 1636, § H, 6-1-2010)

Secs. 3, 4. - Reserved.

Editor's note— Res. No. 1636, §§ A, B, adopted June 1, 2010, repealed §§ 3, 4, which pertained to primary election; inspectors of election.

Sec. 5. - Petitions, signatures, filing time.

Each candidate for any elective City office shall at the time that the statement of candidacy is filed with the City Clerk also file therewith a petition placing in nomination the name of such candidate which petition shall be signed by not less than one hundred (100) nor more than two hundred (200) qualified and registered electors of the City. Said petition shall be filed by four o'clock p.m. on the twelfth Tuesday prior to the general City election in November.

(Res. No. 1636, § I, 6-1-2010)

Secs. 6—10. - Reserved.

Editor's note— Res. No. 1636, §§ C—G, adopted June 1, 2010, repealed §§ 6—10, which pertained to notice of primary; ballots.

Sec. 11. - Date of election.

General Municipal Election shall be held for the City of Eastpointe on the first Monday in April of each year and at such other times as provided herein, for the election of all elective officers of said City as provided for in this Charter, except that there shall be no election in April, 1929.

Editor's note— The general election is now held on the first Tuesday after the first Monday in November of each odd-numbered year, pursuant to MCL 168.641. See Code § 2-19.

Sec. 12. - Qualification of electors.

The inhabitants of the City, having the qualifications of electors under the Constitution and General Laws of the State and no others, shall be electors therein, and every elector shall vote in the election district where he shall have resided during the twenty days next preceding the day of election. The residence of any elector, not being a householder, shall be deemed to be in the election district in which is located his regular place of lodging.

Editor's note— The residency requirement is 30 days under MCL 168.492.

State Law reference— Qualifications for registration as elector, MCL 168.492.

Sec. 13. - Ballot.

The ballot at such General Municipal Election shall be printed without any party mark, emblem, vignette, or designation whatever on plain, white substantial paper, and the same shall be printed and numbered in accordance with the provisions of the General Laws of the State regulating the printing and numbering of ballots at elections in this State.

(Res. No. 1636, § J, 6-1-2010)

Sec. 14. - General election laws.

At all elections in the City of Eastpointe, the election precincts, voting places, the appointment of election inspectors and clerks and compensation therefor, method of conducting the election, canvassing the votes and announcing the results, shall be the same as provided by the General Election Laws of this State, so far as the same is applicable and not inconsistent with the provisions of this Charter.

State Law reference— Michigan election law, MCL 168.1 et seq.

Editor's note— Pursuant to the consent judgment and decree in United States v. City of Eastpointe, Civil Action No. 4:17-CV-10079 (U.S. District Court, Eastern District of Michigan, Southern Divisions, June 19, 2019, which decree expires four years from its effective date, beginning with the first general municipal election November 5, 2019, all elections are conducted using ranked choice voting. Ranked choice voting is the method of casting and

tabulating votes in which voters rank candidates in order of choice and tabulation proceeds in rounds. The consent decree only applies to elections involving members of the Council and not the Mayor.

Sec. 15. - State and county elections.

When State and County Elections are held on the same day as any Municipal Election, the Inspectors of Election appointed by the legislative body for said Municipal Election shall also be inspectors of State, County and District Elections in their respective voting districts.

Sec. 16. - Conduct of elections.

All elections held under the provisions of this Charter shall be conducted, as nearly as may be, in the manner provided by law for holding General Elections in this State, except as herein otherwise provided. The inspectors of such Elections shall have the same power 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.

Editor's note— Pursuant to the consent judgment and decree in United States v. City of Eastpointe, Civil Action No. 4:17-CV-10079 (U.S. District Court, Eastern District of Michigan, Southern Divisions, June 19, 2019, which decree expires four years from its effective date, beginning with the first general municipal election November 5, 2019, all elections are conducted using ranked choice voting. Ranked choice voting is the method of casting and tabulating votes in which voters rank candidates in order of choice and tabulation proceeds in rounds. The consent decree only applies to elections involving members of the Council and not the Mayor.

Sec. 17. - Canvass of elections.

The Council shall convene on Thursday, next succeeding each Municipal Election, at their usual place of meeting and canvass the results of such election upon each question and proposition voted upon, and shall determine the vote upon the propositions voted upon and declare whether the same have been adopted or rejected, and what persons have been elected at such election to the several offices, respectively and thereupon, the said 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, and the other shall be filed in the office of the City Clerk. Certificates of election shall also be issued to each candidate elected to the several offices. All persons elected to any office in the City of Eastpointe under provisions of this Charter shall, within ten days after receiving the certificate of his election to any office, take and subscribe the official oath required by this Charter and file the same with the Clerk.

(Res. No. 1636, § K, 6-1-2010)

Sec. 18. - Who elected.

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. Provided, however, that candidates for Councilman equal in number to the offices to be filled for the longest terms, for whom the greatest number of votes shall be cast, shall be deemed elected for such

longest term. Those, equal in number to the offices to be filled for the next longest term, for whom the next greatest number of votes shall be cast, shall be deemed elected for such next longest term, and those, equal in number to the offices to be filled for the next longest term, for whom the next greatest number of votes shall be cast, shall be deemed elected to such next longest term.

Editor's note— Pursuant to the consent judgment and decree in United States v. City of Eastpointe, Civil Action No. 4:17-CV-10079 (U.S. District Court, Eastern District of Michigan, Southern Divisions, June 19, 2019, which decree expires four years from its effective date, beginning with the first general municipal election November 5, 2019, all elections are conducted using ranked choice voting. Ranked choice voting is the method of casting and tabulating votes in which voters rank candidates in order of choice and tabulation proceeds in rounds. The consent decree only applies to elections involving members of the Council and not the Mayor.

Sec. 19. - Political services forbidden.

Any person who shall agree to perform any service, in the interest of any candidate for any office provided for in this Charter, in consideration of any money or other valuable thing for such services performed in the interest of any candidate, shall upon conviction, be punished by a fine not exceeding three hundred dollars ($300.00), or by imprisonment in the county jail not exceeding thirty (30) days, or both, in the discretion of the court.

State Law reference— Similar provisions, MCL 168.931.

Sec. 20. - Treating forbidden.

It shall be unlawful for any candidate for any office created by this Charter, at any Municipal Election, or any person in his behalf, directly or indirectly, to buy or give to, or cause to be bought for, or given to any elector, any thing or article; it being the intent of this section to prohibit the custom of treating in any manner by candidates for public office or by any person on behalf of such candidates. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction, by punished by a fine not to exceed three hundred dollars ($300.00), or by imprisonment in the county jail not exceeding thirty (30) days, or both in the discretion of the court.

(Res. No. 1636, § L, 6-1-2010)

State Law reference— Similar provisions, MCL 168.931.

Sec. 21. - Soliciting of votes.

It shall be unlawful for any candidate at any Municipal Election, or any person in his behalf, directly or indirectly, to employ, either with money, promises of money or other valuable considerations or office or place of employment, any person to do any campaign work, electioneering or soliciting votes for such candidates, and it shall be unlawful for any person to agree to perform any such service in behalf of any such candidate for any consideration, profit, or benefit whatsoever. Any violation of this section shall be a misdemeanor, and shall be punished as provided in the preceding section.

(Res. No. 1636, § M, 6-1-2010)

State Law reference— Similar provisions, MCL 168.931.

Sec. 22. - Hiring of conveyances forbidden.

It shall be unlawful for any candidate for any municipal office, or any one in his behalf, directly or indirectly, to employ or hire any conveyance for the purpose of conveying voters to the polls at any Municipal Election. Any violation of this section shall be a misdemeanor, and shall be punished as provided in Section 20 of this Chapter.

(Res. No. 1636, § N, 6-1-2010)

State Law reference— Similar provisions, MCL 168.931.

Sec. 23. - Hours of election.

At all elections the polls shall be opened at seven o'clock in the forenoon and shall remain open until the hour of eight o'clock in the afternoon, Eastern Standard Time.

Editor's note— Times of opening and closing of polls is governed by MCL 168.720.

Sec. 24. - Qualifying of offices.

Every elective officer shall, within thirty days after qualifying, file with the Clerk, and publish at least once in a newspaper published and circulating in the City of Eastpointe, his sworn, detailed statement of all his election and campaign expenses, and by whom such funds were contributed. Any violation of the provisions of this section shall be a misdemeanor and be a ground for removal from office.

Sec. 25. - Election precinct.

When the total votes cast in any election precinct exceeds six hundred (600) at any General or City election, and City Council shall redistrict the City or such part thereof as it may deem proper.

Editor's note— Election precincts are determined pursuant to MCL 168.654 et seq.

Sec. 26. - Board of election inspectors.

At least twenty days before said election, the Council shall appoint a Board of Election Inspectors for each Election Precinct.

CHAPTER V. - RECALL[5]

Footnotes:

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Editor's note— Recall is governed by MCL 168.951 et seq.

Sec. 1. - Who may be recalled.

Any holder of an elective office may be recalled and removed therefrom by the qualified electors of the City of Eastpointe as provided herein.

Sec. 2. - Affidavit.

Any qualified elector of the City may make and file with the Clerk an affidavit containing the name of the official sought to be removed and a specific statement of the grounds of removal. The Clerk shall, thereupon, deliver to the elector making such affidavit a sufficient number of copies of petitions for such recall and removal, printed forms of which he shall keep on hand. Such petition shall be issued by the Clerk with his signature and official seal of the City thereto attached; they shall be dated and addressed to the Council, contain the name of the person to whom issued, the number of forms so issued, the name of the person sought to be removed, the office from which such removal is sought, the grounds of such removal, as stated in said affidavit, and shall demand the submission of the question of such recall to the electors, a copy of which petition shall be kept in the office of the Clerk.

Sec. 3. - Defects in record.

Any defect in said form or record shall not invalidate the same. Said recall petition must be returned and filed with the said Clerk within thirty days of its issuance.

Sec. 4. - Form of petition.

Said petitions before being returned and filed shall be signed by qualified electors equal in number to at least twenty-five per centum of all electors voting at the last preceding election for the office of Governor of the State of Michigan, and to each signature shall be attached his place of residence, giving street and number. Such signatures need not all be on one paper. A qualified elector of the City shall make an affidavit thereto that each signature appended to the paper is the signature of the person whose name it purports to be. All such papers for the recall of any one officer shall be fastened together and filed as one instrument, with the endorsements thereon of the names and addresses of three persons designated as filing the same.

Sec. 5. - Certification of clerk.

Within ten days from the filing of said petitions, the Clerk shall ascertain, by examination thereof, and of the registration books and election returns, whether the petition is signed by the requisite number of qualified electors, and shall attach thereto his certificate showing the result of such examination.

Sec. 6. - Insufficient petition.

If his certificate shows the petition to be insufficient he shall within the said ten days so notify in writing one or more of the persons designated on the petitions as filing the same. Additional signatures, properly verified, may be filed at any time within ten days from the filing of the certificate. The Clerk shall, within ten days after filing additional signatures, make like examination of the additional signatures, and attach thereto his certificate of the result. If still insufficient, or if no additional signatures are so filed, he shall return the petition to one of the persons designated as filing it, without prejudice, however, to the filing of a new petition for the same purpose.

Sec. 7. - Sufficient petition.

When the petition shall be found and certified by the Clerk to be sufficient, he shall submit the same, with his certificate, to the Council without delay, and the Council shall, if the officer sought to be removed does not resign, within five days thereafter, forthwith, after said five day period, order and fix a date for holding the said election, not less than thirty days nor more than forty days from the date of the Clerk's certificate that a sufficient petition is filed, provided, however, that if any other Municipal Election is to occur within sixty days from the date of the Clerk's certificate, the Council shall postpone the holding of the recall election to the date of such other Municipal Election.

Sec. 8. - Conduct of election.

The said election shall be conducted, returned, and the result thereof declared, in all respect as are other City Elections. If a vacancy occurs in said office after a recall election has been ordered, the Council shall rescind the order calling such election and the same shall not be held.

Sec. 9. - When deemed recalled.

If at such recall election a majority of the votes cast shall be "Yes," then such officer shall be deemed to have been recalled and the said office vacant.

Sec. 10. - Incumbent to function during recall.

The incumbent shall continue to perform the duties of office until the recall election. If not then recalled, he shall continue his office for the balance of his term.

Sec. 11. - Recall only after three months.

No recall petition shall be filed against any officer until he has actually held his office for at least three months.

Sec. 12. - No other appointment.

No person, who has been removed from an office by recall, or who has resigned from such office while recall proceedings were pending against him, shall be appointed to any office within two years after such removal or resignation.

Sec. 13. - Wording of ballot.

Upon the ballot used at any election for the recall of any elective officer, there shall be printed in not more than two hundred words, the reasons for demanding the recall of the officer whose removal is sought, in such election, and in like manner upon the same ballot, in not more than two hundred words, the officer sought to be recalled, may justify his course in office in answer to the reasons directed against him.

Sec. 14. - Ballot.

The Ballot at any recall election shall be in substantially the following form:

Shall (name the person against whom the recall petition is filed) be called from the office of (title of office).

Yes ( )

No ( )

CHAPTER VI. - ORDINANCES[6]

Footnotes:

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State Law reference— General authority relative to adoption of ordinances, Mich. Const. 1963, Art. VII, § 22; mandatory that charter provide for adopting, continuing, amending and repealing ordinances, MCL 117.3(k).

Sec. 1. - Enacting clause.

The enacting clause of all ordinances shall read, "The City of Eastpointe ordains," but such caption may be omitted when said ordinances are published in book form or are revised and digested by authority of the Council.

Sec. 2. - Majority vote.

The adoption of any ordinance by the Council shall require for its passage the concurrence of a majority of all the members of the Council.

Sec. 3. - How passed.

The time when any ordinance shall take effect shall be prescribed therein, which time shall not be less than ten days from the date of its passage, except emergency ordinances, which may be given immediate effect. No ordinance shall be finally passed on the day it is introduced, except in case of public emergency. An Emergency Ordinance shall be defined to be one necessary for the immediate preservation of the Public Peace, Property, Health, Safety or providing for the usual daily operation of a department and which contains a statement of its urgency.

Sec. 4. - Signature of ordinances.

Immediately upon the final passage of any ordinance the Mayor and Manager shall sign the same under a certificate of the day and date of its passage.

Sec. 5. - Publication of ordinances.

All ordinances shall be published once within ten days of their passage, in a newspaper printed and circulating within the City, and the Manager shall certify on the record of ordinances, the date of publication and newspaper in which any ordinance was so published; and such certificate shall be prima facie evidence that legal publication of an ordinance has been made.

Editor's note— The publication of a summary is now permitted under MCL 117.3(k).

Sec. 6. - Ordinance record.

All ordinances shall be recorded in an index book marked "Ordinance Record"; and record of each ordinance shall be authenticated by the signature of the Mayor and Manager. Such record and authentication shall be done within one week after the final passage of any ordinance, but failure to so record and authenticate any ordinance shall not invalidate it or suspend its operation.

Sec. 7. - Repealed ordinance.

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

Sec. 8. - Prosecutions.

Prosecutions for violation of any ordinance of the City shall be commenced within two years after the commission of the offense; provided that the limitations herein imposed shall only apply to violations penal in their nature, and shall not be construed as a limitation of the City's right to forfeit any franchise, grant or license for violation of the terms and conditions thereof, after said two year period.

Sec. 9. - Form of warrant.

Prosecutions for violations of the ordinances of the City may be commenced by warrant, and all process in such cases shall be in the name of "The People of the State of Michigan." The practice in such cases shall be the same, as near as may be, as in criminal cases cognizant by Justice of the Peace under the General Laws of the State or as may be provided for cases cognizable by any Municipal Court, hereafter created.

Editor's note— The city no longer has justices of the peace. The municipal court has been replaced by the 38th District Court.

Sec. 10. - Process.

All process issued in any prosecution or proceedings for the violation of any ordinance, shall be directed to any police officer of the City, or County of Macomb and may be executed in any part of the State by said officer or any other officer authorized by law to serve process issued by a Justice of the Peace.

Editor's note— The city no longer has justices of the peace.

Sec. 11. - Pleadings.

In all judicial proceedings it shall be sufficient to plead any ordinance by title and the number of section or sections, and it shall not be necessary to plead the entire ordinance or section.

Sec. 12. - Judicial notice.

Judicial notice shall be taken of the enactment, existence, provisions and continuing force of all ordinances of the City.

Sec. 13. - Proof by record.

Whenever it shall be necessary to prove any ordinance or resolution of the Council, in any judicial proceedings, the same may be proved from the record thereof kept by the Manager, by a copy thereof, duly certified by the Manager under the seal of the City or from any volume purporting to have been published, printed and compiled by authority of the Council.

Sec. 14. - Original jurisdiction.

The Circuit Court for the County of Macomb shall have original jurisdiction in all cases arising under the ordinances of the City for violation thereof, when the fine or forfeiture imposed shall exceed five hundred dollars ($500.00), or when the offender may be imprisoned for a term exceeding 90 days. The Justices of the Peace, until otherwise provided by the Council, shall have original jurisdiction in all cases when the fine or forfeiture imposed shall not exceed five hundred dollars ($500.00) or when the offender may be imprisoned for a term not exceeding 90 days.

Editor's note— Ninety-three-day misdemeanors are now permitted under MCL 117.4i(k).

Sec. 15. - Halfway village ordinances.

All ordinances, regulations and resolutions in force at the time this Charter shall take effect and not inconsistent with the provisions thereof, shall remain and be in force until amended, modified or repealed.

CHAPTER VII. - INITIATIVE AND REFERENDUM[7]

Footnotes:

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State Law reference— City authority relative to initiative and referendum on all matters within the scope of its powers, MCL 117.4i(g).

Sec. 1. - Power of referendum.

The electors shall have power to approve or reject at the polls any ordinance passed by the Council, or submitted by the Council to a vote of the electors, except an appropriation ordinance or an ordinance making the annual tax levy, such power being known as the referendum. Ordinances submitted to the Council by initiative petition and passed by the Council without change, or passed in an amended form and not required by the committee of the petitioners to be submitted to a vote of the electors, shall be subject to the referendum in the same manner as other ordinances.

Sec. 2. - Referendum petition.

Within thirty days after the final passage by the Council of any ordinance which is subject to referendum, a petition signed by the electors of the City equal in number to at least five percent of those who voted at the last preceding regular Municipal Election may be filed with the City Clerk requesting that any such ordinance, or any specified part thereof, be either repealed or submitted to a vote of the electors. A referendum petition shall clearly specify the ordinance or part thereof, repeal of which is sought but need not contain the text thereof.

Sec. 3. - Consideration of referred ordinance by council referendum election.

If a referendum petition, or amended petition, be found sufficient by the City Clerk he shall certify that fact to the Council at its next regular meeting and the ordinance or part thereof specified in the petition shall not go into effect or further action thereunder shall be suspended if it shall have gone into effect, until approved by the electors as hereinafter provided. Upon receipt of the Clerk's certificate the Council shall proceed to reconsider the ordinance or part thereof and its final vote upon such reconsideration shall be upon the question "Shall the ordinance (or part of the ordinance) set forth in the referendum petition be repealed?" If upon such reconsideration the ordinance, or part thereof, be not repealed it shall be submitted to the electors at the next Municipal Election held not less than thirty days after such final vote by the Council. The Council by vote of not less than three members may submit the ordinance, or part thereof, to the electors at a special election to be held not sooner than the time aforesaid. If when submitted to the electors any ordinance, or part thereof, be not approved by a majority of those voting thereon it shall be deemed repealed.

Sec. 4. - Form of ballot for initiated and referred ordinances.

Ordinances, or parts thereof, submitted to vote of the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title which shall be prepared in all cases by the Director of Law. The ballot title may be distinct from the legal title of any such initiated or referred ordinances and shall be clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance or part thereof. The ballot used in voting upon any ordinance, or part thereof, shall have below the ballot title the following propositions, one above the other, in the order indicated: "For the ordinance" and "Against the ordinance." Immediately at the left of each proposition there shall be a square in which by making a cross mark (X) the elector may vote for or against the ordinance or part thereof. Any number of ordinances or parts thereof, may be voted on at the same election and may be submitted on the same ballot, but the ballot used for voting thereon shall be for that purpose only.

Sec. 5. - Preliminary action under referred ordinance.

In case a petition be filed requiring that an ordinance passed by the Council involving the expenditure of money, a bond issue, or a public improvement be submitted to a vote of the electors, all steps preliminary to such actual expenditure, actual issuance of bonds, or actual execution of the contract for such improvement, may be taken prior to the election.

Sec. 6. - Referendum on emergency ordinances.

Any emergency ordinance or other ordinance which, in accordance with the provisions of Chapter VI, Section 3 of this Charter, shall have gone into effect prior to the filing of a referendum petition thereon shall be subject to referendum as in the case of other ordinances, and further action thereunder shall be suspended from the date of the Clerk's certification to the Council that a sufficient referendum petition has been filed. If, when submitted to a vote of the electors, any such ordinance be not approved by a majority of those voting thereon it shall be considered repealed and all rights and privileges conferred by it shall be null and void, but any such ordinance so repealed shall be deemed sufficient authority for any payments made or expense incurred in accordance therewith prior to the date of the Clerk's certification to the Council that a sufficient referendum petition has been filed.

Sec. 7. - Official publicity pamphlet.

The City Council may instruct the City Clerk to print and mail to each elector qualified to vote thereon an official publicity pamphlet containing the full text of every ordinance or Charter amendment submitted, with their respective ballot titles, together with arguments, for or against such ordinances or Charter amendments, which may have been filed with the City Clerk not less than twenty days before such election, which pamphlet shall be mailed at least fifteen days before any election at which any ordinance or Charter amendment is to be submitted to the voters. Such arguments shall be signed by the person, persons, or officers or organizations authorized to submit and sign the same, who shall deposit with the City Clerk at the time of filing a sum of money sufficient to cover the proportionate cost of the printing and paper for the space taken, but no more. The text of every ordinance or Charter amendment shall also be displayed at the polling booths in such election; provided, that the validity of an ordinance or Charter amendment approved by the electors shall not be questioned because of errors or irregularities in such mailing, distribution or display.

Sec. 8. - Conflict of ordinances, adopted or approved.

If two or more ordinances adopted or approved at the same election conflict in respect of any of their provisions, they shall go into effect in respect of such of their provisions as are not in conflict and the one receiving the highest affirmative vote shall prevail insofar as their provisions conflict.

_____

Sec. 9. - Initiative, referendum and recall petitions; signatures to petitions.

The signatures to initiative, referendum or recall petitions need not all be appended to one paper, but to each separate petition paper there shall be attached an affidavit of the circulator thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name, his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of three electors of the City, on each paper the names and addresses of the same three electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to each petition shall be as follows:

STATE OF MICHIGAN,		
COUNTY OF MACOMB		
_____, being duly sworn, deposes and says that he and he only, personally circulated the foregoing paper, and that all the signatures appended thereto were made in his presence and are the genuine signatures of the persons whose names they purport to be.		

		Signed _____
Subscribed and sworn to before me this ___ day of _____, 19 ___.		
		_____ Notary Public

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards any particular thereof shall be guilty of perjury and attempted fraud upon the election provisions of this Charter.

_____

Sec. 10. - Filing, examination and certification of petitions.

All petition papers comprising an initiative, referendum or recall petition shall be assembled and filed with the City Clerk as one instrument. Within ten days after a petition is filed the City Clerk shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of electors.

CHAPTER VIII. - FRANCHISES[8]

Footnotes:

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State Law reference— Submittal to electors required if franchise irrevocable, Mich. Const. 1963, art. VII, § 25; expense of special election to be paid by grantee, MCL 117.5(i); franchise limited to 30 years, Mich. Const. 1963, art. VII, § 30.

Sec. 1. - Length of grant.

No franchise or grant shall be granted by the City for a longer period than thirty years. No license shall be granted by the Council for a longer term than one year.

Sec. 2. - Acceptance of permit.

Every permit granted by ordinance shall be accepted in writing by the grantee before said ordinance takes effect, and every franchise or modification of a franchise, before it is submitted to the electors, shall

be so accepted. Such acceptance shall be filed with the Clerk. Any non-compliance with this section shall automatically annual such permit of franchise.

Sec. 3. - Franchises to be revocable.

No franchise or grant which is not revocable at the will of the Council, shall be granted or become operative until the same shall have been referred to the people at a General or Special Election and has received the approval of a majority of the electors voting thereon at such election.

Sec. 4. - Exclusive franchise forbidden.

No person, firm or corporation shall ever be granted any exclusive franchise, license, right or privilege whatsoever.

Sec. 5. - Franchise not to be alienated.

No franchise, granted by the City, shall ever be leased, assigned or otherwise alienated except in accordance with the express provisions of said franchise, and all franchises granted by the City shall provide how, and in what manner, and under what conditions any franchise may be leased, assigned, or alienated and no dealing with the lessee or assignee on the part of the City, which shall recognize the performance of any act or payment of any compensation by the lessee or assignee, shall be deemed to have operated as such consent.

Sec. 6. - Change in franchise.

No change or modification of any franchise or grant of rights or powers previously granted to any corporation, firm, person, or association of persons shall be made, except in the manner and subject to all conditions herein provided for, in the making of original grants and franchises.

Sec. 7. - Right of city.

The grant of every franchise or privilege shall be subject to the right of the City, whether in terms reserved or not, to make all regulations which shall be necessary to secure in the most ample manner, the safety, welfare and accommodation of the public, including among other things, the right to pass and enforce ordinances to require proper and adequate extensions of the service of such grant, and to protect the public from danger or inconvenience in the operation of any work or business authorized by the grant of the franchise and the right to make and enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient and proper service, extensions and accommodations for the people and insure their comfort and convenience.

Sec. 8. - Use of tracks, etc.

The City, by and through its Council shall have the power to require any corporation holding a franchise from the City, to allow the use of its tracks, poles and wires by any other corporation to which the City shall grant a franchise, subject to reasonable regulations and upon the payment of a reasonable rental therefor. Any franchise or right which may hereafter be granted, to any person or corporation to operate a street railway within the City or its suburbs shall be subject to the condition that the City shall have the right to grant to any other person or corporation desiring to build or operate a street railway or interurban railway within or into the City, the right to operate its cars over the tracks of said street railway insofar as it may be necessary to enter and leave the City and to reach the section thereof used for business purposes, provided, however, that the person or corporation desiring to operate its cars over the lines of said street railway, shall first agree in writing with the owner thereof as to terms and conditions and to pay it reasonable compensation for the use of its tracks and facilities. And if the person or corporation desiring to use the same cannot agree with said owner of said street railway as to said compensation, terms and conditions, within sixty days from offering the same in writing, then the Council, shall by resolution, after hearing the parties concerned, fix the terms and conditions of such use, and

compensation to be paid therefor, which award of the Council, when so made, shall be binding upon and observed by the parties concerned.

Sec. 9. - General supervision.

The Manager and Director of Public Works and Service shall maintain general supervision over all public utility companies insofar as they are subject to municipal control. The Manager shall cause to be instituted such actions or proceedings as may be necessary to prosecute public utility companies for violations of law and may revoke, cancel or annul all franchises that may have been granted by the City, which have become in whole or in part, or which for any reason are illegal or void and not binding upon the City.

Sec. 10. - Further conditions.

The enumeration and specification of particular matters in this Charter which must be included in every franchise or grant, shall never be construed as impairing the right of the Council to insert in such franchise or grant any other and further matters, conditions, covenants, terms, restrictions, limitations, burdens, taxes, assessments, rates, fares, rentals, charges, control, forfeitures or any other provisions whatever as it shall deem proper to protect the interests of the people.

Sec. 11. - Permit upon street.

The Council may grant a permit at any time in or upon any street, alley or public place, provided such a permit shall be revocable by the Council at its pleasure at any time, whether such right to revoke be expressly reserved in said permit or not; provided, that when such a permit is granted for water mains, sewers or drains, it may be made irrevocable unless the grantee be a private person, firm or corporation.

(Amended 11-2-1954)

Sec. 12. - No franchise without compensation.

No franchise, lease, or right to use the street or public places or property of the City shall be granted by the City without fair compensation to the City therefor. Where the franchise, lease or grant fixes the rate of fare or the rate to be charged for the service rendered or commodity furnished by the grantee, such rate of fare or price of service or commodity furnished shall be subject to review and change at least at the end of every ten year period during the life of said franchise in such manner and form as in said franchise shall be provided. No such compensation by any such grantee shall ever be in lieu of any lawful taxation upon its property, or of any license or charges which are not levied on account of such use.

Sec. 13. - Subject to charter.

All contracts, grants, rights, privileges or franchises for the use of streets and alleys of this City not herein mentioned shall be governed by all the provisions of this Charter, and all amendments, extensions or enlargements of any contract, right, privilege or franchise previously granted by this City to any persons, firm or corporation, for the use of the streets and alleys of such City, shall be subject to all the conditions herein provided for the making of original grants and franchises.

Sec. 14. - Form of franchise.

All contracts, granting or giving any original franchise, right or privilege, or extending or renewing or amending any existing grant, right, privilege or franchise, shall be made by ordinance and not otherwise.

Sec. 15. - Regulation of utilities.

The Council shall by ordinance provide for efficient inspection and regulation of all public utilities operated in the City, and to that end shall provide for the inspection of the quality and pressure of the gas furnished to consumers, the candle power, voltage and insulation of electric wires, heat and power

furnished the City and its inhabitants, and the inspection and installation of meters for registering the consumption of any commodity sold by any grantee operating under any franchise, grant or license from the City of Eastpointe or the State of Michigan. It being the intention of this section to provide means for securing to the City efficient service from all public utilities operated in the City and the proper observance by such operators of the conditions imposed by their respective franchises, ordinance and the laws of the State.

Sec. 16. - Purchase of franchises.

The City may purchase or condemn the franchises and property used in the operation, by companies, or individuals, engaged in hospital, electric light, gas, heat, power business and may purchase the franchises and property of street railway and tram railway companies and may condemn such properties within the scope of the General Laws of the State of Michigan. The City may make a contract, upon such terms, including terms of present or deferred payment or by the issuance of bonds in payment therefor, as herein provided, and upon such conditions and in such manner as the municipality may deem proper, to purchase, operate and maintain any existing public utility property for supplying heat, light, power or transportation to the City and the inhabitants thereof.

Sec. 17. - Vote needed.

No such contract shall bind the municipality unless the proposition therefor shall receive the affirmative vote of three-fifths of the electors voting thereon at a Regular or Special Election. In the event of the purchase of a transportation utility, the Council shall within a reasonable time, establish a system of civil service for selection and retention of the employees.

CHAPTER IX. - CIVIL SERVICE[9]

Footnotes:

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State Law reference— Authority to provide for a system of civil service, MCL 117.4i(h).

Sec. 1. - General purpose.

The general purpose of this amendment is to establish for the City a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, removal and discipline of its officers and employees, except hereinafter specified.

All appointments and promotions to positions in the City Classified Service, except as hereinafter provided, shall be made on the basis of merit and fitness to be ascertained by competitive examinations.

Sec. 2. - Department of personnel.

There is hereby established a Department of Personnel for the purpose of administering certain personnel matters as prescribed in this amendment.

The Department of Personnel shall be composed of the following:

(a) An executive officer of the department who shall be designated as Director of Personnel. Until such time as the services of a full time Director of Personnel is required, the City Manager or City Clerk shall serve in that capacity.

(b) A Civil Service Board consisting of three electors of the City, to take office thirty days after the effective date of this amendment, and to assume office thereafter as appointed or elected and qualified. One member shall be appointed by the City Council to serve for three years; one

member shall be elected by the City employees, to serve for two years; the remaining member shall be appointed by the other two members of the Board, to serve for one year. No elective official of the City shall be eligible for the Civil Service Board during his term of office. Thereafter members of the Civil Service Board shall be appointed or elected to serve for three years, or until their successors have been appointed or elected and have qualified. The vote for the member of the Civil Service Board chosen by the employees shall be by printed ballot forms, which shall be marked and counted in accordance with the provisions of this Charter regarding the marking and counting of ballots used in the election of members of the Council. Members of the Board shall serve without compensation, and shall not hold any other public office or serve on any political committee or take part in the management of any political campaign. The Council may remove any member of the Board for malfeasance or misfeasance in office after written notice and said member shall have the right of public hearing within thirty days after due notice of removal. Any vacancy created by resignation, expiration of term, or any other reason, shall be filled for the unexpired term in the same manner as the person who left the Board to create such vacancy was chosen. Vacancies must be filled within thirty days. The members of the Civil Service Board shall qualify by taking the Oath of Office as required by the Charter of the City of Eastpointe. The Assistant City Manager shall act as Secretary for the Board. He shall be custodian of all personal records and shall be the Official upon or with whom all notices, requests for hearing, complaints or other official documents shall be served or filed. He shall keep the minutes of meetings and records of all proceedings of the Board.

The Civil Service Board shall at its organization meeting elect a Chairman who shall serve for a one-year term. Two members of the Board shall constitute a quorum for the transaction of business; however, for the purpose of determining eligibility to any City Classified Service, disciplinary action or release, three members of the Board must be in attendance. The Civil Service Board shall determine its order of business for the conduct of its meeting.

Sec. 3. - Classification.

The administration service of the City is hereby divided into the unclassified service and the classified service.

(a) The unclassified service shall include all officers elected by unclassified and classified service as follows: the people; members of advisory boards, and the members of any board or commission appointed by the Council.

(b) The classified service shall comprise all positions not specifically included by this Charter in the unclassified service. Appointment to the classified service shall be from eligibility lists established by competitive examination.

Sec. 4. - Functions of the department of personnel.

The functions of the Department of Personnel shall be apportioned as follows:

(a) The Civil Service Board shall have general supervision over the broad problems of administrative policy involved in the personnel matters prescribed in this amendment, and except for the purpose of inquiry the Civil Service Board and its members shall deal with the specific technical problems of administration solely through the Director of Personnel. The members of the Civil Service Board shall meet quarterly, and on call of the chairman or the Director of Personnel. It shall be the duty of the Civil Service Board:

(1) To represent the public interest in the improvement of personnel administration in the City Service.

(2) To make annual reports and special reports to the City Council on the quality and status of personnel administration in the City Government and to make recommendations for improvements.

(3) To do any lawful act necessary to effect the purpose of this amendment and the rules promulgated in accordance therewith.

(4) To sit as a body in investigating and hearing personnel appeals of appointing authorities and employees.

(5) To consider such other matters as may be referred to the Board by the Director of Personnel or the City Council.

(b) The Director of Personnel shall be the executive officer of the Department of Personnel, and shall initiate and direct administrative work. He shall:

(1) Attend all regular and special meetings of the Civil Service Board.

(2) Make, and may amend, rules for promoting efficiency in the classified service of the City and for the appointment, promotion, transfer, layoff, reinstatement, suspension and removal of City officers and employees in such service; but no such rule or amendment shall become effective unless printed full in a newspaper circulated at least once each week in the City of Eastpointe prior to a public hearing thereon, held by the Civil Service Board after twenty days notice, and unless thereafter approved by said Board. The rules shall provide:

A. For the standardization and classifications of all positions and employments in the classified service of the City. Such classification into groups and subdivisions shall be based upon and graded according to duties and responsibilities and so arranged as to promote the filling of the higher grades, so far as practicable through promotions.

B. For open competitive tests to ascertain the relative fitness of all appointments in the classified service.

C. For public notice of the time and place of all competitive tests, at least thirty days in advance thereof, by publication in the official paper of the City and by posting a notice in a conspicuous place in the City Hall and other public buildings.

D. For the creation of eligibility lists upon which shall be entered the names of the successful applicants in the order of their standing in the competitive tests.

E. For the rejection of applicants or eligibles who do not satisfy requirements as to age, sex, physical condition and moral character or who have attempted deception or fraud in connection with any test or their application thereof.

F. For the certification from the appropriate eligibility list, for filling a vacancy in the classified service, the name of the applicant of the highest standing on such list.

G. For the rejection by the appointing authority of the person certified for appointment; such rejection shall be by appeal and hearing before the Civil Service Board.

H. For temporary employment without test, in the absence of an eligible list; but no such temporary employment shall continue after the establishment of a suitable eligibility list, not for more than ninety days.

I. For temporary employment for transitory work without tests, but such employment shall require the consent of the Civil Service Board in each case, and shall not continue for more than sixty days nor be renewed.

J. For promotion based on competitive tests and upon records of efficiency, character, conduct and seniority.

K. For transfer from a position to a similar position in the same class and grade.

L. For immediate reinstatement at the head of the eligibility list of persons who, without fault or delinquency on their part, are separated from the service or reduced in rank.

M. For suspension for purpose of discipline, for not longer than thirty days, and for leave of absence.

N. For discharge or reduction in grade and pay of any employee after he has been informed in writing, by the person in authority, of the reasons for such action. Copies of

the written reasons shall be submitted to the City Manager and the Civil Service Board for permanent filing and the employee has the right of a public hearing before the Civil Service Board.

O. For maintaining a record of the efficiency of each employee by establishing a service rating system.

Sec. 5. - Application register.

Upon announcement of examination or test, there shall be established an application register. Application shall be upon forms prescribed by the Department of Civil Service and must be received ten days prior to the date of examination.

Sec. 6. - Civil service tests.

Tests required by the Department of Civil Service shall be practical, shall relate to matters which fairly measure the relative fitness and merit of applicants to discharge the duties of the position which they seek, and shall take account of character, training and experience. No question in any test shall relate to political or religious opinions, affiliations or service, and no appointment, transfer, lay-off, promotion, reduction, suspension or removal shall be affected or influenced by such opinions, affiliations or service. At least ten days in advance, each applicant upon the appropriate lists of the application register shall be notified by registered mail of the date of examination.

Sec. 7. - Eligible lists; limitations.

The list of applicants eligible to appointment by reason of Civil Service tests, with their grades, shall be known as the register of eligibles. Names of such eligibles shall be arranged in their respective lists in the order of their standings on test. The name of no person shall remain on the register of eligibles for more than two years without a new application and, if the Civil Service rules so require, a new test.

Sec. 8. - Appointments.

When any position in the classified service is to be filled the appointing authority shall notify the Civil Service Board which shall promptly certify to such authority the name and address of the highest eligible on the list for the class or grade to which such position belongs.

Sec. 9. - Limitations on appointments and transfers.

No person shall be appointed or employed in the classified service of the City under any title not appropriate to the duties to be performed, and no person shall be transferred to, or be assigned to perform any duties of, a position subject to competitive test except with the approval of the Director of Civil Service and unless as a result of an open competitive test equivalent to that required for the position to be filled, or unless he shall have served with fidelity for at least two years immediately preceding in a similar position under the City Government.

Sec. 10. - Promotions.

Whenever practicable vacancies in the classified service shall be filled by promotion, and the Civil Service rules shall indicate the lines of promotion from each lower to higher grade wherever experience derived in the lower grade tends to qualify for the higher. Lists from which promotions are to be made shall be created as provided by the Civil Service rules, and the appointment of eligibles therefrom shall be made in the same manner as original appointments.

Sec. 11. - Present employees status.

Persons holding positions in the service of the City prior to adoption of this Civil Service Charter Amendment shall automatically retain their position and will be subject to the rules and regulations as set

forth for Civil Service employees. Employees of utilities taken over by the City would receive the same rights as persons appointed under Civil Service.

Sec. 12. - Public office and city employment.

No person elected to the Council shall, during the time for which elected, be appointed to any office or position in the service of the City. Any appointive officer or employee of the City who receives a salary or wages from the City and who shall become a candidate for nomination or election to any elective office of the City shall immediately forfeit the office or employment held under the City. No employee of the City shall be appointed to any Board or Commission of the City.

Sec. 13. - Present volunteer firemen.

(a) The names of all Volunteer Firemen recommended by the Chief and approved by the City Council prior to April 1, 1949, shall constitute a closed list and will be entitled to all benefits set forth in this section.

(b) All appointments to the Regular Department will be from the closed list until it is depleted or it is necessary to go beyond the list to make regular appointments.

(c) Appointment to Regular will be by seniority alone as submitted by the Volunteer Firemen on April 1, 1949. Refusal to accept regular appointment will in no way affect the order of seniority.

(d) Appointees from the closed list must not have reached their forty-fifth birthday and must pass a physical examination.

(e) Those who do not become Regulars because of age, physical requirements, or refusal may remain Volunteer Firemen with full rights and privileges.

Sec. 14. - Future volunteer firemen.

(a) Volunteer Firemen appointed after April 1, 1949, will not be eligible for the closed list and must conform to the following regulations:

(1) Be between the ages of twenty-one and twenty-five years.

(2) Pass a prescribed Civil Service Test.

(3) Serve one year of probation with appointment to the regular Volunteer Firemen on recommendation of the Fire Chief.

(b) After the closed list has been eliminated, an eligibility list will be created from the Volunteer Firemen who have completed the probational period in the manner prescribed in this act.

(Adopted 4-4-1949)

CHAPTER X. - STREETS AND SIDEWALKS, SEWERS, DRAINS AND WATER SUPPLY[10]

Footnotes:

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State Law reference— Permissible that charter provide for assessing costs of public improvements, MCL 117.4d.

Sec. 1. - Streets and sidewalks.

The Council shall have control of and maintain all streets, highways and alleys in the City and may improve the same by grading, graveling, curbing, paving, repaving, constructing sidewalks or otherwise, and 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. The expense of such improvement may be paid by special assessment upon the property adjacent to or benefited by such improvement, in the manner in this Charter 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 assessment as aforesaid, and the balance by the City.

Sec. 2. - Vacation of streets.

When the Council shall deem it advisable to vacate, discontinue or abolish any street, alley or public ground, or any part thereof, they may do so by an affirmative vote of at least three Councilmen, and in the same resolution they shall appoint a time, not less than four weeks thereafter, when they shall meet and hear objections thereto. Notice of such meeting, with a copy of said resolution, shall be published once, not less than two weeks before the time appointed for such meeting, in a newspaper published and circulated in the City.

Sec. 3. - Establishing of grade.

The Council shall have authority to determine and establish the grade of all streets, avenues, alleys, sidewalks, curbs and public grounds within the City, and may change or alter the grade of any street, sidewalk, curb, alley or public ground, or 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 or plans thereof shall be kept in the office of the Department of Public Works and Service.

Sec. 4. - Expenses of grades.

Whenever any street, alley, or public highway shall have been graded, or pavement, sidewalk or curb shall have been constructed, in conformity to grades established by authority of the City and the expenses thereof shall have been assessed upon lots or lands bounded by, or abutting upon such street, alley, sidewalk, curb 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, alley, sidewalk, curb or public highway, but the expense of all improvements occasioned by such change of grade shall be chargeable to and be paid by the City, provided that such original special assessment or any part thereof has not been cancelled.

Sec. 5. - Benefit by improvement.

Such part of the expense of improving or repairing any street, alley or lane, by grading, graveling, paving, repaving, curbing, constructing sidewalks or otherwise improving or repairing the same, as the Council shall determine, and keeping the same free from dust and nuisance, may be paid by the City, 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 said improvement, and such other lands, as in the opinion of the Council, may be benefited by the improvement.

Sec. 6. - Sidewalks.

The City shall build or cause to be built, maintain and control all sidewalks and crosswalks in the public streets and alleys of the City, and may prescribe the grade thereof, and change the same when deemed necessary, as herein provided.

Sec. 7. - Sewers and drains.

The Council may establish, construct and maintain a sewerage system, sewage disposal systems, sewers and drains whenever and wherever necessary, and of such dimensions and materials, and under such regulations as they may deem proper.

Sec. 8. - Special assessments.

Special assessments for the construction of sewers and drains shall be made in the manner provided in this Charter for making special assessments.

Sec. 9. - Regulation as to sewer connections.

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 Council shall prescribe.

Sec. 10. - Ditches.

Such part of the expense of providing ditches and drains and improving water courses as the Council shall determine may be defrayed by a special assessment upon the lands and premises benefited thereby.

Sec. 11. - Water system.

The City Council shall cause to be maintained an adequate water system for the furnishing of sufficient water supply and make all such ordinances, rules and regulations as are necessary for safe, economical, and efficient management of the same.

Sec. 12. - Extension of water.

The Council shall also provide for the improvement and extension of the water works and water system wherever and whenever necessary for the public health and welfare, and for adequate fire protection. Water may be installed by either general or special assessment at the Council's option. In the event of money advanced for water or the installation of water by special assessment, the special assessment district shall be refunded the amount of money advanced or of the assessments, if when and as a general water bond issue is passed.

Sec. 13. - Schedule of rates.

The Council shall, by ordinance, establish a uniform schedule of rates, make such rules and regulations for the use of water and the payment therefor as may be deemed expedient. Unpaid charges for the use of water upon any property within the City shall be a lien upon said property.

Sec. 14. - No free use of water.

No person, firm, corporation, or association shall be allowed free use of water, nor shall there be discrimination among water users of like classes, and rebates shall never be allowed, except as an inducement for prompt payment of water rates. Water taxes shall be payable to the City Treasurer but all funds of the Water Department shall be kept separate and not co-mingled with other City funds or accounts.

Sec. 15. - Water outside of city.

The Council may, by ordinance, provide for furnishing water to consumers outside of the City limits, provided, that the quantity of water so furnished shall not exceed one-quarter of the total consumption inside the corporate limits.

CHAPTER XI. - CONDEMNATION AND APPROPRIATION OF PROPERTY[11]

Footnotes:

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State Law reference— Authority to provide for condemnation, MCL 117.4e(2); uniform condemnation procedures act, MCL 213.51 et seq.

Sec. 1. - Private property taken.

Private property, whether within or without the City limits, may be purchased, condemned or appropriated for public use for the purpose of opening, widening, altering or extending streets, alleys and avenues; for the construction of bridges, viaducts, grade separation, public buildings, parks, parkways, markets, and market places, sewers, drains and water courses, public and detention hospitals, public cemeteries, sewage disposal; water supply, water mains, water works, and for the protection thereof; or any necessary lawful public use not specifically enumerated herein.

Sec. 2. - Property for public use.

If it shall become necessary to condemn or 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 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.

Sec. 3. - Improvement to be necessary.

Whenever the Council shall have decided a public improvement to be necessary, 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 the benefit of the municipality, they shall by resolution, direct the city attorney to institute the necessary proceedings in behalf of the municipality, before the proper court, to carry out the object of the resolution in regard to taking private property by the city for such public use.

Sec. 4. - Excess condemnation.

The City may condemn and take the fee to more land and property than is needed in the acquiring, opening and widening of boulevards, streets and alleys, or for any public use, and after so much of the land and property has been appropriated for any such needed public purpose, the remainder may be sold or leased with or without such restrictions as may be appropriate to the improvement made. Bonds may be issued to supply the funds to pay in whole or in part for the excess property so appropriated, but such bonds shall be a lien only on the property so acquired and they shall not be included in any limitation of the bonded indebtedness of this City.

CHAPTER XII. - DEPARTMENT OF FINANCE

Sec. 1. - Duties of director of finance.

The Director of Finance shall have charge of the administration of the financial affairs of the City, including the keeping and supervision of all accounts; the collection of taxes; the custody and disbursement of City funds and moneys; the collection of special assessments; the collection of license fees; the control over expenditures; and such other duties as the Council may by ordinance require.

Sec. 2. - Monthly statement by director of finance.

The Director of Finance shall prepare for submission to the Council not later than the tenth day of each month, a summary statement of revenues and expenses for the preceding month, detailed as to

appropriations and funds in such manner as to show the exact financial condition of the City and of each department and division thereof as of the last day of the previous month.

Sec. 3. - Division of the treasury.

There shall be in the Department of Finance a Division of Treasury, the head of which shall be Treasurer of the City. All moneys received by any officer or employee of the City for or in connection with the business of the City shall be paid promptly into the treasury and shall be deposited with responsible banking institutions designated by the City Council, and be in accordance with such regulations, and subject to such requirements as to security therefor and interest thereon as the Council may by resolution establish. All interest on money so deposited shall accrue to the benefit of the City.

Sec. 4. - Audit of accounts of officers.

As soon as practicable after the close of each fiscal year an independent audit shall be made of all accounts of all City officers by qualified public accountants selected by the Council and who have no personal interest direct or indirect in the financial affairs of the City or of any of its officers; but if such an audit is required to be made by State officers under the provisions of any law for the inspection and audit of municipal accounts the Council may accept such audit by State officers as fulfilling the requirements of this section for an independent annual audit. Upon the death, resignation or removal of any officer of the City the Director of Finance shall cause an audit and investigation of the accounts of such officer to be made and shall report to the Manager and the Council. Either the Council or the Manager may at any time provide for an examination or audit of the accounts of any officer or department of the City government. In case of the death, resignation or removal of the Director of Finance, the Council shall cause an audit to be made of his accounts. If, as a result of any such audit, an officer be found indebted to the City, the Director of Finance, or other person making such audit, shall immediately give notice thereof, to the Council, the Manager and the Director of Law and the latter shall forthwith proceed to collect such indebtedness.

Sec. 5. - Fiscal year.

The fiscal year of the City shall begin with the first day of February and shall end the next succeeding 31st day of January provided that on and after the year 1932, the fiscal year of the City shall begin with the first day of July and shall end with the next succeeding 30th day of June.

Sec. 6. - Annual budget.

On or before the 31st day of December of each year, the Manager shall prepare and submit to the Council a budget presenting a financial plan for conducting the affairs of the City for the ensuing fiscal year. The City Council may by ordinance change the date of submission of the annual budget. The budget shall include the following information:

(a) Detailed estimates of the expense of conducting each department and office of the City for the ensuing fiscal year; the classification of the estimates shall be as nearly uniform as possible for the main divisions of all departments;

(b) The expenditures for corresponding items for the current year and last preceding fiscal year with reasons for increases and decreases recommended as compared with appropriations for the current year;

(c) The value of supplies and materials on hand at the date of the preparation of the estimates;

(d) The amount of the total and net debt of the City together with a schedule of maturities of bond issues;

(e) A statement of the amounts to be appropriated:

For interest on the City debt;

For paying off any serial bonds maturing during the year;

For the aggregate for the year of the installments required to be appropriated annually during the life of all other bonds of the municipality in order to accumulate sinking funds sufficient to pay off such bonds at maturity;

(f) A statement indicating any deficiency in the sinking funds and the amount to be appropriated to replace such deficiency as a whole; or the amount of the annual installment thereof to be appropriated each year for a specified number of years in order that obligations based on the sinking funds shall be retired as they mature;

(g) An itemization of all anticipated income of the City from sources other than taxes and bond issues, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal years;

(h) An estimate of the amount of money to be raised from taxes and the amount to be raised from bond issues which, with income from other sources, will be necessary to meet the proposed expenditures;

(i) Such other information as the Manager may think desirable or as may be required by the Council.

The Council may provide for printing a reasonable number of copies of the budget thus prepared for distribution to citizens.

State Law reference— Uniform budgeting and accounting act, MCL 141.421 et seq.

Sec. 7. - Annual appropriation ordinance.

The City Manager shall submit to the Council at the time he submits the annual budget, the draft of an appropriation ordinance providing for the expenditures proposed for the ensuing fiscal year. Upon the submission of the proposed appropriation ordinance to the Council it shall be deemed to have been regularly introduced therein. The Council shall provide for public hearings on the budget and the proposed appropriation ordinance either before a committee of the Council or before the Council sitting as a committee of the whole. Following the public hearing the proposed appropriation ordinance may be changed or amended and shall take the same course in the Council as other ordinances but shall not be passed before the first meeting of the Council in February. Upon final passage the appropriation ordinance shall be published in the manner provided for the publication of other ordinances.

State Law reference— Mandatory that charter provide for an annual appropriation, MCL 117.3(h).

Sec. 8. - Preliminary appropriations.

After the beginning of the fiscal year and before the annual appropriation ordinance has been passed, the Council, upon the written recommendation of the City Manager, may make appropriations for current department expenses, chargeable to the appropriations of the year when passed, sufficient to cover the necessary expenses of the various departments until the annual appropriation ordinance is in force. The aggregate of any such preliminary appropriation shall not be more than one-fourth of the total of the appropriation proposed for the year in the draft of the annual appropriation ordinance submitted to the Council by the City Manager.

Sec. 9. - Annual tax levy.

Not later than the next meeting of the Council following the meeting at which the annual appropriation ordinance is passed the Manager shall report in writing to the Council the rate of tax levy required to produce an amount of income which, together with estimated income from other sources, will equal the appropriations made by the Council. Upon receipt of the report of the Manager the Council shall by ordinance levy taxes at the rate specified in such report unless, by amendment of the appropriation

ordinance reducing appropriations, the levy of a lower rate be made possible; but no such amendment shall reduce the appropriations made on account of City debt as recommended by the Manager in accordance with subdivision 5 and 6 of Section 6 of this chapter. If the Council determines by reduction of its appropriations to provide for a lower rate of tax levy the Manager shall, upon the passage of the amendment providing therefor, likewise report to the Council the rate of tax levy required under such amended appropriation ordinance.

State Law reference— Mandatory that charter provide for levying and collecting of taxes, tax limitation, MCL 117.3(g); local tax restrictions, Mich. Const. 1963, Art. IX, § 31; property tax limitation act, MCL 211.201 et seq.

Sec. 10. - Assessment of property.

All property subject to ad valorem taxation shall be valued at its fair market value, subject to review and equalization as provided by law or ordinance. In valuing improved real estate for taxation the market value of the land shall be valued, separately and improvements thereon shall be valued at the amount by which they increase the value of the land.

Sec. 11. - Tax maps.

The City Assessor shall install a system of tax maps and land value maps and shall record separately each parcel of land and the value of any building or other improvement thereon. The tax maps shall show the dimensions of each separately assessed parcel of land and the land value maps shall show the value per front foot, according to a standard unit of depth, of all land abutting on any street, public way or place within the City; but as to acreage tracts and land which does not so abut, the land value maps shall show the value per acre. All such maps and other records of the City Assessor shall be open to public inspection at all reasonable times.

Sec. 12. - Limit on tax rates.

No ordinance making the annual tax levy and fixing the general rate to be levied upon all property within the City at more than 1 1/24 percent on each dollar of the taxable valuation shall be passed except by the affirmative vote of at least three members of the Council, and any such tax levy shall not exceed 1½ percent unless the question of levying a higher rate for a specified year or years shall have been submitted to the electors of the City and approved by a majority of those voting thereon; but in no case shall such tax levy be more than 2 percent. The Council shall provide for an annual levy to be raised by taxes upon real and personal property for public safety purposes of 7/10 percent, subject to the 2 percent limitation contained herein for general fund public services. The tax limits provided by this section shall apply only to taxes levied for purposes other than to provide for paying the interest and principal of the City debt. Taxes required by this Charter to be levied on account of the debt of the City shall not be affected by such limits nor shall such taxes be considered in determining the limits of taxation fixed by this section.

(Res. No. 1779, § A, 5-6-2014)

Sec. 13. - Transfer of appropriations.

Upon the written recommendation of the City Manager the Council may at any time transfer any portion of an unencumbered balance of an appropriation to any other purpose or object.

Sec. 14. - Money to be drawn from treasury in accordance with appropriation.

No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation ordinance or of such ordinance when changed as authorized by the next preceding section of this Charter. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the fund from which appropriated and shall be subject to reappropriation; but appropriations may be made by the Council, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

Sec. 15. - Appropriation accounts.

Accounts shall be kept for each item of appropriation made by the Council. Each such account shall show in detail the appropriations made thereto, the amount drawn thereon, the unpaid obligations charged against it, and the unencumbered balance to the credit thereof.

Sec. 16. - Payment of claims against the city.

No claim against the City shall be paid except by means of a warrant on the treasury issued by the Manager. The Manager shall examine all payrolls, bills and other claims and demands against the City and shall issue no warrant for payment unless he finds that the claim is in proper form, correctly computed and duly approved; that it is legally due and payable; that an appropriation has been made therefor which has not been exhausted; and that there is money in the treasury to make payment. He may investigate a claim and for that purpose may summon before him any officer, agent or employee of the City, any claimant or other person, and examine him upon oath or affirmation relative thereto, and if he find a claim to be fraudulent, erroneous or otherwise invalid, he shall not issue a warrant therefor. If the Manager issues a warrant on the treasury authorizing payment of any claim in contravention of the provisions of this section he and his sureties shall be individually liable to the City for the amount of such warrant if paid.

Sec. 17. - Resources to meet obligations.

No contract, agreement or other obligation, involving the expenditure of money out of appropriations made by the Council, shall be entered into, nor shall any order for such expenditure be valid unless the Manager shall first certify that there is an unencumbered balance in the appropriation account, properly chargeable, sufficient to meet the obligation entailed by said contract, agreement, order or other document.

Sec. 18. - Borrowing of money in the city.

The City may borrow money for any municipal purpose by the issue and sale of bonds authorized by ordinance pledging the credit of the City or the property or revenues of any public utility owned by the City. Every ordinance authorizing a bond issue, except ordinances authorizing such bond issues as are specified in Section 19 of this chapter, shall be passed only after public notice of at least two weeks before final action of the Council thereon, and shall require for passage the affirmative votes of at least three-fifths of the members of the Council; but the Council, by majority vote may submit any such ordinance to the electors at a regular or special election, in which case it shall become effective if approved by sixty percent of the electors voting thereon. No bond shall be issued on the credit of the City which will increase the bonded indebtedness thereof beyond ten percent of the assessed valuation of property in the City subject to direct taxation as shown by the last preceding valuation for City taxes; but bonds issued for the construction, requisition extension or improvement of any income producing public utility owned by the City shall be deemed to increase the bonded debt of the City only to the extent that such utility is not self-sustaining. Every issue of bonds shall be payable within a term of years not to exceed the estimated period of usefulness of the property or improvement for which issued, and in no case to exceed thirty years. Any debt of the City outstanding at the beginning of the first fiscal year after the adoption of this Charter may be funded, or refunded, within such year, by the issuance of bonds for such period, or periods, so fixed that the entire time elapsing from the issue of the original bonds to the final maturity of the refunding bonds shall not exceed the time allowed by Act 273 of the 1925 Public Acts

of Michigan for the maturity of bonds used for the purpose of the original issue, as the Council may authorize, and thereafter the debt of the City, whether outstanding at the time of the adoption of this Charter or subsequently incurred, shall be paid as it becomes due without refunding.

Editor's note— Act 273 of 1925 cited above has been repealed. The current authority is under the revenue bond act of 1933 (MCL 141.101 et seq.).

State Law reference— Revised municipal finance act, MCL 141.2101 et seq., city authority to borrow money on the credit of the city and issue bonds therefor, MCL 117.4a(1); city authority to borrow money and issue bonds therefor in anticipation of the payment of special assessments, MCL 117.4a(2).

Sec. 19. - Money borrowed in anticipation of special assessments and of taxes.

Bonds or notes issued in anticipation of the collection of special assessments, and bonds, notes, or registered warrants on the Treasury, issued in anticipation of the collection of taxes, may be authorized by the Council by resolution and shall not be deemed the creation of debt within the meaning of Section 18 of this chapter. Bonds, notes or registered warrants on the Treasury issued in anticipation of the collection of the taxes of any fiscal year shall be issued only during such year and each such bond, note or warrant shall specify that it is payable solely out of the revenues of the fiscal year in which issued, and before the close of such year, shall not bear a higher rate of interest than six percent, and the total amount of such bonds, notes or warrants authorized and issued in any fiscal year shall not, in the aggregate, be more than fifty percent of the total appropriations of the City for such year.

State Law reference— City authority to borrow money and issue bonds therefor in anticipation of the payment of special assessments, MCL 117.4a(2).

Sec. 20. - Restrictions on loans and credits.

No money shall be borrowed by the City except as authorized by Sections 18 and 19 of this chapter. The credit of the City shall not be given or loaned to or in aid of any individual, association or corporations; except that suitable provisions may be made for the aid and support of the poor, and except that the City may, in the process of acquiring ownership in whole or in part of any public utility furnishing service to the City purchase capital stock or securities of such utility.

Sec. 21. - Debt commission.

There shall be a City Debt Commission consisting of the Mayor, the Director of Finance and the Director of Law. The Mayor shall be the President and the Director of Finance the Secretary of the Commission. Under such regulations as may be established by ordinance, and in conformity with any law of the State applicable to the City and providing for or fixing the duties of a City Debt or Sinking Fund Commission, it shall be the duty of the Debt Commission to have charge of the administration of any fund for the payment of the principal and interest of any bonds of the City, and to perform such other duties regarding the debt of the City as may be required by ordinance.

Sec. 22. - Continuing contracts.

No contracts involving the payment of money out of the appropriations shall be for more than three years, except waste removal, recycling services and public works contracts which may exceed three years but shall not exceed ten years and except public utility contracts which shall be made for a period of more than ten years; and no such contract shall be valid without public notice at least two weeks before final action of the Council thereon and the approval of not less than three members of the Council, unless

submitted to the electors of the City at a regular or special election and approved by a majority of those voting thereon.

(Res. No. 1698, 3-6-2012)

Sec. 23. - Alteration in contracts.

Whenever it becomes necessary in the opinion of the Manager to make alterations in any contract entered into by the City such alterations may be made when authorized by the Council. No such alteration shall be valid unless the new price to be paid for any supplies, material or work under the altered contract shall have been agreed upon in writing and signed by the contractor and the Manager prior to such authorization by the Council.

Sec. 24. - Continuing contracts.

No contracts involving the payment of money out of the appropriations shall be for more than three years, except public utility contracts shall be made for a period of more than ten years; and no such contract shall be valid without public notice at least two weeks before final action of the Council thereon and the approval of not less than three members of the Council, unless submitted to the electors of the City at a regular or special election and approved by a majority of those voting thereon.

(Res. No. 1578, § 1, 11-4-2008)

CHAPTER XIII. - CITY PLANNING AND ZONING[12]

Footnotes:

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State Law reference— Michigan zoning enabling act, MCL 125.3101 et seq.; Michigan planning enabling act, MCL 125.3801 et seq.

Sec. 1. - City planning commission.

The Council shall, by a majority of all of its members, appoint a City Planning Commission of seven citizens chosen because of their interest in and knowledge of City Planning. Of the members first appointed, one shall be appointed for a term of one year, two for a term of two years, and one for a term of three years, two for a term of four years, and one for a term of five years, from and after the first day of January following appointment. Their successors shall be appointed for a term of five years. If a vacancy occurs, otherwise than by expiration of term, it shall be filled by appointment of some suitable person to fill the place for the unexpired term. Any member of the Commission may be removed by the Council after a public hearing, and shall during his term receive no compensation.

(Amended 11-7-1950)

Sec. 2. - Organization and employees of commission.

The City Planning Commission shall choose one of its members as president, shall determine its own rules of procedure, and subject to the Civil Service provisions of this Charter, may appoint a secretary and employ such expert and clerical service as may be necessary with the consent of the Council. The Commission shall have power and authority to call upon any branch or department of the

City government, at any time, for information and advice needed by the Commission in the prosecution of its work.

Sec. 3. - Duties of the commission.

The Commission shall have authority, and it shall be its duty, to prepare and recommend plans for:

(a) The location, extension, widening, and planning of streets, boulevards, parks, playgrounds, and other public places;

(b) The laying out and platting of new subdivisions;

(c) A system or systems of transportation and the relief of traffic congestion;

(d) The districting and zoning of the City as to the uses to which property may be put, and regulating the height, area, and use of buildings;

(e) The improvement of the water front;

(f) The future physical development of the City; and

(g) Such State and municipal legislation as may be necessary to carry out such plans.

The Commission shall have full power and authority to make such investigations, maps, reports, and recommendations relating to the planning of the City as its deems desirable.

Sec. 4. - Recommendations of commission.

All acts of the Council or of any other branch of the City government affecting the City plan or involving the duties of the Commission shall be submitted to the Planning Commission for report and recommendation. The Council may at any time call upon the Commission for report and recommendation. The Commission may, of its own volition, submit to the Council its recommendation on any matter which in the opinion of either body, affects the plan of the City. Any matter referred by the Council to the Planning Commission shall be acted upon thereby within thirty days of the date of reference unless a longer or shorter period of time be specified. No action by the Council involving any of the matters hereinbefore set forth shall be legal or binding until it shall have been referred to the Commission and until its recommendations thereon shall have been presented to the Council, unless the Commission shall have failed to present its recommendations to the Council within the time specified.

Sec. 5. - Approval of plats.

The Council shall by ordinance provide regulations governing the platting of all lands so as to require all streets to be of proper width, grade and location and to be coterminous with adjoining streets, and otherwise to conform to the City plan. The City Engineer shall be the platting officer of the City. No plat subdividing lands within the corporate limits, or within two miles thereof, when so provided by State law, shall be entitled to be recorded in the recording office of the county without the written approval of the platting officer and the City Planning Commission. Any land outside the corporate limits of the City belonging to the City shall be deemed to be within such limits in so far as the application of the provisions of this article are concerned.

Sec. 6. - Official map.

The Council may by ordinance establish an official map or plan of the City showing the streets, highways, boulevards, parks, grounds, and other public places laid out or to be laid out, adopted and established by law, and such map or plan shall be deemed to be final and conclusive with respect to the location and width of streets, highways and boulevards, and the location of parks, playgrounds, and other public places shown thereon. A certified copy of the ordinance establishing such map or plan and of any ordinance making any change therein or addition thereto, shall be promptly filed by the City Clerk with the Register of Deeds of Macomb County.

Sec. 7. - Zoning; board of appeals.

The Council may be ordinance provide regulations and restrictions governing the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, and the location and use of buildings, structures, and land for trade, industry, residence and other purposes. Such regulations shall provide for a Board of Appeals to determine and vary their application in harmony with their general purpose and intent and in accordance with the general provisions of the ordinance.

State Law reference— Michigan zoning enabling act, MCL 125.3101 et seq.; zoning board of appeals, MCL 125.3601 et seq.

CHAPTER XIV. - TAXATION[13]

Footnotes:

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State Law reference— Mandatory that charter provide for levying and collecting of taxes, tax limitation, MCL 117.3(g); local tax restrictions, Mich. Const. 1963, Art. IX, § 31; property tax limitation act, MCL 211.201 et seq.

Sec. 1. - Board of review.

The Board of Review shall be composed of five freeholders of the City, who shall meet the same eligibility requirements required of the Mayor and Council, and who during their term of office shall not be City or School Board Officers or employees or be nominees or candidates for elective City or School Board office. The filing by a member of the Board of Review of his nomination petition for an elective City or School Board Office or the filing of a consent thereto, shall constitute a resignation from the Board of Review. The appointment of members of such Board shall be based upon their knowledge and experience in property valuation. The first appointments, two members term shall be three years, two members term shall be two years, and one member's term shall be one year, thereafter all terms shall be for three years. The City Council shall fix the compensation of the members of the Board. The Board of Review shall annually in February, select its own Chairman for the ensuing year, and the Assessor shall be Clerk of the Board and shall be entitled to be heard at its sessions, but shall have no vote.

(Amended 2-18-1957)

Editor's note— The composition of the board of review is now determined by Code § 40-20, adopted pursuant to MCL 211.28(2).

State Law reference— Mandatory that charter provide for a board of review, MCL 117.3(a).

Sec. 2. - Assessment roll.

The City Assessor shall on or before the first Monday in May of each year, make an assessment roll of all persons and property subject to taxation in the City, and in so doing, unless otherwise provided in this Charter, he shall conform to and be governed by the provisions of the General Laws of the State governing assessing officers performing like duties in the assessment of persons and property for State and County taxes.

Sec. 3. - Meetings of board of review.

The Board of Review shall meet for the purpose of reviewing said assessment roll, at the place of meeting of the City Council, on the first Monday in May of each year and on the Tuesday and Friday next succeeding, between the hours of 9:00 a.m. and 5:00 p.m., and between the hours of 7:00 p.m. and 8:00 p.m., of each day. It shall elect a Chairman and Clerk. A majority thereof shall constitute a quorum. The members of said Board shall take the constitutional oath of office which shall be filed with the City Clerk. For the purpose of reviewing and correcting such assessments the Board of Review shall have the same powers and perform like duties in all respects, as are by the General Tax Law conferred upon and required of the Board of Review in townships, in reviewing assessments in townships for State and County taxes. They shall hear the complaints of all persons considering themselves aggrieved by such assessment, and if it shall appear that any person has been wrongfully assessed, or omitted from the roll, the Board shall correct the roll in such manner as they shall deem just.

Editor's note— Meetings of the board of review are mandated in MCL 211.28 et seq.

State Law reference— Mandatory that charter provide for meeting of board of review, MCL 117.3(i); board of review meetings, MCL 211.30.

Sec. 4. - Record of proceedings.

The Clerk of said Board of Review shall keep a record of all proceedings of the Board and of all changes made in the roll, and shall file the same with the City Clerk, together with statements made by persons assessed.

Sec. 5. - Endorsement of roll.

Immediately after the review of the assessment roll as aforesaid the Chairman and Clerk of the Board of Review shall endorse the roll as provided in the General Tax Law. The omission of such endorsement shall not affect the validity of such roll. Upon the completion of said roll and its endorsement in the manner aforesaid, the same shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside except for such causes as are provided in the General Tax Laws of the State for the setting aside of assessment rolls for State, County and School purposes.

State Law reference— Completion of review of assessments prior to first Monday in April required, MCL 211.30a.

Sec. 6. - Assessment roll for state.

The assessment roll herein provided for shall be the assessment roll for State, County, School and City taxes and for any other taxes that may be authorized by law.

Sec. 7. - Taxes to be spread.

After the Board of Review shall have approved such assessment roll, the Assessor shall, within the proper time, spread thereon the amount of the State and County taxes, and also School taxes if raised at the same time as the State and County taxes, in the manner and form provided therefor by the General Tax Laws of the State, and such taxes shall become a debt and a lien, and be levied, collected, accounted for and returned, and the property assessed therefor sold, held, redeemed and conveyed, at the time and in the manner and form provided for by the General Tax Laws of the State. The Assessor shall prepare a copy of said assessment roll, with said taxes assessed as above provided, which roll shall be known as the "General Tax Roll," and shall annex thereto such warrant signed by him, as is provided for by the General Tax Laws of the State. Said General Tax Roll shall thereupon be delivered to the City Treasurer, who shall collect said taxes in the manner provided by the general laws of the State.

Sec. 8. - Proceedings.

In all proceedings in relation to the assessment, spreading and collection of taxes for School purposes, and in relation to the receipt and disbursement of all moneys belonging to the School District, the City Assessor, City Clerk, and City Treasurer shall have like powers and duties as are prescribed by the laws of this State for Supervisors of Townships, Township Clerks and Township Treasurers respectively.

Sec. 9. - Certification.

The City Clerk, after the Council has determined the several funds which they require to be raised by general tax for the several funds of the City, and the aggregate thereof, shall certify the same to the City Treasurer. When such general taxes shall be received by the Treasurer, they shall be apportioned to the several funds of the City pro rata according to the several amounts of said funds so certified.

Sec. 10. - General tax.

The City Clerk shall also certify to the City Assessor the total amount which the Council determines shall be raised by general tax; all amounts of special assessments which the Council requires to be reassessed upon any property or against any person; and all other amounts which the Council may determine shall be reassessed against any person or property.

Sec. 11. - City tax roll.

After the endorsement of the assessment roll by the Chairman and Clerk of the Board of Review, the Assessor shall prepare a copy thereof to be known as the City Tax Roll, and upon receiving the said certificate of the several amounts to be raised, as provided in the preceding section, the Assessor shall proceed to assess the several amounts determined by the Council to be reassessed against persons or property as determined by said Council; and shall also proceed to assess the amounts of the General City Tax according and in proportion to the several valuations set forth in said assessment roll. He shall set down in columns opposite to the several valuations of real and personal property on said tax roll the respective sums in dollars and cents, apportionable to each, placing general taxes in one column, special assessments in a second column, school taxes if raised at the same time as City taxes, in a third column, and the amounts of any other reassessments in a fourth column.

Sec. 12. - Tax collection warrant.

After extending the taxes as aforesaid the Assessor shall certify under his hand said Tax Roll, and the Mayor of the City shall annex his warrant thereto, directing and requiring the Treasurer to collect from the several persons named in said roll, the several sums mentioned therein opposite their respective names as a tax or assessment, and authorizing him, in case any person named therein shall neglect or refuse to pay such sums, to levy the same by distress and sale of his, her or their goods and chattels, together with the costs and charges of such distress and sale. Said warrant shall further direct as to when taxes shall be paid without additional charges. The payment of taxes specified in the Tax Roll may be made to the City Treasurer in two equal payments. The first period shall be from July first to September first, either in part or in full, without interest or penalty. If the first payment has been made on or before September first, the taxpayer shall be privileged to December first to make the second payment without additional cost. However, an addition of one percent (1%) of every unpaid tax shall be made from September first and each consecutive month until said taxes are paid or turned over to the Macomb County Treasurer.

Upon receipt of any taxes, the City Treasurer shall mark the same "Paid" upon the proper roll and issue a receipt in duplicate therefor, designating the part or parts paid. One copy to be given to the taxpayer, the other to be kept on file in his office.

Payment of one-half (½) a tax shall not in any manner nullify any of the Sections of this Charter. The persons liable for a tax under the provisions of this Charter on July first of each year, shall be liable for the full amount of the tax and such tax shall not be considered "Paid" until "Paid in Full". If said levied tax or part thereof remains unpaid by March first following or when the roll is prepared for the returns to the

County Treasurer, such returns shall include all additional charges hereinbefore provided, plus two percent (2%) penalty.

Said City Tax Rolls and Annex Warrant, together with a true copy thereof, shall be delivered by the City Assessor to the City Treasurer on or before the 15th day of June of the year when made.

Any section or part thereof contained in the City Charter contravening with this section, is hereby repealed.

(Amended 4-3-1933)

Sec. 13. - Delinquent taxes.

If the Treasurer has been unable to collect any of the taxes on said roll on real property before the 1st day of March following the date when said roll was received by him, then it shall be his duty to return all such unpaid taxes on real property to the County Treasurer in the same manner and with like effect as returns by Township Treasurers of State and County taxes. Such returns shall include all the additional charges hereinbefore provided, which charges shall in such return be added to the amount assessed in said roll against each description. The taxes thus returned shall be collected in the same manner as other taxes returned to such County Treasurer are collected under the provisions of the General Tax Laws of the State, and the same rate of interest and all charges shall be collected thereon, and all taxes upon lands so returned as delinquent shall be and remain a lien thereon until paid. The City when permitted by the State law shall have full authority to keep all delinquent taxes and have all authority to sell any and all taxes and lands for delinquent taxes under the same terms and conditions existing for the sale of delinquent taxes by County Treasurers.

State Law reference— Return of delinquent taxes, MCL 211.55 et seq.

Sec. 14. - Sale and redemption of land.

Moneys collected by the County Treasurer or received from the sale of lands for delinquent City taxes, shall be paid over to the City Treasurer. All of the provisions of the General Tax Laws relative to the sale and redemption of lands returned for delinquent taxes shall apply to the sale and redemption of lands returned for delinquent taxes assessed under the provisions of this Charter.

Sec. 15. - Distress.

In case any person shall neglect or refuse to pay any tax imposed upon any real or personal property belonging to him, as aforesaid, the City Treasurer may enforce the collection thereof by distress and sale or by suit in the name of the City, in the same manner and to the same extent as Township Treasurers may enforce the payment of State and County taxes.

Sec. 16. - Subjects of taxation.

The subjects of taxation for municipal purposes shall be the same as for State, County and School purposes under the General Laws of the State.

State Law reference— Mandatory that charter provide that subjects of taxation for municipal purposes shall be the same as for state, county and school purposes under general law, MCL 117.3(f); property subject to taxation, MCL 211.1 et seq.

Sec. 17. - Taxes a lien.

The City taxes when 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 July of the year when assessed become a lien upon such real property, and the lien for such amounts and for all interest and charges shall continue until payment thereof. And all personal taxes shall also be a lien on all personal property of such persons so assessed, from and after the first day of July in each year, and shall take precedence of any sale, assignment or chattel mortgage, levy or other lien on such personal property, executed or made after said first day of July, except where such property is actually sold in the regular course of trade.

Sec. 18. - Taxes payable July 1.

City taxes shall be due on the first day of July of the year when levied and shall be payable as stated in the warrant of the Mayor annexed to said roll.

Sec. 19. - Certificate of taxes.

It shall be the duty of the City Treasurer, upon request made by any party, to issue his certificate showing all unpaid taxes, special assessments, and other charges which are a lien upon any specified property, and which are payable at his office, and he may upon being authorized by the City Council charge the party requesting the same the sum of twenty-five cents ($.25) for each parcel, which fee shall be paid into the City Treasury and credited to the General Fund. The issuance of such certificate shall not create any liability upon the part of the City or City Treasurer except that in event of fraud on the part of the City Treasurer in the issuance thereof he shall be liable therefor.

Editor's note— The amount charged is obsolete.

Sec. 20. - Right to refund.

The Council shall have the power, when it shall appear that any tax or special assessment is unjust or has been illegally assessed to refund the same or such unjust portion, if collected or if not collected, to vacate the tax or assessment in whole or in part. No such action on the part of the Council shall in any way affect or invalidate any other tax or assessment levied or collected in said City. In event of the refund or vacation of a tax or special assessment illegally assessed, the Council shall have power to order the same or any portion thereof to be reassessed if a valid assessment might have been made in the first instance.

Sec. 21. - Apportionment of tax.

Any person owning an undivided share or other part or parcel of real property, assessed in one description, may pay on the part thus owned by paying an amount having the same relation to the whole tax as the part on which payment is made has to the whole parcel. The person making such payment shall accurately describe the part or share on which he makes payment and the receipt given and the record of the receiving officers shall show such description and by whom paid; and in case of the sale of the remaining part or share, for non-payment of taxes, he may purchase the same in like manner as any disinterested person could. The provisions shall include all taxes that may be assessed against real property, including special assessments.

Sec. 22. - Fees on taxes.

The fees and penalties for the collection of all taxes provided for by this Charter, or the general laws of the State, shall belong to the City and shall be paid by said Treasurer into the City Treasury.

CHAPTER XV. - BONDS[14]

Footnotes:

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State Law reference— Revenue bond act of 1933, MCL 141.101 et seq.; revised municipal finance act, MCL 141.210 et seq.; city authority to borrow money on the credit of the city and issue bonds therefor, MCL 117.4a(1); city authority to borrow money and issue bonds therefor in anticipation of the payment of special assessments, MCL 117.4a(2).

Sec. 1. - Council may borrow.

The City Council may borrow on the faith and credit of the City such sum or sums of money as it may deem expedient and issue the bonds of the City therefor, for any purpose within the scope of its powers; provided that at no time the bonded indebtedness of the City exceed ten percent of the assessed valuation of all real and personal property in the City.

Sec. 2. - Bonding limitation.

School bonds, emergency bonds as hereinafter defined, bonds issued to cover costs of public improvements in connection with which a special assessment district is made to pay therefor and which are a charge upon such district, bonds issued to cover the cost of acquiring, constructing, improving, or operating public utilities which are a lien or mortgage on the utility or payable from the income of such utility and which are not a general obligation of the City, shall not be included in computing the bonded indebtedness of the City for the purpose of determining the limitation thereon, and also for such purpose the resources of the Sinking Fund shall be deducted from the bonded indebtedness.

State Law reference— Limitation of net bonded indebtedness incurred for all public purposes, MCL 117.4a(2).

Sec. 3. - Three-fifths vote.

No bonds except special assessment bonds, funding bonds, refunding bonds, emergency bonds as authorized in this Charter, and bonds to pay judgments and decrees as authorized by State Law, shall be issued until the issuance thereof has been approved by three-fifths of the electors of the City voting thereon at a general or special election. The approval of the electors shall not be required for the issuance of notes or certificates of indebtedness for loans made in anticipation of the collection of taxes as in this Charter provided.

Sec. 4. - Sinking fund.

No bonds except serial bonds, shall be issued without providing a Sinking Fund from which to pay them at maturity. Such Sinking Fund shall conform to all requirements of the State Laws.

Sec. 5. - Form of bond.

Every bond issued by the City shall contain on its face a statement specifying the object for which the same is issued, and it shall be unlawful for any officer of the City to sign or issue any such bond unless such statement is set forth on the face of the same, 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. Any such officer who shall violate any of the provisions of this section shall be deemed guilty of a felony.

Sec. 6. - Relief bonds.

In case of fire, flood or other calamity the Council may borrow for the relief of the inhabitants of the City and for the preservation of municipal property a sum not to exceed one-fourth of one percentum of

the assessed valuation of all real and personal property in the City, due in not more than three years, even if such loan would cause the indebtedness of the City to exceed the limit fixed in this Charter.

Sec. 7. - Bonds to pay judgments.

Bonds may be issued to pay the judgment or decree of any court against the City, as provided by State Law.

Sec. 8. - Refunding bonds.

Funding and refunding bonds may be issued in accordance with the provisions of the statutes of the State when authorized by the Council.

Sec. 9. - Serial bonds.

Bonds of the City may be either term or serial bonds and shall conform to all of the provisions of the State Statutes. They shall be signed by the Mayor and attested by the Clerk under the seal of the City. The coupons evidencing the interest upon said bonds may be executed with the facsimile signature of said Mayor and Clerk. A complete and detailed record of all bonds shall be kept by the Clerk.

Sec. 10. - Interest and installments.

It shall be the duty of the Council to include in the amount of taxes levied each year an amount sufficient to pay the annual interest on all loans, any installments of the principal thereof falling due before the time of the following tax collection and all payments required to be made to the Sinking Fund.

Sec. 11. - Loan of money.

The Council shall have authority to raise money by loan, in anticipation of the receipts from special assessments, for the purpose of defraying the costs of the improvements for which the assessment was levied. Bonds or notes may be issued for such loans which shall not exceed the amount of the assessment for the completion of the whole work, nor shall such loan be made until after the special assessment roll shall have been confirmed, and the Council is authorized in the issuance of such bonds to pledge the full faith and credit of the City for the prompt payment of such bonds, both principal and interest, and that if there be any deficiency in the Special Assessment Fund to meet the payment of such bonds, funds shall be advanced from the General Fund of the City to meet such deficiency, and shall be replaced when such Special Assessment Funds shall have been collected.

Sec. 12. - Sinking fund commission.

There is hereby created a Sinking Fund Commission which shall consist of the Manager, Clerk and Treasurer, provided that if the offices of Manager and Clerk are held by the same person, then said Sinking Fund Commission shall consist of the Manager, Treasurer and Assessor. Said Sinking Fund Commission shall investigate and recommend to the City Council investments for the moneys in the Sinking Fund and the disposal of such securities as they may deem expedient. The City Treasurer shall have the custody of all securities and moneys held in the Sinking Fund. Investments shall be made in only such securities as are approved by the laws of the State.

Sec. 13. - Public utility bonds.

The City may for the purpose of acquiring, owning, purchasing, constructing or operating any public utility within the scope of its powers, issue mortgage bonds therefor beyond the general limits of bonded indebtedness prescribed by law; provided that such mortgage bonds issued beyond the general limits of bonded indebtedness prescribed by law shall not impose any liability upon the City, but shall be secured only upon the property and revenues of such public utility, including the franchise if any, stating the terms upon which in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend over a longer period than twenty (20) years from the date of the sale of such utility and franchise on foreclosure; and provided further that said mortgage bonds shall be sold for not less than par, bear

interest at a rate not in excess of six per centum per annum, and the total amount of such mortgage bonds shall not exceed sixty percent of the original cost of the utility; and provided further that there shall be created a sinking fund for the payment of such mortgage bonds at maturity by setting aside such percentage of the gross or net earnings of such utility as may be deemed sufficient for such payment.

CHAPTER XVI. - SPECIAL ASSESSMENTS[15]

Footnotes:

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State Law reference— Notices and hearings, MCL 211.741 et seq.; deferment of special assessment for homesteads, MCL 211.761 et seq.

Sec. 1. - Board of special assessors.

There shall be a Board of Special Assessors consisting of the City Assessor, City Treasurer and City Manager, whose duty it shall be to make special assessments authorized by this Charter. All the clerical work of such board shall be performed by the Assessor. No compensation in addition to their regular salaries shall be paid to the members of said Board of Special Assessors for the services performed on said board.

Sec. 2. - Special benefits.

The Council shall have power to provide for the payment of all or any part of the cost of a public improvement by the levying and collecting of special assessments upon property specially benefited. The cost of surveys and plans for a public improvement and all expenses incident to the proceedings for the making of such improvement and the special assessment therefor, shall be deemed to be a part of the cost therefor. The term "public improvement" as herein used shall include the repair and reconstruction of any structure or work as well as the original construction thereof. Provided, however, that where the cost of any pavement shall have been paid for in whole or in part by special assessment, then the cost of repairing such pavement and of reconstructing the same to the width of the original pavement, shall be borne by the City at large.

Sec. 3. - Resolution of council.

When the Council shall determine to make any public improvement and defray the whole or any part of the cost thereof, by special assessment, they shall so declare by resolution, stating the nature of the improvement and what part or proportion of the cost thereof shall be paid by special assessment, and what part, if any, shall be paid from the general funds of the City, and shall designate the district or lands and premises upon which the special assessment shall be levied.

Sec. 4. - Estimates of cost.

Before ordering any public improvement, any part of the cost of which is to be defrayed by special assessment, the Council shall cause estimates of the cost thereof to be made, and also plans, when practicable, of the work and of the locality to be improved, and deposit the same with the Clerk for public examination; and they shall give notice thereof and of the proposed improvement and of the district to be assessed, and of the time and place when the Council will meet and consider any objections thereto, by publication twice prior to such meeting in a newspaper circulating in the City, the first publication to be at least one week prior to such meeting.

Sec. 5. - Designation of district.

When any special assessment is to be made upon the lands and premises in any special assessment district, according to frontage or benefits, the Council shall, by resolution, direct the same to be made by the Board of Special Assessors and shall state therein the amount to be assessed and whether according to frontage or benefit; and describe or designate an assessment district comprising the lands and premises to be assessed.

Sec. 6. - Special assessment roll.

Upon receiving such orders and direction, the Board of Special Assessors shall make out an assessment roll, entering and describing therein all the lots and parcels of land to be assessed, with the names of the respective owners thereof, and shall levy thereon and against such property the amount to be assessed, in the manner directed by the Council and the provisions of this Charter applicable to the assessment. In all cases where the ownership of any description is unknown to the Board of Special Assessors, they shall, in lieu of the name of the owner, insert the word "Unknown" and if by mistake or otherwise, any person shall be improperly designated as the owner of any lot or parcel of land, or if the same shall be assessed without the name of the owner, or with the name of a person other than the owner, such assessment shall not for such causes be vitiated, but shall, in all respects, be as valid upon and against such lot or parcel of land as though assessed in the name of the proper owner. When the assessment shall have been confirmed, it shall be a lien on each such lot or parcel of land and shall be collected as in this Charter provided.

Sec. 7. - Assessment by benefits.

If the assessment is required to be according to frontage, the Board of Special Assessors shall assess to each lot or parcel of land such relative portion of the whole amount to be levied, as the length of the frontage of such premises bears to the whole frontage of all lots and parcels of land to be assessed unless on account of the shape or size of any lot or parcel of land 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 or parcel of land, such relative portion of the whole sum to be levied as shall be proportionate to the estimated benefit resulting to such lot or parcel of land from the improvement. The word frontage as used in this chapter shall be construed to mean that part of a lot or parcel of land which directly abuts upon the street or alley, improved or to be improved, or in which the improvement is located or is to be located.

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Sec. 8. - Report to council.

When the Board of Special Assessors shall have completed the assessment roll, they shall report the same to the Council; such report shall be signed by a majority of the Board of Special Assessors, and may be in the form of a certificate, endorsed on the assessment roll, as follows:

"State of Michigan,
City of Eastpointe, ss.
To the Council of the City of Eastpointe:
We hereby certify and report that the foregoing is a 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 the cost (or that part of the cost which the Council decided should be borne and paid by special assessment) for the (insert here object of the assessment); that in making such assessment we have, as near as may be, according to our best judgment, conformed in all things to the direction contained in

the resolution of the Council hereinbefore referred to, and the Charter of the City relating to such assessment.			
Dated _____			
		_____ Board of Special Assessors."	

_____

Sec. 9. - Expense by special benefits.

When any expense shall be incurred by the City upon or in respect to any separate or single lot or parcel of land which, by the provisions of this Charter, the Council is authorized to charge and collect as a special assessment against the same, and not being that class of special assessments required to be made pro rata upon several lots or parcels of land in a special assessment district, an account of the labor, material or services for which such expense was incurred, verified by the Manager, with a description of the premises upon or in respect to which the expense was incurred, and the name of the owner, or person chargeable therewith, if known, shall be reported to the Council in such manner as they shall prescribe. The provisions of the preceding sections of this chapter with reference to special assessment generally, and the proceedings necessary to be had before making the improvements, shall not apply to assessments to cover the expense incurred in respect to that class of improvements contemplated in this section.

Sec. 10. - Council to determine charges.

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 parcels of land, and the persons chargeable therewith, respectively, to be reported by the Clerk to the Board of Special Assessors for assessment.

Sec. 11. - Special assessment roll.

Upon receiving the report mentioned in the preceding section, the Board of Special 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 parcels of land respectively, together with an overhead charge not exceeding ten per centum, and when completed they shall report the assessment to the Council and thereupon the same proceedings shall be had and with like effect as is provided in this chapter for special assessments in other cases, except that the Council may require that the same be paid in one or any other number of installments not to exceed the longest period provided by Section 16 of this chapter; provided that notice of the filing of the special assessment roll in such cases and of the reviewing of the same, may be given by sending such notice by first-class mail to the persons named in such roll at their last known addresses, respectively, instead of giving such notice by publication. If such notice is given by publication, the Council may order the cost thereof to be added to the roll and distributed pro rata according to the amounts of the several assessments therein.

(Res. No. 1814, § A, 4-19-2016)

_____

Sec. 12. - Roll to be filed.

When any special assessment roll shall be reported by the Board of Special Assessors to the Council, as in this Charter directed, the same shall be filed in the office of the Clerk and numbered consecutively. Before confirming such assessment roll, the Council shall appoint a time when the Council and Board of Special Assessors will meet and review such assessment and shall cause a notice of such hearing and of the filing of such assessment roll, to be published twice prior to such hearing, in a newspaper circulating in the City, the first publication to be at least one week before such hearing. Any person objecting to the assessment may file his objections thereto in writing with the Clerk. The notice provided for in this section may be in the following form:

"Notice of Special Assessment"

Notice is hereby given that the Special Assessment Roll heretofore made by the Board of Special Assessors for the purpose of defraying the cost (or 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 the Board of Special Assessors of the City of Eastpointe will meet at _____ in said City on _____, the ___ day of _____ 19___, at _____ o'clock, ___ to review said assessment at which time and place opportunity will be given to all persons interested to be heard.

Dated _____		
	_____ City Clerk	

_____

Sec. 13. - Meeting of board of special assessors.

At the time and place appointed for the purpose as aforesaid, the Council and Board of Special Assessors shall meet and then and there, or at some adjourned meeting, review the assessment roll, and shall hear any objections to any assessment roll which may be made by any person deeming himself aggrieved thereby, and the Council may correct said roll as to any assessment, description or premises, or other matter appearing therein, and may confirm it as reported or as connected, or they may refer the assessment roll back to the Board of Special Assessors for revision, or they may annual it and direct a new assessment, in which case the same proceedings shall be held as in respect to the previous assessment. When a special assessment shall be confirmed, the Clerk shall make an endorsement upon the roll showing the date of the confirmation.

State Law reference— Notice of hearings, MCL 211.741 et seq.

Sec. 14. - Confirmation of roll.

When any assessment roll shall be confirmed by the Council, it shall be final and conclusive.

Sec. 15. - Lien of assessment.

All special assessments, including deferred payments, shall from the date of confirmation thereof, constitute a lien upon the respective lots or parcels of land assessed, and until paid shall be a charge against the respective owners of the several lots and parcels of land assessed.

Sec. 16. - Installments and interest.

Special assessments to defray in whole or in part the cost of installing or constructing any public improvement for which a special assessment has been levied shall be payable in not more than ten (10) approximately equal annual installments, as the City Council shall determine, except that where special assessment is levied to defray in whole or in part the cost of constructing a pavement such special assessment roll may be divided into not more than fifteen (15) approximately equal annual installments, and where the assessment roll is levied to defray in whole or in part the cost of constructing any sewer or drain the assessment roll may be divided into not more than thirty (30) approximately equal annual installments provided that no assessment roll shall be divided into more than ten (10) approximately equal annual installments unless a petition shall be filed with the City Council, prior to confirmation of the special assessment roll, signed by persons who shall be required to pay at least 10 per centum of the amount assessed to private property on such roll, requesting the division of the special assessment roll in such greater number of parts, and provided further, that no assessment roll shall be divided into such number of installments as shall mature in a period in excess of the period of usefulness of the improvement, as shall be determined by the City Council. The first installment of any special assessment shall be due and paid within sixty (60) days after the date of the sale of the bonds issued to finance the cost of such special assessment where such bonds are sold, and in all other cases within sixty (60) days after the date of the confirmation of the special assessment roll, and one installment shall be due and payable one year thereafter upon the same day of the year as that upon which the roll was confirmed, or upon which the bonds were sold, together with annual interest upon all unpaid installments, as shall be fixed by the City Council, at a rate not exceeding six (6) per centum per annum, provided that no interest shall be charged until sixty (60) days after the first installment shall become due, as above provided. The whole assessment chargeable against any lot or parcel of land may be paid to the City Treasurer at any time in full with accrued interest and penalties thereon. If any special assessment or any installment of any special assessment is not paid when due, then such assessment or installment shall be deemed to be delinquent, and there shall be collected, thereon, in addition to the interest, a penalty at the rate of one-half (½) of one (1) percent for each month or fraction thereof, that the same remains unpaid, before being reported to the City Council for the purpose of being reassessed upon the City Tax Roll.

Sec. 17. - Council may re-assess.

In all cases of special assessments of any kind against any property where any such assessments have failed to be valid in whole or in part, the Council shall be and they are hereby authorized to cause to be reassessed such special taxes or assessments, and to enforce their collection; and it is further provided that whenever for any cause, mistake, or inadvertence, the amount assessed shall not be sufficient to pay that portion of the cost of the improvement which the Council has determined should be assessed against the property or the owners of property in the local assessment district, that it shall be lawful, and the Council is hereby directed and authorized to cause to be made a reassessment upon all the property in such local assessment district to pay for such improvement and to continue requiring such reassessment until a valid and sufficient assessment shall have been made.

Sec. 18. - Equitable lien.

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

Sec. 19. - Special assessment roll.

When any special assessment shall be confirmed, the Council shall direct the assessment so made in the special assessment roll to be collected. The City Clerk shall thereupon deliver to the City Treasurer said special assessment roll to which he shall attach his warrant 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, or any part thereof, upon demand, after the same has become due, then to levy and collect the same by distress and sale of the goods and chattels of such person. Said warrant shall require the City Treasurer, on the first day of May following the date when such assessment, or any part thereof, has become delinquent, to submit to the Council a sworn statement of all assessments or parts thereof in said roll which have become delinquent and are unpaid, which shall include a list of persons delinquent, if known, a description of the lots and parcels of land upon which the assessments remain unpaid, and the amount unpaid on each inclusive of accrued interest and penalty.

Sec. 20. - Sale at public auction.

Upon receiving said special assessment roll and warrant the Treasurer shall proceed to collect the amount 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 of Michigan, 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 notice in three 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, the costs and expenses of seizure and sale, and the surplus, if any, shall be paid to the person entitled thereto.

Sec. 21. - Delinquent assessments.

In case any assessment, or any part thereof shall remain unpaid on the first of May following the date when the same became delinquent, shall be reported unpaid by the Treasurer to the Council as aforesaid, the same shall be transferred and reassessed upon the next State and County Roll in a column headed "Special Assessment" and when so transferred and reassessed upon said tax roll, shall be collected and paid in all respects as provided for the collection of City Taxes.

In case any such reassessment shall remain unpaid by the following March first, the same, with all accrued interest and penalty shall be returned to the Macomb County Treasurer with an additional five percent (5%) penalty.

(Amended 11-4-1930)

Sec. 22. - 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 counts 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 of the whole amount due, and of the right of the City to recover judgment therefor.

Sec. 23. - Irregularities in assessments.

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

Sec. 24. - Snow and ice assessments.

If the owner or occupant of any lot or premises shall fail to remove the snow, ice, or filth from the sidewalk upon which such property abuts, or to remove and keep the same from obstruction, encroachments, encumbrances or other nuisances, or fail to perform any other duty required by the City in respect to such sidewalks or the premises within such time and in such manner as the City shall require, the City may cause the same to be done, and the expenses or such part thereof as the City shall have determined, together with a penalty of ten percentum may be charged and collected as a special assessment against such property, as in this Charter provided.

Sec. 25. - Surplus.

Moneys raised by special assessment to pay for the cost of any local improvement shall be held as a special fund to pay such cost or to repay money borrowed therefor. If there shall be a surplus in such fund, such surplus shall be refunded pro rata as soon as such surplus shall have been ascertained, and such refund shall be made by crediting to the first installments of the special assessment falling due to the extent that the various parcels assessed in the assessment roll are entitled to such refund.

Sec. 26. - Division of improvements.

The City Council may divide any improvement into parts or sections and provide for separate construction of such parts or sections and may establish a separate special assessment district for each part or section and may issue bonds against such separate district.

Sec. 27. - Advertise for bids.

No improvement, any part of the cost of which is to be assessed to a special assessment district, shall be made until the Council has first advertised for proposals for making such improvement, and received and opened the same. The Council may reject any and all of such proposals and may in their discretion make such improvement by the proper officers and agents of the City, provided that the City shall make such improvement at a cost not in excess of the bid of the lowest responsible bidder.

Sec. 28. - Division of lots, assessments.

Should any lot or parcel of land be divided after a special assessment thereon has been confirmed and before the collection of all the installments, the Council may require the Board of Special Assessors to apportion the uncollected amounts upon the several parts of such lot and parcel of land so divided. The report of such apportionment, when confirmed, shall be conclusive upon all the parties and all assessments thereafter made upon such lots shall be according to such division.

Sec. 29. - City's portion.

Whenever any improvement is to be paid for in part by a special assessment district and in part by the City at large, the Council may provide for the payment of the City's portion in installments in the same manner as assessments against private property, and may issue bonds against the unpaid portion thereof in the same manner as is provided in this Charter for the issuance of bonds against the unpaid portion of assessments against private property. Bonds against the City's portion of the cost of any such improvement shall be a general liability of the City.

Sec. 30. - Revision of assessment roll.

Where a special assessment has been heretofore levied to pay for the cost of installing any local improvement, and the number of installments into which such special assessment has been levied is less in number than the maximum number of installments into which a special assessment roll may be divided in accordance with the provisions of this Charter, the City Council may, upon petition of property owners chargeable with such special assessment to a number not less than ten percentum of assessable property in such special assessment district, revise such special assessment roll in a manner so as to increase the number of installments into which such special assessment roll shall be divided, providing that such revised roll shall not be divided into more installments than the maximum permitted under the

provisions of this Charter for the particular type of improvement for which the assessment was originally levied, and provided that the revised assessment roll shall not exceed in total the original assessment roll except that any additional cost incurred by reason of refinancing may be added to the revised special assessment roll and made a part of the cost of the improvement assessable to the property benefited.

Sec. 31. - Refunding bonds.

If the City Council shall undertake, as hereinbefore set forth, to revise any special assessment roll heretofore confirmed, by increasing the number of installments into which such special assessment roll shall have been divided, the City Council may issue refunding special assessment bonds in an amount not to exceed the revised special assessment roll, and may apportion the bonds against the amount of the several installments of the revised special assessment roll as the Council may determine, and such bonds shall severally be payable in two years or less from the time fixed for collection of the several installments of the revised special assessment roll as shall be determined by the City Council and the proceeds from the issuance of such refunding special assessment bonds shall be used for the sole purpose of refunding and payment of special assessment bonds heretofore issued to finance the cost of the improvement for which the original assessment roll was created, and such refunding special assessment bonds may be issued upon proper resolution by the City Council after determination to revise any such special assessment roll and after hearing and confirmation of such revised special assessment roll, in accordance with the proceedings of this Charter in relation to confirmation of special assessment rolls in general. Such bonds shall bear interest at a rate not exceeding six (6) percent per annum, and shall be primarily payable out of collection of the special assessment in anticipation of the collection of which such bonds are issued, and in the issuance thereof the City Council shall pledge the full faith and credit of the City for the prompt payment of such bonds, both principal and interest, and in the event of any deficiency in any special assessment fund, thereupon payment of such bonds, both principal and interest, shall be provided out of the general funds of the City, to be reimbursed upon collection of such special assessment.

Sec. 32. - Exchange of bonds.

Whenever the City Council shall determine to revise any special assessment roll, as hereinbefore set forth, it may, upon issuance of the refunding bonds, proceed to exchange and take up and cancel the outstanding special assessment bonds heretofore issued, and for the refinancing of which such refunding bonds have been issued, provided that the exchange thereof shall be upon a basis of the par value of the outstanding special assessment bonds, together with accrued interest, and if it shall be impossible to make such exchange, the City Council may proceed to sell such refunding special assessment bonds and use the proceeds thereof for the payment of the special assessment bonds heretofore issued, and to refinance which the refunding bonds have been issued, and for no other purpose.

Sec. 33. - Credit for payments.

Whenever any special assessment roll shall be revised, as herebefore set forth, and any person shall have paid any or all of the installments of the original special assessment roll, such person shall be entitled to credit upon the revised special assessment roll to the extent of payments so made, and it shall be the duty of the City Treasurer to credit such payments so made upon the revised special assessment roll upon delivery to him thereof.

Sec. 34. - Form of bonds.

The form of such refunding special assessment bonds shall be such as shall be approved by the City Council, and shall be executed in the same manner in which special assessment bonds, as provided in this Charter are executed.

Sec. 35. - Excess of assessment.

If it shall appear that the amount of the special assessment roll to be revised exceeds the actual cost of the improvement for which the special assessment has been levied, in that event the revised special

assessment roll shall be spread in a manner based upon the actual cost of the improvement, together with such necessary refinancing charges as shall be incurred, and the surplus existing in the special assessment fund shall be transferred to the revised special assessment fund for the purpose of liquidating the existing special assessment bonds issued for the financing of the improvement and for which the refunding special assessment bonds have been issued.

Sec. 36. - Limitation on bonds.

In no event shall more bonds be sold than absolutely necessary to pay for the improvement and the necessary overhead.

CHAPTER XVII. - JUSTICE COURTS[16]

Footnotes:

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Editor's note— The city no longer has justices of the peace or constables.

Sec. 1. - Number of justices.

There shall be two Justices of the Peace for the City of Eastpointe. Said Justices of the Peace shall have all the qualifications of township Justices of the Peace, and shall be at least twenty-five years of age at the time of their election. At the election at which this Charter is submitted there shall be elected two Justices of the Peace who shall hold office until the regular Municipal Election in 1930. At the regular Municipal Election, 1930, there shall be elected two Justices of the Peace whose terms of office shall begin upon their election and qualification and shall end on the first day of July, 1934. At the regular Municipal Election of 1934 and every four years thereafter, there shall be elected two Justices of the Peace whose terms shall begin on the first day of July following their election and who shall hold office for four years.

Sec. 2. - Qualification.

Except as otherwise provided in this Charter or by law of the State, provisions of the general laws applying to the election and qualification of justices of the peace in townships shall apply to the election and qualification of Justices of the Peace of this City.

Sec. 3. - Jurisdiction.

Except as otherwise provided in this Charter or by law of the State, said Justices of the Peace shall have and exercise 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 under the general laws of the State; provided, however, that in all civil matters, causes, suits, and proceeding, ex contractu and ex delicto, said Justices of the Peace shall have concurrent jurisdiction to the amount of five hundred dollars ($500.00) with such exceptions and restrictions as are or may be provided by law.

Sec. 4. - New trials.

The Justice of the Peace before whom any civil cause shall have been tried, shall upon legal cause shown therefor have the same power and authority as the circuit courts of the State possess to set aside the verdict or judgment and grant a new trial therein whenever a motion in writing is made and filed with such Justice within five days after the rendition of the verdict or judgment in said case, which said motion shall briefly and plainly set forth the reasons and grounds upon which it is made and shall be supported by an affidavit or affidavits setting forth the facts relied upon and filed at the time of filing said motion, and

a notice of the hearing of such motion with a copy of the motion and affidavits filed as aforesaid, shall be served upon the adverse party or his attorney at least two days before the hearing thereof. Such motion shall be determined within two days after the same shall have been heard and submitted, and such motion shall be submitted and heard within one week after the same shall have been filed. The time for taking an appeal from judgment in case such motion be not granted, shall begin to run from the time when such motion shall be overruled. In no case shall the pendency of such motion stay the issuing and levy of an execution in such case, but in case of a levy under execution pending such motion, no sale of the property so levied on shall be advertised or made until the final determination of such motion.

Sec. 5. - Fines, etc.

Said Justices of the Peace shall also have authority and it shall be their duty to hear, try and determine all suits and prosecutions for the recovery and enforcing of fines, penalties and forfeitures imposed by the Charter and ordinances of the City of Eastpointe and to punish offenders for the violation of said Charter and ordinances as therein prescribed and directed.

Sec. 6. - Proceedings.

The proceedings in all suits and actions before the said Justices of the Peace and in the exercise of the powers and duties conferred upon and required of them, shall be according to and be governed by the general laws applicable to justice courts and to proceedings before such courts; and in all suits and prosecutions arising under the Charter and ordinances of the City of Eastpointe, the right to appeal or certiorari from said Justice Court to the Circuit Court for the County of Macomb, or to any other court having jurisdiction, shall be allowed to the parties or any or either of them, and the same recognizance or bond shall be given as is or may be required by law in case of appeal or certiorari from justice courts in analogous cases.

Sec. 7. - Docket.

Said Justice of the Peace shall enter or cause to be entered in a docket the title of all suits and prosecutions commenced or prosecuted before them respectively for violations of the Charter and ordinances of the City and all the proceedings and the judgment rendered in any such cause, and shall itemize all costs taxed or allowed therein. They shall also enter or cause to be entered the amounts and dates of payment of all fines, penalties, forfeitures, moneys and costs received by them or the clerk of the court, on account of said suits or proceedings. Such docket shall be submitted by the Justices at all reasonable times to the examination of any person desiring to examine the same, and shall be produced by the Justices to the Council whenever required.

Sec. 8. - Salary.

The Justices of the Peace shall receive the regular costs and charges up to a total of $1,000.00 each and shall be required to devote to the duties of their office such time as is necessary to properly discharge such duties, the time of which shall be fixed by the Council.

The Council may by ordinance, subject to the Constitution and laws of the State, change the salaries of the Justices of the Peace, and also the provisions as to the time required of each to be devoted to the duties of his office.

The salary herein provided for the Justices of the Peace shall be all costs and charges to which said Justices would be entitled until an annual total of $1,000.00 cash shall have been received by each and thereafter the Council shall fix a salary for each Justice. Fees for the performance of marriage ceremonies, civil suits and for administering oaths in matters not connected with suits or proceedings in the Justice Court in said City shall not be included.

Sec. 9. - State law provisions.

All the provisions of the general laws of the State of Michigan in relation to the fees chargeable in the several proceedings in justice courts shall apply to the Justice Court for this City and shall be collected for the use and benefit of the City except as hereinbefore provided.

Sec. 10. - Transfer of cause.

In any cause pending before either of said Justices if the Justice before whom the same is pending is unable to act in such cause at the time the matter comes before him, said cause may be transferred upon his order, or in case of his absence by the clerk, to the other of said Justices without any notice to the parties in the cause, but a note of said transfer shall be entered upon the docket of the case. When two Justices shall have acted in any one cause or proceeding the docket shall be signed in the manner and within the time provided by law by the Justice who shall have given the final judgment in such cause.

Sec. 11. - Bonds of justice.

Each Justice of the Peace in addition to any 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 two thousand dollars ($2,000) with sufficient sureties to be approved by the Council conditioned for the faithful performance of the duties of Justice of the Peace within and for the City and for the payment to the City of all moneys collected or received by such Justice which by the provisions of the general laws of the State or of this Charter, he shall be required to pay into the treasury of said City.

Sec. 12. - Practice of law.

The Justices of the Peace shall not practice law in the Justice Court of the City of Eastpointe.

Sec. 13. - Meaning of term.

Whenever in this chapter either the term "Justices of the Peace" or "Justices" is used it shall include both the Justices of the Peace.

Sec. 14. - Hours of justices.

The Council shall have power and authority by ordinance or resolution to regulate the office hours of said Justice Court, and to make all other necessary and proper rules for the regulation of the same which are not inconsistent with the provisions of this Charter and the general rules of this State.

Sec. 15. - Court room.

The Council shall furnish a suitable place for a Justice Court Room and shall provide for all necessary expenses in connection with the establishment and maintenance of the Justice Court of the City.

Sec. 16. - Constables.

Editor's note— The office of constable was abolished and this section was repealed by council pursuant to Public Act No. 26 of 1971 (MCL 117.32), as amended. See Code § 24-1.

Sec. 17. - Powers of constables.

Said Constables shall have like powers and authority in matters of a civil and criminal nature and in relation to the service of process, civil and criminal, as are conferred by law on constables in townships. They shall also have power to serve all process issued for breach of ordinances of the City.

Sec. 18. - Clerk of court.

The Council may provide a Clerk for said Justices of the Peace. Said Clerk when provided shall be appointed by the Justices of the Peace subject to confirmation by the Council, and after his appointment he shall be under the control and direction of said Justice of the Peace except as to matters coming before the Associate Justice of the Peace and as to those matters he shall be under the control and direction of the Associate Justice of the Peace.

Sec. 19. - Bond of clerk.

Before said Clerk shall enter upon the duties of his office, he shall take and subscribe to the constitution oath of office and furnish to the City a bond with such penalty as shall be fixed by the Council with sufficient sureties to be approved by the Council, conditioned on the faithful performance of his duties and for the paying over and accounting for all moneys received by him as such Clerk, which bond after its approval shall be filed with the City Clerk. He shall receive such salary as shall be fixed by the Council. He shall hold office at the pleasure of the Justices of the Peace.

Sec. 20. - Administration of oaths.

Said Clerk is hereby empowered to administer oaths to persons making affidavits for writs in civil causes, and issue all civil processes and attest the same in the name of either of the Justices of the Peace of the City, which attest shall be in the following form:

JOHN DOE, JUSTICE OF THE PEACE.

By Richard Roe,

Clerk (or Deputy Clerk).

Sec. 21. - Collection of fines.

All fees in civil causes and all fines and costs imposed in criminal and other causes, together with all moneys paid into court for security, bail or otherwise, shall be collected by said Clerk, and all such fees, fines and other moneys received by him shall be entered in a book kept by him for that purpose, and by him paid over to the authorities of the City or County or other persons entitled to the same, except as herein otherwise provided, as directed by the proper authorities or by law. At the close of each fiscal year the Council shall cause an audit of the books of said Clerk to be made for the purpose of ascertaining the correctness of the books and that all moneys received by him have been properly accounted for and to pay the Justices of the Peace their fees.

Sec. 22. - Deputy clerks.

The Council may provide for such deputy clerks and assistant clerks as it shall deem necessary.

CHAPTER XVIII. - RETIREMENT PLAN FOR CITY EMPLOYEES[17]

Footnotes:

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Editor's note— As a result of a 1974 Michigan Supreme Court decision (and a subsequently enacted state statute) municipal pension plans are subject to collective bargaining regardless of whether they are part of the municipal charter or not. Changes have therefore been made to this chapter XVIII as a result of collective bargaining, which changes have then been adopted by resolution of council. The provisions of this chapter XVIII, as amended by such resolutions, have been codified in 2-273 et seq. of the Code of Ordinances. Reference should be made to such chapter for a final and definitive statement of the law in this area.

Sec. 1. - Authorization for city retirement plans.

The City Council may provide for one or more retirement plans by ordinance or through a third-party pension administrator for the purpose of providing for the retirement of officers and employees of the City of Eastpointe on account of age and service or total and permanent disability; providing pensions supplemental to Social Security benefits; providing for contributions to a retirement system by the members and the City; and providing for the administration of a retirement system by the members and the City. Benefits heretofore accrued in the City's retirement system under this Chapter 18 shall not be diminished or impaired.

(Enacted 4-6-1953; Res. No. 1756, § A, 8-20-2013)

Secs. 2—14. - Reserved.

Editor's note— Res. No. 1756, §§ B—N, adopted Aug. 20, 2013, repealed §§ 2—14, which pertained to retirement plan for city employees. For prior history, see Charter Comparative Table.

Sec. 15. - Members' service accounts.

(Enacted 4-6-1953; Repealed 2-15-1965)

Secs. 16—36. - Reserved.

Editor's note— Res. No. 1756, §§ O—II, adopted Aug. 20, 2013, repealed §§ 15—36, which pertained to retirement plan for city employees. For prior history, see Charter Comparative Table.

CHAPTER XIX. - MISCELLANEOUS

Sec. 1. - Election districts.

Election districts shall be established by the City Council of Eastpointe and shall be the election precincts of the City, unless changed in the manner provided by the general laws of the State.

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

Sec. 2. - Power to hold hearings.

The Council shall have the power to hold hearings and to compel by subpoena the attendance of witnesses and the production of books, papers, and data in any proceedings or hearing pending before it. The forms of the subpoena shall be prepared by the City Attorney. The Council shall provide by ordinance for the punishment of any person who, having been personally served with subpoena, willfully disobeys same. Such subpoena may be served by any person of lawful age. Each witness shall be entitled to receive the same fees for attendance as is provided by law for the payment of witness fees in the Circuit Courts of this State. The said Council shall by ordinance prescribe the method to more effectually carry out the foregoing provisions.

Sec. 3. - City not liable for damages.

The City shall not be liable for unliquidated damages for personal or other injuries, unless the person suffering the injury or sustaining the damage, or someone in his behalf, shall serve a notice in writing upon the City within sixty days after such injury shall have occurred. Such notice shall specify the location and the nature of the defect or other basis of the claim, the injury sustained and the name of the witnesses to the accident which are known at that time by said claimant. The failure to so notify the City within the time and in the manner specified herein shall exonerate, excuse and exempt the City from any and all liability on account of such injury. Service of all process and notice of claims for unliquidated damages against the City shall be made on the Mayor, Manager or Clerk.

Editor's note— This section is superseded by MCL 691.1401 et seq.

Sec. 4. - Prohibition of bribes.

No member of the Council, the Mayor, the Manager or other officer or employee of the City shall knowingly accept any gift, frank, free ticket, pass, reduced price or reduced rate of service from any person, firm or corporation operating a public utility within the City, or from any person known to him to have or to be endeavoring to secure a contract with the City. The provisions of this section shall not apply to the transportation of policemen or firemen in uniform or wearing their official badges, when the same is provided for by ordinance or otherwise. Except as herein otherwise provided no member of the Council shall be eligible to an appointive office within its gift, during the period for which he was elected.

State Law reference— Standards of conduct and ethics, MCL 15.341 et seq.

Sec. 5. - Qualifications.

All officers and employees shall be elected or appointed with reference to their qualifications and fitness, and for the good of the public service, and without any reference to their political faith or party affiliations. Except in case of skilled laborers, not obtainable within the City, only bona fide residents of the City shall be employed, provided they can be obtained at the going wage.

Sec. 6. - Construction.

Wherever used in this Charter, the word "State" shall mean the "State of Michigan," the word "City" shall mean the "City of Eastpointe," the word "Council" shall mean the "City Council," "Director of Law" shall mean "City Attorney" the word "Clerk" shall mean the "City Clerk," unless from the context the contrary shall plainly appear; words referring to the several officers where not preceded by the word "City" shall be deemed to mean such officer of the City unless the context implies otherwise; the word "Resolution" shall be deemed to include official action in form of a motion as well as in form of resolution: the terms "Commission" and "City Commission" shall be construed as meaning "Council" or "Common Council" for the purpose of such general laws of the State as use one or the other of such latter terms in referring to the legislative body of the City.

Sec. 7. - Plural number.

Words imparting the singular number only, may extend to and embrace the plural number and words imparting the plural number may be applied and limited to the singular number; words imparting the masculine gender only, may extend and be applied to those of the feminine gender.

Sec. 8. - Joint authority.

Words purporting to give joint authority to two or more public officers or other persons either as a board or otherwise shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared.

Sec. 9. - Signatures.

The word "person" may extend and be applied to bodies corporate as well as individuals. The words "written" and "in writing" may be construed to include printing, engraving, typewriting and lithographing, except that this rule shall not apply to provisions requiring written signatures, unless it be otherwise expressly herein provided.

Sec. 10. - Illegality.

Should any portion of this Charter be declared void, illegal or unconstitutional, such finding shall not invalidate the remainder of the Charter.

Sec. 11. - Publications.

When, by the provisions of this Charter, or the laws of the State, notice of any matter or proceedings 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 by publication, or by the persons posting the same when required to be by posting, shall be prima facie evidence of the facts therein contained. Such affidavit of publication or posting shall be filed with the City Clerk.

Sec. 12. - Records of city.

All records of the City shall be public and open to inspection at all reasonable times.

State Law reference— Open meetings act, MCL 15.261 et seq.

Sec. 13. - Offenses.

All offenses herein declared to be misdemeanors shall be punishable, unless otherwise herein provided for, by a fine not exceeding five hundred dollars ($500.00), or by imprisonment in the county jail or any place of imprisonment provided by the City or the laws of the State of Michigan, for a period not exceeding ninety days, or both such fine and imprisonment in the discretion of the court.

Sec. 14. - Seal.

Until otherwise changed by the Council, the seal of the City of Eastpointe shall be the same as the seal of the Village of Halfway except that the words "City of Eastpointe" shall be substituted in place of the words "Village of Halfway," and the date of incorporation as a City shall be substituted in place of the date of incorporation as a village.

Sec. 15. - Residence.

Whenever in this Charter or in any ordinance passed hereunder, a residence in the City of Eastpointe for a set time shall be required, in determining the time of such residence, residence in the Village of Halfway shall be included.

Sec. 16. - Succession to Village of Halfway.

The City of Eastpointe, upon the taking effect of this Charter, shall succeed to and be vested with all the property, real and personal, moneys, contracts, rights, credits, effects, records, files, books and papers, and all other property of every name and nature belonging to the municipal corporation styled and designated as the "Village of Halfway" to which municipal corporation the City of Eastpointe is successor, and no rights or liabilities either in favor of or against said Village of Halfway existing at the time this Charter shall become effective, and no suit or prosecution of any kind, or other legal proceedings, shall be in any manner affected by the incorporation of the territory comprised within the limits of the Village of Halfway, as the City of Eastpointe, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the former Village of Halfway shall be deemed to be the debts and liabilities of the City of Eastpointe, and all taxes and special assessments levied and uncollected at the

time of such change shall be collected the same as if such change had not been made, and all bonds, the issuance of which has been authorized by the electors of the Village of Halfway, may be issued and sold, and all proceedings in relation thereto may be taken the same as if no change in the form of incorporation as a City had been made; provided, that when a different remedy is given in this Charter or in any ordinance pursuant thereto, which can be made applicable to any rights existing at the time this Charter becomes effective, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

Sec. 17. - Ordinances of Halfway.

All ordinances of said Village of Halfway and all rules, regulations, and resolutions of the Village Commission of said Village, in force at the time this Charter takes effect, and not inconsistent with the provisions of this Charter, shall remain in full force and effect after the adoption of this Charter, and are hereby declared to be re-enacted by virtue of and under the powers conferred by this Charter until altered, amended or repealed by the Council.

Sec. 18. - Licenses of Halfway.

All licenses granted by said Village of Halfway and in force when this Charter takes effect, shall remain in full force and virtue until the expiration of the time for which they were respectively granted.

Sec. 19. - Acts of Halfway.

All acts and proceedings of every kind and nature had or taken by the Village of Halfway under and in accordance with its Charter and the provisions of the statutes governing or applicable to said Village, are hereby declared legal and binding upon the City of Eastpointe as incorporated hereunder, and upon all persons interested therein or affected thereby, and all bond, special assessment and other proceedings so had and taken are hereby declared to be sufficient, regardless of provisions in this Charter to the contrary, and the said proceedings shall be continued and completed under and in accordance with the provisions contained in this Charter.

Sec. 20. - Inclusion of village proceedings.

Wherever in this Charter any reference is made to any action or proceeding which has been taken unless the context would otherwise imply, it shall be deemed to include any action or proceeding taken by the Village of Halfway and all provisions of this Charter, except where otherwise expressly or impliedly provided, shall be construed as if this Charter were a general revision of an existing Charter and no change had been made from a village to a City form of government.

Sec. 21. - Term of office.

The terms of office of all officers elected at the time this Charter is submitted, shall begin upon the taking effect of this Charter and their qualification.

Sec. 22. - Officers of the Village of Halfway.

The President and four Commissioners constituting the Village Commission under the Charter of the Village of Halfway, in office at the time this Charter shall take effect, shall have and exercise the powers and duties of the City Council until such time as the Council under this Charter is duly elected and qualified. The Attorney, Clerk, Assessor, Treasurer, Engineer, Health Officer, Building Inspector, Electrical Inspector and Plumbing Inspector of the Village of Halfway and their deputies shall perform the duties of such respective offices under the provisions of this Charter until their successors are appointed and qualify as provided in this Charter. The Chief of the Police and Fire Departments under the Village of Halfway, shall perform the duties of Chief of Police and Chief of the Fire Department under this Charter, the Village Treasurer shall perform the duties of the City Treasurer under this Charter, the Superintendent of Public Works shall perform the duties of the Superintendent of Public Works, until their successors are appointed and qualified under the provisions of this Charter. When the successors to any such officers

elected or appointed under the organization of the Village of Halfway, shall have been elected or appointed and shall have qualified under the provisions of this Charter, then the duties and compensation of such Village officers respectively shall terminate or come under the provisions of the civil service provisions of this Charter.

Sec. 23. - Appointive officers.

A person may hold any appointive office, other than Assessor or Treasurer, in the City, though not a resident thereof, except that the Manager shall during the time of office reside in the City.

Sec. 24. - Signature for public improvement.

Where a person is purchasing real estate on land contract he shall be deemed to be the owner thereof for the purpose of signing any petition for a public improvement.

CHAPTER XX. - SUBMISSION AND ELECTION

Sec. 1. - Submission to electors.

This Charter shall be submitted to the electors of the City of East Detroit for their approval or rejection at an election to be held on Monday, the 7th day of January, 1929, at which election the several elective City officers provided for in this Charter shall also be elected.

Sec. 2. - Publication and notice.

Prior to the submission of this Charter it shall be published once in the "East Detroit News," a newspaper published in said City, not less than two weeks, nor more than four weeks preceding said election, together with a notice of said election, which notice shall state that at said election the question of adopting said proposed Charter will be voted on, and the elective officers provided for therein will be elected, and shall also state the location of the polling places for such election and any other matters required by law. Notice of said election shall also be posted in at least ten public places within the City not less than ten days prior to said election.

_____

Sec. 3. - Nominating petitions.

Candidates for the several elective City offices provided for in this Charter shall be nominated by petition signed by not less than twenty-five and not more than one hundred qualified electors of the City and filed in the office of the Clerk of the Village of Halfway on or before twelve o'clock, midnight, Eastern Standard Time, on the 27th day of November, 1928. The Village Clerk shall forthwith upon demand turn said petitioners over to the Secretary of this Charter Commission, which shall meet and determine the sufficiency of such petitions. Such petitions shall be in substantially the following form:

We, the undersigned, duly qualified electors of the City of East Detroit, State of Michigan, and residing at the places set opposite our respective names hereto, do hereby nominate _____ as candidate for the office of _____ to be voted upon at an election to be held in said City on the 7th day of January, 1929. We further state that we know him to be a qualified elector of said City and a person of good character and qualified in our judgment for the duties of such office.

Name of Qualified Elector	No.	Street	Date
_____	_____	_____	_____
_____	_____	_____	_____

_____	_____	_____	_____

_____

Each petition shall be verified by one or more persons as to the qualifications and residence of each of the persons signing such petitions.

At the said election, the names of candidates and those only, who have filed nominating petitions as aforesaid, shall be printed on the ballot.

Sec. 4. - Election districts.

The election districts for said election shall be the same as those last established by the Village of Halfway, and the polling places for said election shall be designated by this Charter Commission and published as hereinbefore provided.

_____

Sec. 5. - Form of ballots.

The ballots for elective officers at said election shall be in the form provided for in this Charter for the election of officers, and the form of the ballot on the question of the adoption or rejection of this Charter shall be substantially as follows:

OFFICIAL BALLOT

Election Held in the City of East
Detroit, Michigan, on January 7th, 1929

(Instructions: A cross (x) in the square after the word "Yes" is in favor of the Charter, and a cross (x) in the square after the word "No" is against the Charter.)

"Shall the proposed Charter for the City of East Detroit drafted by the Charter Commission elected on the 17th day of September, 1928, be adopted?"

YES ( )

"Shall the proposed Charter for the City of East Detroit drafted by the Charter Commission, elected on the 17th day of September, 1928, be adopted?"

NO ( )

_____

Sec. 6. - Conduct of election.

The polls for said election shall be opened at seven o'clock in the forenoon, Eastern Standard Time, or as soon thereafter as may be and shall be continued open until eight o'clock in the afternoon, Eastern Standard Time, of the same day. Said election shall be conducted by such inspectors and Clerks as shall be hereafter designated by resolution of this Charter Commission. The votes cast at said election shall be canvassed by a Canvassing Board of three electors to be hereafter designated by resolution of this Charter Commission.

Sec. 7. - Ballots; returns.

The registration of electors shall be conducted by the Clerk of the Village of Halfway in the manner provided by law. The secretary of this Charter Commission shall cause the ballots for said election to be

printed and delivered to the several polling places before the opening of the polls on said election day. The return of the election boards as to the results of said election in the several election precincts, shall be made to the canvassing board designated by this Charter Commission, at the office of the Village Clerk, immediately after the counting of the ballots is completed. Except as is in this chapter and in the general laws of the state otherwise provided, and except as may be otherwise provided by this Charter Commission within the scope of its powers and said election shall be conducted as is provided in Chapter 4 of this Charter so far as the provisions of said chapter are applicable.

Sec. 8. - Canvass of votes.

The Canvassing Board appointed to canvass the votes cast at said election to be held on the 7th day of January, 1929, shall as soon as practicable after said election meet and canvass the votes cast at said election and determine the result thereof.

Sec. 9. - Approval of charter.

If this Charter be approved at said election, then two printed copies thereof, with the vote for and against the same, duly certified by the City Clerk, shall within thirty (30) days after the vote is taken be filed with each Secretary of State and the County Clerk of Macomb County, and upon the filing thereof this Charter shall become effective.

ROBERT J. KERN	EDWIN A. MAY
JOHN L. DEUBNER	THEODORE F. BELL
CHARLES SCHROEDER	FRANK P. GERLACH
GEORGE T. BEDARD	STEPHEN R. HENDERSON
Members of the Charter Commission.	
By Commissioner Deubner. Supported by Commissioner Henderson.	

RESOLVED, That the Charter Commission of the City of East Detroit does hereby adopt the foregoing charter, and the Secretary is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of the statute, for his approval.

Yeas: Commissioners Christ F. Kaiser, Robert J. Kern, Edwin A. May, George T. Bedard, Stephen R. Henderson, Frank P. Gerlach, Theodore F. Bell, John L. Deubner, Charles Schroeder.

I, Edwin A. May, Secretary of the Charter Commission elected to frame a Charter for the City of East Detroit, do hereby certify that the above Charter was adopted by said Charter Commission at a session thereof held on the 7th day of December, 1928, and that the foregoing is a true and correct copy of the resolution and vote thereon, by which said Charter was adopted.

EDWIN A. MAY

	Secretary of the Charter Commission

Dated December 7th, 1928.

Lansing, Michigan,

December 12, 1928.

APPROVED:

FRED W. GREEN,

Governor of the State of Michigan.

CHARTER COMPARATIVE TABLE

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

Date	Section this Charter
11- 4-1930(Amended)	Ch. III, § 14, Ch. III, § 15
	Ch. XVI, § 21
4- 6-1931(Amended)	Ch. III, § 17
4- 3-1933(Amended)	Ch. XIV, § 12
4- 6-1942(Amended)	Ch. IV, § 1
4- 5-1948(Amended)	Ch. III, § 3
	Ch. III, § 23
4- 4-1949(Adopted)	Ch. IX, § 14
11- 7-1950(Amended)	Ch. III, § 39
	Ch. XIII, § 1
4- 6-1953(Enacted)	Ch. XVIII, § 1— Ch. XVIII, § 36

4- 5-1954(Amended)	Ch. III, § 7, Ch. III, § 8
	Ch. III, § 22
11- 2-1954(Amended)	Ch. VIII, § 11
2-18-1957(Amended)	Ch. III, § 49
	Ch. XIV, § 1
4- 1-1957(Amended)	Ch. III, § 43
2-17-1958(Amended)	Ch. XVIII, § 11
4- 1-1963(Amended)	Ch. III, § 2
2-15-1965(Amended)	Ch. XVIII, § 2— Ch. XVIII, § 4
	Ch. XVIII, §§ 10—12
	Ch. XVIII, § 14
	Ch. XVIII, § 16— Ch. XVIII, § 20
	Ch. XVIII, § 22— Ch. XVIII, § 28
	Ch. XVIII, § 30, Ch. XVIII, § 31
	Ch. XVIII, § 34
11- 5-1991(Amended)	Ch. I, § 1
11- 4-2008(Amended)	Ch. III, § 17
	Ch. XII, § 24

Res. No.	Date	Section	Section this Charter
1578	11- 4-2008	1	Ch. XII, § 24
1579	11- 4-2008	2	Ch. III, § 17
1636	6- 1-2010	A—G Rpld	Ch. IV, §§ 3, 4, 6—10
		H	Ch. IV, § 2
		I	Ch. IV, § 5
		J	Ch. IV, § 13
		K	Ch. IV, § 17
		L	Ch. IV, § 20
		M	Ch. IV, § 21
		N	Ch. IV, § 22
1669	6-21-2011	A	Ch. III, § 3
1695	2-21-2012	A	Ch. III, § 14
		B	Ch. III, § 15
		C	Ch. III, § 17
		D	Ch. III, § 26
		E	Ch. III, § 27
		F	Ch. III, § 41
1698	3- 6-2012	A	Ch. XII, § 22
1756	8-20-2013	A	Ch. XVIII, § 1
		B Rpld	Ch. XVIII, § 2

		C Rpld	Ch. XVIII, § 3
		D Rpld	Ch. XVIII, § 4
		E Rpld	Ch. XVIII, § 5
		F—N Rpld	Ch. XVIII, §§ 6—14
		O—Z Rpld	Ch. XVIII, §§ 16-27
		AA—II Rpld	Ch. XVIII, §§ 28-36
1779	5- 6-2014	A	Ch. XII, § 12
1814	4-19-2016	A	Ch. XVI, § 11

PART II - CODE OF ORDINANCES

Chapter 1 - GENERAL PROVISIONS

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

This recodification of ordinances shall be known and cited as the "Code of Ordinances, City of Eastpointe, Michigan" or "Eastpointe City Code."

(Code 1989, § 202.01; Ord. No. 742, 11-13-1989; Ord. No. 788, 8-25-1992)

State Law reference— Codification authority, MCL 117.5b.

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

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

Agencies, officers. Any reference to any local, state or federal agency or officer shall include any successor agency or officer.

Charter. The term "Charter" means the Home Rule Charter of the City of Eastpointe, Michigan, and includes any amendment to such Charter.

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

City council, council. The term "city council" or "council" means the city council of the City of Eastpointe, Michigan.

Code. The term "Code" or "this Code" means the Code of Ordinances, City of Eastpointe, Michigan, as designated in section 1-1, and as modified by amendment, revision and by the adoption of new chapters, articles, divisions or sections.

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

County. The term "the county" means Macomb County, Michigan.

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

Health officer or*health department.* The term "health officer" or "health department" means the county health officer or the county health department.

MCL. The abbreviation "MCL" means the Michigan Compiled Laws, as amended or revised, and any successor statute.

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

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

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

Public acts. References to public acts are references to the Public Acts of Michigan. (For example, a reference to Public Act No. 279 of 1909 is a reference to Public Act No. 279 of the Public Acts of Michigan of 1909.) Any reference to a public act, whether by act number or by short title, is a reference to the act, as amended, now or in the future, and shall include any successor statute.

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

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

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

(Code 1989, § 202.03; Ord. No. 742, 11-13-1989; Ord. No. 788, 8-25-1992)

State Law reference— Rules of construction, MCL 8.3 et seq.

Sec. 1-3. - Interpretation of Code.

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

State Law reference— Rules of construction, MCL 8.3 et seq.

Sec. 1-4. - Headings and catchlines.

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

Sec. 1-5. - References and notes.

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

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

All of the provisions of this Code, not incompatible with future legislation, shall apply to ordinances adopted after the adoption of this Code that amend or supplement this Code, unless otherwise specifically provided.

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

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

Sec. 1-8. - Reference to offices.

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

Sec. 1-9. - Conflict of laws.

Where this Code imposes a greater restriction upon persons, premises or personal property than that imposed or required by other provisions of law, ordinance, contract or deed, the greater restriction shall control.

Sec. 1-10. - Notices.

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

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

(2) By mailing such notice by certified or registered mail to such owner at his or her last known address; or

(3) If the owner is unknown, by posting such notice in some conspicuous place on the premises for five days before the act or action concerning which the notice is given.

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

(Code 1989, § 202.04)

Sec. 1-11. - Certain provisions saved from repeal.

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

(1) Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the adoption of these codified ordinances;

(2) Any prosecution, suit or other proceeding pending, or any judgment rendered, on or prior to the adoption of these codified ordinances;

(3) The administrative ordinances and resolutions of the council not in conflict or inconsistent with any provision of these codified ordinances;

(4) Any ordinance or resolution or part thereof providing for the establishment of positions, for salaries or compensation;

(5) The grant or creation of a franchise, license, right, easement or privilege;

(6) The purchase, sale, lease or transfer of property;

(7) The appropriation or expenditure of money or promise or guarantee of payment;

(8) The assumption of any contract or obligation;

(9) The issuance and delivery of any bonds, obligations or other instruments of indebtedness;

(10) The levy or imposition of taxes, assessments or charges;

(11) The establishment, naming, vacating or grade level of any street or public way;

(12) Any ordinance or resolution establishing, naming, relocating or vacating any street or other public way;

(13) The dedication of property or plat approval;

(14) The annexation or detachment of territory;

(15) Any ordinance prescribing traffic and parking restrictions pertaining to specific streets;

(16) Any ordinance pertaining to rezoning;

(17) Any ordinance which is not of a general and permanent nature;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the city clerk's office. No offense committed or penalty incurred or any right established prior to the effective date of this Code shall be affected.

(Code 1989, § 202.08)

Sec. 1-12. - Amendment procedure.

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

(1) Amend any section: An ordinance to amend section _____ (or sections _____ and _____) of the Code of Ordinances, City of Eastpointe, Michigan.

(2) Insert a new section or chapter: An ordinance to amend the Code of Ordinances, City of Eastpointe, Michigan, by adding a new section (_____ new sections or a new chapter, as the case may be) which new section (sections or chapter) shall be designated as section _____ (sections _____ and _____) (or proper designation if a chapter is added) of said Code.

(3) Repeal a section or chapter: An ordinance to repeal section _____ (sections _____ and _____, chapter _____, as the case may be) of the Code of Ordinances, City of Eastpointe, Michigan.

(Code 1989, § 202.02; Ord. No. 742, 11-13-1989; Ord. No. 788, 8-25-1992; Ord. No. 996, § 202.02, 11-13-2007)

Sec. 1-13. - Supplementation of Code.

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

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

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

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

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

(Code 1989, § 202.02; Ord. No. 742, 11-13-1989; Ord. No. 788, 8-25-1992; Ord. No. 996, § 202.02, 11-13-2007)

Sec. 1-14. - Severability.

(a) It is the legislative intent of the city council in adopting this Code that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the city. If any provision or section of this Code is held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections,

it being the intent that this Code shall stand, notwithstanding the invalidity of any provision or section thereof.

(b) The provisions of this section shall apply to the amendment of any section of this Code, whether or not the wording of this section is set forth in the amendatory ordinance.

(Code 1989, § 202.06)

Sec. 1-15. - General penalty.

(a) Unless another penalty is expressly provided by this Code for any particular provision or section, every person convicted of a violation of any provision of this Code or any rule, regulation or order adopted or issued in pursuance thereof shall be punished by a fine of not more than $500.00 and costs of prosecution or by imprisonment for not more than 90 days or by both such fine and imprisonment in the discretion of the court. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.

(b) The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of this Code, whether or not such penalty is reenacted in the amendatory ordinance.

(c) The penalty shall be in addition to the abatement of the violating condition, any injunctive relief or revocation of any permit or license.

(d) This section shall not apply to the failure of officers and employees of the city to perform municipal duties required by this Code.

(Code 1989, § 202.99)

State Law reference— Limitation on penalties, MCL 117.4i.

Chapter 2 - ADMINISTRATION[1]

Footnotes:

--- (**1**) ---

Charter reference— Powers, ch. II; organization, ch. III.

State Law reference— Home rule cities, MCL 117.1 et seq.; open meetings act, MCL 15.261 et seq.; freedom of information act, MCL 15.231 et seq.

ARTICLE I. - IN GENERAL

Secs. 2-1—2-18. - Reserved.

ARTICLE II. - CITY COUNCIL[2]

Footnotes:

--- (**2**) ---

Charter reference— Registration, nomination and elections, ch. IV; ordinances, ch. VI; initiative and referendum, ch. VII.

Sec. 2-19. - Odd-year elections.

(a) All regular city odd-year primary elections shall be held on the first Tuesday after the first Monday in August of each odd-numbered year.

(b) All regular city odd-year general elections shall be held on the first Tuesday after the first Monday in November of each odd-numbered year.

(Code 1989, § 208.01; Ord. No. 526, 2-24-1975; Ord. No. 948, 1-4-2005)

State Law reference— Holding of elections, MCL 168.641 et seq.

Sec. 2-20. - Councilmembers' term of office.

Pursuant to Public Act No. 239 of 1970 (MCL 168.644e et seq.), each member of the council shall be elected to serve a term of four years, the city Charter to the contrary notwithstanding.

(Code 1973, § 1.32; Code 1989, § 216.01)

Sec. 2-21. - Bylaws of council.

(a) *Rule I. General provisions.*

(1) *Organization; standing committees; mayor pro-tem.* Council shall meet on the first Monday following each regular City election. At such meeting, or within two weeks thereafter, Council shall appoint such standing committees as it shall deem fit and a Mayor Pro-tem to preside over meetings in the mayor's absence.

(2) *Regular meetings.* Regular meetings of council shall be held publicly on the first Tuesday and the third Tuesday of every month at 7:00 p.m. in the council chambers of the Eastpointe Municipal Building to consider all matters properly within the jurisdiction of council, including scheduled public hearings.

(3) *Special meetings.* Special meetings of council shall be held publicly in the council chambers of the Eastpointe Municipal Building or at another public location in the city designated by the city council. Special meetings shall be called by the city manager upon the written request of the Mayor or any two members of council on at least 18 hours' written notice to each member of council, designating the time and purpose of such meeting and served personally on each member of council or left at his or her usual place of residence by the city manager or someone designated by him or her. Any special meeting of council shall be a legal meeting if all members of council have been notified and a quorum is present. All residents of the city or persons attending the special meeting shall have a reasonable opportunity to be heard during one hearing of the public.

No business shall be transacted at any special meeting of council except that stated in the notice of the meeting.

(4) *Adjournments and recess*. Council shall have the power to adjourn any regular or special meeting to a day and time certain, which adjournment shall not be beyond the time of the next regular meeting, and the adjourned meeting shall be considered as a continuation of the same regular or special meeting. Any business which would have been proper for council to consider at such meeting may be considered and acted upon at the adjourned meeting. Any postponement of deliberations of council of less than one day shall be considered a recess.

(5) *Meetings to be open to the public.* All residents of the city or persons attending the meeting shall have a reasonable opportunity to be heard at city council meetings. Any person addressing the city council at the hearings of the public shall be limited to three minutes. Speakers addressing the city council may appear on camera during the hearing of the public.

(6) *Attendance of city attorney.* The city attorney shall attend all meetings and hearings of council, unless excused by the mayor.

(b) *Rule II. Order of business*. The order of business of all regular Tuesday night meetings shall be:

(1) Invocation;

(2) Pledge of Allegiance;

(3) Roll call;

(4) Approval of agenda;

(5) Hearing of the public;

(6) Approval of minutes;

(7) Scheduled hearings;

(8) Unfinished business;

(9) Reports from administration;

(10) New business;

(11) Payrolls and bills;

(12) Hearing of the public;

(13) Mayor and/or council reports;

(14) Adjournment.

(c) *Rule III. The mayor.*

(1) *Presiding officer.* The mayor shall be the presiding officer of council and shall perform such other duties as are prescribed by the city charter.

(2) *Voting power.* While presiding at a meeting of council, the mayor or the presiding officer shall have the right to make, second and discuss motions. The mayor shall possess the same voting powers as that of a councilperson.

(d) *Rule IV. Sergeant at arms; decorum; discipline.* The chief of police, or such person as he or she may designate, shall attend any regular or special meeting of council to enforce the preservation of order when requested to do so.

(e) *Rule V. Duties of the clerk of council (city manager).*

(1) *City manager as clerk*. The city manager shall be the clerk of council and shall, with the mayor, sign and attest all ordinances. The term "secretary of the council," used in these rules, shall also mean the city manager.

(2) *Communications*. The city manager shall receive all petitions, communications and complaints addressed to council.

(3) *Claims, notices, etc.; referral to city attorney*. All claims or notices of lawsuits or process against the city of every kind shall be referred immediately to the city attorney for report, recommendation or appropriate action thereon, except that council shall immediately be advised of receipt of such claim, notice or court process.

(4) *Journal*. The city manager or his or her representative shall attend all meetings of council and shall keep or cause to be kept a permanent journal, in the English language, of its proceedings,

which journal shall become official when approved by council and signed by the city manager and the mayor.

(5) *Payment of bills.* All bills tendered to council for payment shall bear the endorsement of the director of finance and upon approval by council, shall be endorsed by the city manager.

(6) *Agenda; regular meetings.* The city manager shall prepare an agenda of business to be considered at each regular council meeting and, except when this rule is waived by a majority affirmative vote, no item of business shall be placed on the agenda for a council meeting unless notice thereof was filed in the office of the secretary of council by 12:00 noon on the fourth secular day preceding such meeting. A copy of the notice of such meeting, together with the agenda of matters to be heard by council, shall be posted in a prominent position in the municipal building at least 18 hours prior to each such meeting.

(7) *Agenda; special meetings.* The city manager shall prepare an agenda of business to be considered at each special meeting. The notice of such meeting, setting forth the time and purpose, together with the agenda, shall be served personally on each member of council or left at his or her usual place of residence by the secretary of council or his or her designated employee. At the time of the sending out or the delivery of notices of the special meeting, a copy of the notice of such meeting, together with a copy of the agenda, shall be posted in a prominent position in the municipal building at least 18 hours prior to each such meeting.

(8) *Matters of business for discussion.* All matters concerning vacation of alleys or streets shall first be scheduled for discussion. Council shall fix a reasonable time for the hearing of such matters and transmit such information to the city clerk when required to do so.

(9) *Vacation of alleys, streets or parkways.* Due notice of all vacations shall be given by the city clerk to the parties concerned, including all owners of record of property abutting the property to be vacated. Such notice shall be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll.

(10) *Vacations; proof of service.* A proof of service or affidavit of mailing shall be furnished to council by the city clerk prior to the meeting of council at which street, alley or parkway vacations are to be considered.

(f) *Rule VI. Resolutions to reconsider or rescind.* After council has decided a matter, a period of not less than six months shall be required before a new application for relief, a motion to reconsider or a motion to rescind can be made to council on the same matter, unless a member of the voting majority on the previously decided matter requests said matter be placed on the council agenda and council adopts a motion to rescind or reconsider the previously decided matter.

(g) *Rule VII. Procedure on enacting ordinances and resolutions.* Every ordinance shall receive two readings by title only. The second reading of an ordinance shall not take place at the same session unless there has been a suspension of the rules and an emergency declared by council.

All resolutions and ordinances shall require support prior to debate and vote.

All petitions, communications, reports and ordinances presented to council shall be in writing.

(h) *Rule VIII. Quorum.* A quorum shall consist of a majority of all of the members elected to council, including the mayor, but a lesser number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. For purposes of a quorum, a majority shall be defined as more than one-half of the council members, inclusive of the mayor.

(i) *Rule IX. Voting majority.* All issues brought before council shall require only a simple majority vote, unless otherwise specified by the city charter, rules of procedure herein adopted, the parliamentary authority, namely the Sturgis Standard Code of Parliamentary Procedure, or by state law.

A simple voting majority shall be defined as more than one-half of the council members, including the mayor, present and voting on any given issue. Illegal votes shall be ignored. On issues requiring a two-thirds vote, a majority shall consist of two-thirds of the members of the city council.

(j) *Rule X. Sturgis Standard Code of Parliamentary Procedure.* The Sturgis Standard Code of Parliamentary Procedure, published by McGraw-Hill Company, Inc., shall govern council in all cases to which it is applicable and in which it is not inconsistent with these rules or the city charter.

(k) *Rule XI. Amendment or suspension of rules.* These rules may be amended or temporarily suspended for a specific purpose by a majority vote.

(Code 1989, § 216.02; Ord. No. 742, 11-13-1989; Ord. No. 788, 8-25-1992; Ord. No. 800A, 9-28-1993; Ord. No. 852, 12-17-1996; Ord. No. 962, 7-5-2005; Ord. No. 968, 2-21-2006; Ord. No. 1044, 5-3-2011; Ord. No. 1133, 12-6-2016; Ord. No. 1139, 4-4-2017; Ord. No. 1144, 9-19-2017)

Sec. 2-22. - Mayor's term of office.

Pursuant to Public Act No. 239 of 1970 (MCL 168.644e et seq.), the mayor shall be elected to serve a term of four years, the city Charter to the contrary notwithstanding.

(Code 1973, § 1.32; Code 1989, § 220.01)

Secs. 2-23—2-47. - Reserved.

ARTICLE III. - OFFICERS AND EMPLOYEES[3]

Footnotes:

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Charter reference— Civil service, ch. IX; qualifications, ch. XIX, § 5.

State Law reference— Freedom of information act, MCL 15.231 et seq.; standards of conduct and ethics, MCL 15.341 et seq.; conflicts of interests as to contracts, MCL 15.321 et seq.; political activities by public employees, MCL 15.401 et seq.; legal defense of public employees, MCL 691.1408; incompatible offices, MCL 15.181 et seq.; nondiscrimination in employment, MCL 37.2102; civil service and retirement, MCL ch. 38.

DIVISION 1. - GENERALLY

Secs. 2-48—2-67. - Reserved.

DIVISION 2. - CITY MANAGER[4]

Footnotes:

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Charter reference— Authority regarding departments, ch. III, § 15; city manager generally, ch. III, § 18 et seq.

Sec. 2-68. - Annual presentation of budget.

On or before the first regular meeting of the city council in April of each year, the city manager shall prepare and submit to the council a budget presenting a financial plan for conducting the affairs of the city for the ensuing fiscal year.

(Code 1989, § 222.01; Ord. No. 548, 11-15-1976)

Sec. 2-69. - Authority to administer oaths of office.

The city manager shall have the authority to administer such oaths of office as are prescribed by law for municipal officials.

(Code 1989, § 222.02)

Secs. 2-70—2-96. - Reserved.

DIVISION 3. - CODE OF ETHICS[5]

Footnotes:

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Editor's note— Ord. No. 1057, adopted Dec. 20, 2011, amended Division 3 in its entirety to read as herein set out. Former Division 3, §§ 2-97—2-103, pertained to similar subject matter, and derived from Code 1989, §§ 215.01—215.07; Ord. No. 905, 6-5-2001; Ord. No. 914-2, 3-18-2002; Ord. No. 918, 7-2-2002.

State Law reference— Standards of conduct and ethics, MCL 15.341 et seq.; prohibition on holding incompatible offices, MCL 15.181 et seq.

Sec. 2-97. - Preamble.

Public office and employment are public trusts and each public official and employee must endeavor to earn and honor the public trust in the performance of all official duties and actions. Public officials and employees are chargeable with honesty, integrity, and openness in their handling of public affairs. When conduct inconsistent with these expectations occurs, public suspicion is heightened and public confidence is jeopardized. The city hereby declares all city officials and employees, elected or appointed, paid or unpaid, must avoid any and all conflicts between their private interests and the public interest. The purpose of this division is to define standards of ethical conduct that are clearly established and uniformly applied. These standards will provide the public, as well as public officials and employees, with guidance about ethical expectations for trustees of the public.

(Ord. No. 1057, 12-20-2011)

Sec. 2-98. - Policy.

It is the public policy of the city that all city officials and employees shall be guided by the following principles:

(1) *Public interest.* The power and resources of government service shall be used only to advance the public interest.

(2) *Objective judgment.* Loyalty to the public interest requires that all matters shall be decided with independent, objective judgment, free from avoidable conflicts of interest, improper influences and competing loyalties.

(3) *Accountability*. Government affairs shall be conducted in an open, efficient, fair and honorable manner, which enables citizens to make informed judgments and hold officials and employees accountable.

(4) *Democratic leadership.* All city officials and employees shall honor and respect the spirit and principles of representative democracy and uphold the Constitution of the United States and the constitution of the state and carry out and comply with the laws of the nation, state and the city.

(5) *Respectfulness*. All city officials and employees shall safeguard public confidence by being honest, fair, impartial, and respectful toward all persons and property with whom they have contact in an official capacity and by avoiding conduct which may tend to undermine respect for city officials and for the city as an institution.

(Ord. No. 1057, 12-20-2011)

Sec. 2-99. - Definitions.

City official or *employee* means a person elected, appointed or otherwise serving in any capacity with the city in any position established by the city charter or by ordinance which involves the exercise of a public power, trust or duty. The term includes all officials and employees of the city, whether or not they receive compensation, including consultants and persons who serve on advisory boards and commissions.

Conflict of interest means any money, property, thing of value or benefit received by any person in return for services rendered.

Gift is anything of value, money, loan of money, goods or services given without due consideration. *Gift* does not include any reportable campaign contributions pursuant to federal or state law.

Immediate family is a spouse, child, parent, sister or brother and parent, sister or brother of the spouse wherever residing or any relative sharing the same household. All relationships shall include individuals in a step or adoptive relationship.

Official duties or *official actions* are decisions, recommendations, approvals, disapprovals or other actions or failures to act which involve the use of discretionary authority as required by law.

(Ord. No. 1057, 12-20-2011)

Sec. 2-100. - Prohibited conduct.

(a) *Preferential treatment.* City officials and employees shall not use their official positions to secure, request, or grant any privileges, exemptions, advantages, contracts, or preferential treatment for themselves, their immediate family members or others.

(b) *Use of information.* A city official or employee who acquires information in the course of their official duties, which by law or policy is confidential, shall not prematurely divulge that information to an unauthorized person, nor shall they suppress or refuse to provide city reports or other information which is publicly available.

(c) *Conflicts*.

(1) No city official or employee shall engage in employment, render services or engage in any business, transaction or activity which is in direct conflict of interest with their official duties or which could create the appearance of impropriety.

(2) No city official or employee may use any confidential information obtained in the exercise of their official duties for personal gain or for the gain of others.

(3) No city official or employee shall intentionally take or refrain from taking any official action, or induce or attempt to induce any other city official or employee to take or refrain from taking any official action, on any matter before the city which would result in a financial benefit for any of the following:

a. The city official or employee;

b. An immediate family member;

c. An outside employer;

d. Any business in which the city official, employee, or immediate family member of the city official or employee has a financial interest of the type described in the disclosure section herein; or

e. Any business with which the city official, employee, or immediate family member of the city official or employee is negotiating or seeking prospective employment or other business or professional relationship.

(4) Except as otherwise permitted herein, no city official, employee, or any immediate family member of a city official or employee shall be a party, directly or indirectly, to any contract with the city with the exception of employment agreements. The foregoing shall not apply if the contract is awarded after public notice and competitive bidding, provided that the city official or employee shall not have participated in establishing contract specifications or awarding the contract, shall not manage contract performance after the contract is awarded, and shall disclose the interest of the city official, employee or any immediate family member in the contract in accordance with this section.

(5) A city official or employee shall not engage in any business transaction with the city except as provided by federal or state law.

(d) *Use of city property or personnel.* A city official or employee shall not, directly or indirectly, use or permit to be used any city property or personnel for personal gain or economic benefit.

(e) *Political activity.* No city official or employee shall use any city time or property for his or her own political benefit or for the political benefit of any other person seeking elective office; provided that the foregoing shall not prohibit the use of property or facilities available to the general public on an equal basis for due consideration paid.

(f) *Nepotism*. No city official or employee shall cause the employment or any favorable employment action of an immediate family member. No employee shall participate in any employment decision about that family member. This section shall not prevent a city official or employee from preparing or approving a budget which includes compensation for an immediate family member so long as that immediate family member receives the same treatment as others in his or her classification.

(g) *Retaliation*. No person making a complaint or requesting an advisory opinion, or participating in any proceeding of the board of ethics, shall be discharged, threatened, or otherwise discriminated against regarding compensation, terms, conditions, locations or privileges of employment or contract because of such action or participation.

(Ord. No. 1057, 12-20-2011)

Sec. 2-101. - Disclosure.

(a) Before any contract is awarded which requires approval by the city council, the vendor shall file a disclosure statement which shall disclose to their best knowledge any substantial interest held by a city official, employee, or their immediate family members.

(b) City officials and employees shall disclose, at the beginning of each calendar year and/or when financial interests change, any financial interests or holdings by city officials or employees in any business, vendor, contractor, developer, or others doing business with the city.

(c) Elected officials shall abstain from voting on matters requiring a disclosure by the elected official. Failing to file a disclosure statement does not release the elected official from this responsibility. If no conflict exists, no disclosure statement shall be filed.

(d) All disclosure statements required herein shall be filed with the city clerk and the board of ethics on forms available at the city clerk's office. Such forms shall initially be prepared by the city attorney's office and used until such time as they may be revised by the board of ethics. Once filed, disclosure statements shall become public documents, available to the public through the city clerk's office.

(Ord. No. 1057, 12-20-2011)

Sec. 2-102. - Gifts.

(a) No member of the council, the mayor, the city manager or other officer or employee of the city shall knowingly accept any gift, free ticket, pass, reduced price or reduced rate of service from any person, firm or corporation known to have or to be endeavoring to secure a contract with the city, the employees' retirement system and/or any authorities or joint collaborations the city has with any other entity.

(b) Any unsolicited gifts sent to an unsuspecting recipient shall be dealt with by letter informing the individual that gifts are prohibited. Vendors shall receive a letter notifying them of the city's no gift policy.

(Ord. No. 1057, 12-20-2011)

Secs. 2-103—2-134. - Reserved.

DIVISION 4. - DEPARTMENT OF PARKS AND RECREATION

Sec. 2-135. - Establishment; composition; functions, powers and duties.

There is hereby established in and for the city a department of parks and recreation, to be composed of a director of parks and recreation and such other personnel as the council shall from time to time determine. The department shall have such functions, powers and duties as are assigned to it by the council.

(Code 1989, § 244.01)

Sec. 2-136. - Public recreation and park management.

The operation of a system of public recreation and park management is hereby delegated to the department of parks and recreation, subject to approval by the council. Such department shall have the power to conduct and supervise public playgrounds, parks, athletic fields, recreation centers, municipal pools and other recreation and/or park facilities on properties owned by the city or on private property with the consent of the owners thereof. The department shall also have the power to conduct any wholesome and constructive form of recreation or cultural activity designed to employ the leisure time of adults and children. It shall have the authority to issue permits for the use of any or all of the aforementioned athletic fields, recreation facilities or park facilities to ensure proper use thereof and to avoid conflicts of use thereof.

(Code 1973, § 3.3; Code 1989, § 244.02)

Secs. 2-137—2-155. - Reserved.

DIVISION 5. - BUILDING DEPARTMENT

Sec. 2-156. - Establishment.

There is hereby established in and for the city a building department, to be composed of a building official and such other personnel as the council shall from time to time determine. The department shall have such functions, powers and duties as are assigned to it by the council.

(Code 1989, § 264.01)

Secs. 2-157—2-180. - Reserved.

DIVISION 6. - POLICE DEPARTMENT

Sec. 2-181. - Police chief.

The police department shall be headed by the police chief, who shall be the commanding officer of the police force. He or she shall direct the police work of the city and be responsible for the enforcement of law and order.

(Code 1973, § 1.51; Code 1989, § 250.01)

Sec. 2-182. - Acting chief.

In case of the temporary absence of the police chief, the city manager shall designate and appoint some other member of the police department to act as chief during such absence.

(Code 1973, § 1.52; Code 1989, § 250.02)

Sec. 2-183. - Disposition of acquired property.

(a) *Deposit with chief.* All stolen or other property taken or found by any officer in the possession of any person arrested or charged with a violation of the law, all property or money taken on suspicion of having been feloniously obtained or being the proceeds of crime and for which there is no other claimant than the person from whom it was taken, all found property, personal property taken from arrested persons, and all money taken from pawnbrokers as the proceeds of crime, or from any insane or intoxicated person otherwise incapable of taking care of himself or herself, shall be deposited, handled and accounted for under regulations prescribed by the chief of police.

(b) *Auction sale.* A public auction sale for the disposal of such property shall be held at the times and places prescribed by the chief of police. Unclaimed property in the possession of the police department pursuant to subsection (a) of this section shall be held for at least 90 days, and, if still unclaimed, may be sold at public auction upon first giving ten days' notice of such sale in a newspaper of general circulation in the city. Unsold property or property with no value may be properly disposed.

(c) *Proceeds.* The proceeds of all such auction sales shall be paid to the director of finance to be deposited in the general fund.

(Code 1973, §§ 1.55—1.57; Code 1989, § 250.03; Ord. No. 1158, § 1, 11-20-2018)

Sec. 2-184. - Reserve police officers.

(a) *Appointments.* The chief of police is hereby authorized and directed to appoint special patrolmen and patrolwomen, to be known as reserve police officers, in such numbers as he or she may deem necessary. Such officers may be called to active duty at any time by the police chief, or in his or her absence, by a command officer of the police department. Such officers shall be under the direction, supervision and control of the police chief.

(b) *Dress; insignia.* Such reserve police officers shall wear such badge, dress and insignia as the chief of police directs and shall be equipped in the manner which the chief deems necessary for the proper discharge of their duties.

(c) *Rules; compensation.* The chief of police shall promulgate rules relating to the qualifications, appointment and removal of such reserve police officers. Such officers shall serve without compensation, except where the council has made provision and an appropriation for a particular duty being performed or actual expenses incurred, or for a lump sum payment to the entire reserve police unit, approved by the chief of police.

(d) *Worker's compensation.* A reserve police officer, while acting under the direction of the police chief during assignment, shall be entitled to all rights and benefits provided under the provisions of Public Act No. 317 of 1969 (MCL 418.101 et seq.), known as the worker's disability compensation act of 1969. Such officer shall also receive, in addition to his or her worker's compensation, an amount to be paid by the employer, sufficient to make up the difference between worker's compensation and his or her regular weekly income, based on 40 hours, but not to exceed a regular patrolman's maximum base pay in effect on the date of injury, and such payments shall not exceed a period of 30 days.

(e) *Unlawful exercise of authority.* No reserve police officer shall exercise his or her authority as a patrolman or patrolwoman, or wear the prescribed uniform or insignia, or display his or her badge, in an attempt to exercise his or her authority, except during the performance of actual authorized police duty.

(f) *Obedience to call.* Any reserve police officer who willfully neglects or refuses to respond for assignment or duty when called, under such rules and regulations as promulgated by the police chief, may be subject to suspension or dismissal by the police chief.

(g) *Impersonation.* No person not duly appointed and sworn in as a reserve police officer shall impersonate such officer or wear, carry or display the badge, identification card, dress or insignia of a reserve police officer.

(Code 1973, §§ 1.61—1.67; Code 1989, § 250.04)

Secs. 2-185—2-206. - Reserved.

ARTICLE IV. - EMPLOYEE BENEFITS

DIVISION 1. - GENERALLY

Secs. 2-207—2-235. - Reserved.

DIVISION 2. - DEATH BENEFIT PLAN[6]

Footnotes:

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Editor's note— By Resolution No. 1483, passed November 19, 2002, the city adopted the provisions of the eligible domestic relations order act, Public Act No. 46 of 1991 (MCL 38.1701 et seq.), which provides that increased costs incurred by the retirement system due to the administration of the eligible domestic relations order act shall be borne by the parties to the domestic relations orders submitted to the board of trustees. Copies of the resolution may be obtained, at cost, in the office of the city clerk.

Sec. 2-236. - Establishment.

There is hereby established in and for the city an employees' death benefit plan. The purpose of such plan is to provide death benefits payable as provided in this division.

(Code 1973, § 1.111; Code 1989, § 292.01; Ord. No. 1100, 2-18-2014)

Sec. 2-237. - 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:

Active member means any member who has not retired with a pension payable from funds of the retirement system.

Member means any person who is included in the membership of the plan.

Retirant member means any member who has retired after June 30, 1958, with a pension payable from funds of the retirement system.

Retirement system means the City of Eastpointe Employees Retirement System, created and established by chapter XVIII of the city Charter which is now known as the Municipal Employees' Retirement System of Michigan effective December 17, 2013.

(Code 1973, § 1.112; Code 1989, § 292.02; Ord. No. 788, 8-25-1992; Ord. No. 1100, 2-18-2014)

Sec. 2-238. - Administration of plan.

The city manager or his or her designee shall administer, manage and operate the plan and carry into effect the provisions of this division.

(Code 1973, § 1.113; Code 1989, § 292.03; Ord. No. 1100, 2-18-2014)

Sec. 2-239. - Reserved.

Editor's note— Ord. No. 1100, adopted Feb. 18, 2014, repealed § 2-239, which pertained to meetings of governing board; quorum; votes. For prior history, see Code Comparative Table.

Sec. 2-240. - Finance director; custodian of funds.

The finance director shall be the custodian of the funds of the plan. All payments from funds of the plan shall be made according to city Charter provisions upon regular city checks.

(Code 1973, § 1.115; Code 1989, § 292.05; Ord. No. 1100, 2-18-2014)

Sec. 2-241. - Actuarial investigations and valuations.

(a) The city manager or his or her designee shall keep such data as are necessary for an actuarial valuation of the plan and for checking and compiling its experiences. At least once each five years, the city manager or his or her designee shall cause an actuarial investigation to be made of the mortality experiences of the members of the plan.

(b) The membership of the plan shall be as follows:

(1) All persons in the employ of the city who are vested members of the employees' retirement system and are eligible for a death benefit through union contract or council action shall become active members of the plan.

(2) Any active member who retires shall become a retirant member.

(3) In a case of doubt as to a person's membership status in the plan, the city manager or his or her designee shall decide the question and the decision of the city manager or his or her designee shall be final.

(Code 1973, §§ 1.116, 1.117; Code 1989, § 292.07; Ord. No. 1100, 2-18-2014)

Sec. 2-242. - Death benefits payable.

(a) Upon receipt by the city manager or his or her designee of due proof of the death of a member, the death benefit shall be paid to such person as he or she has nominated by written designation duly executed and filed with the city manager or his or her designee. If there is no such designated person surviving the active member, such sum shall be paid to his or her estate.

(b) The death benefit payable to members shall be the death benefit in effect at the time of their retirement.

(c) Any member may change his or her beneficiary from time to time by filing written notice with the city manager or his or her designee on forms furnished by the city manager or his or her designee.

(Code 1989, § 292.08; Res. No. 1450, 3-6-2001; Ord. No. 1100, 2-18-2014)

Sec. 2-243. - City's contributions to the plan.

(a) The city manager or his or her designee shall annually certify to the council the amount of contributions to be made by the city to the plan, based on the most recent actuarial report, and the council shall appropriate such amount to the credit of the plan.

(b) If the amounts credited to the plan, together with the city's contributions for the fiscal year, are insufficient to meet all demands made upon the plan, the amount of such insufficiency shall be provided by the council.

(Code 1973, § 1.119; Code 1989, § 292.09; Ord. No. 1100, 2-18-2014)

Sec. 2-244. - Members' contributions.

No retirement contributions shall be required of members.

(Code 1989, § 292.10; Res. No. 1450, 3-6-2001; Ord. No. 1100, 2-18-2014)

Sec. 2-245. - Management of funds; purpose; interest rate.

(a) The city manager or his or her designee shall be the trustee of the funds of the plan and shall have full power to invest and reinvest the same, subject to the terms, conditions, limitations and restrictions

imposed by the state through Public Act 314 of 1965, as amended. The city manager or his or her designee shall have full power to hold, purchase, sell, assign, transfer and dispose of any securities and investments in which funds of the plan have been invested, as well as the proceeds of such investments and any moneys belonging to the plan.

(b) All funds of the plan shall be held for the sole purpose of paying death benefits and other payments authorized by this division and shall be used for no other purpose.

(c) The city manager or his or her designee shall designate an interest rate which shall be used in making actuarial valuations of the assets and liabilities of the plan.

(Code 1973, § 1.121; Code 1989, § 292.11; Ord. No. 1100, 2-18-2014)

Sec. 2-246. - Assignment prohibited.

The right of a person to any benefit or any other right accrued or accruing to any person under this division shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, and shall be unassignable, except as is specifically provided in this division. However, the city shall have the right of set-off for any claim due the city from a member.

(Code 1973, § 1.122; Code 1989, § 292.12; Ord. No. 1100, 2-18-2014)

Sec. 2-247. - Effective date of plan; discontinuance.

(a) The effective date of the plan shall be July 1, 1958.

(b) It is the intention of the council that the plan be continued without interruption. However, the right to modify, change or alter any of the provisions of the plan or to discontinue the plan in its entirety may be done through contract negotiations.

(Code 1973, § 1.124; Code 1989, § 292.13; Ord. No. 1100, 2-18-2014)

Secs. 2-248—2-272. - Reserved.

DIVISION 3. - MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM[7]

Footnotes:

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Charter reference— Retirement plan for city employees, ch. XVIII.

Secs. 2-273—2-319. - Reserved.

Editor's note— Ord. No. 1099, adopted Feb. 18, 2014, repealed §§ 2-273—2-319, which pertained to retirement system. For prior history, see Code Comparative Table.

Sec. 2-320. - Establishment.

The Municipal Employees' Retirement System of Michigan is established for the purpose of providing for the retirement of officers and employees of the city on account of age and service or total and permanent disability; providing pensions supplemental to social security benefits; providing for contributions to retirement plans by the members and the city; and providing for the administration, management, and operation of the city's retirement plans.

(Ord. No. 1099, 2-18-2014)

Secs. 2-321—2-341. - Reserved.

Editor's note— Ord. No. 1099, adopted Feb. 18, 2014, repealed §§ 2-321—2-324, which pertained to retirement system. For prior history, see Code Comparative Table.

ARTICLE V. - BOARDS AND COMMISSIONS

DIVISION 1. - GENERALLY

Sec. 2-342. - Scope.

The provisions of this article shall apply to all boards, commissions and advisory committees of all kinds appointed by the mayor with the approval of the council, by the council or by the city manager, except where a conflicting provision appears in state statutes or in a city ordinance relating to a particular board or commission, the specific statute or ordinance shall apply rather than this general article.

(Ord. No. 979, § 258.01, 11-14-2006)

Sec. 2-343. - Terms of office.

Members of each committee, board or commission shall serve for the period of time set in the ordinance creating the committee, board or commission. Where there is no ordinance setting a term, members of the committee, board or commission shall serve for three-year staggered terms, so that approximately one-third of the membership shall be coming up for reappointment each year. The first appointed members shall establish terms of one, two and three years by lot so that they will be serving for staggered terms. If members are serving for terms other than staggered terms in any committee at the effective date of the ordinance from which this article is derived, members presently in office shall complete their terms and the members appointed at the completion of the existing terms shall be appointed for staggered terms.

(Ord. No. 979, § 258.02, 11-14-2006)

Sec. 2-344. - Removals.

Any member of any committee, board or commission shall be removed for cause by the city council. Any member of any committee, board or commission missing more than three meetings in a row without an excuse may be removed by the city council after a recommendation for removal from the committee, board or commission.

(Ord. No. 979, § 258.03, 11-14-2006)

Sec. 2-345. - Vacancies.

Vacancies shall be filled for the remainder of the term in the same manner that original appointments are made.

(Ord. No. 979, § 258.04, 11-14-2006)

Sec. 2-346. - Appointments.

Where no provision is made by ordinance or statute for methods of appointment of members of any committee, board or commission, appointments shall be made by the city council.

(Ord. No. 979, § 258.05, 11-14-2006)

Sec. 2-347. - Members to serve without pay.

Except where otherwise specifically provided by ordinance, members of each appointed city board, commission or committee shall serve without pay. Members shall not be reimbursed for time lost from work on city business. Members may be reimbursed for actual costs expended, with the approval of the city council.

(Ord. No. 979, § 258.06, 11-14-2006)

Sec. 2-348. - Official action.

All boards and commissions of the city shall have a majority vote of its membership to take official action, unless otherwise provided by state law.

Secs. 2-349—2-369. - Reserved.

DIVISION 2. - LOCAL OFFICERS COMPENSATION COMMISSION[8]

Footnotes:

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State Law reference— Authority to create the local officers compensation commission, MCL 117.5c.

Sec. 2-370. - Establishment.

Pursuant to Public Act No. 8 of 1972 (MCL 117.5c), there is hereby established in and for the city a local officers compensation commission, which commission shall determine the salaries of each elected official of the city.

(Code 1989, § 280.01; Ord. No. 618, 3-3-1981)

Sec. 2-371. - Membership; terms; vacancies; removal.

(a) The local officers compensation commission shall consist of seven members. The members shall be registered electors of the city, appointed by the mayor subject to confirmation by a majority of the members of the council. The terms of office shall be seven years, except that of the members first appointed, one each shall be appointed for terms of one, two, three, four, five, six and seven years,

respectively. The first members shall be appointed within 30 days after the effective date of the ordinance from which this section is derived. Members other than the first members shall be appointed before October 1 of the year of appointment. Vacancies shall be filled for the remainder of the unexpired term. A member or employee of the legislative, judicial or executive branch of the city government, or a member of the immediate family of a member or employee of the legislative, judicial or executive branch of the city government, shall not be a member of the commission.

(b) Members of the local officers compensation commission shall be subject to division 1 of this article as to removal.

(Code 1989, § 280.02; Ord. No. 618, 3-3-1981; Ord. No. 980, § 280.02, 11-14-2006)

Sec. 2-372. - Determination of compensation; expense allowances.

The local officers compensation commission shall determine the salary of each elected official of the city. The determination shall be the salary unless the council, by resolution adopted by two-thirds of the members elected to and serving on the council, rejects it. The determination of the commission shall be effective 30 days following its filing with the city clerk, unless rejected by the council. If the determination is rejected, the existing salary shall prevail. The expense allowance or reimbursement paid to elected officials in addition to salary shall be for expenses incurred in the course of city business and accounted for to the city.

(Code 1989, § 280.03; Ord. No. 618, 3-3-1981)

Sec. 2-373. - Meetings; quorum; chairperson; compensation.

The local officers compensation commission shall meet for not more than 15 days in each odd-numbered year and shall make its determinations within 45 days after its first meeting. A majority of the members of the commission shall constitute a quorum for conducting the business of the commission. The commission shall not take any action or make a determination without a concurrence of a majority of the members appointed and serving on such commission. The commission shall elect a chairperson from among its members. The members of the commission shall not receive compensation, but shall be entitled to actual and necessary expenses incurred in the performance of their official duties.

(Code 1989, § 280.04; Ord. No. 618, 3-3-1981)

Sec. 2-374. - Open meetings.

The business which the local officers compensation commission may perform shall be conducted at a public meeting of the commission held in compliance with Public Act No. 267 of 1976 (MCL 15.261 et seq.). Public notice of the time, date and place of the meeting of the commission shall be given in the manner required by such act.

(Code 1989, § 280.05; Ord. No. 618, 3-3-1981)

Sec. 2-375. - Freedom of information.

A document prepared, owned, used, in the possession of or retained by the local officers compensation commission in the performance of an official function shall be made available to the public in compliance with Public Act No. 442 of 1976 (MCL 15.231 et seq.).

(Code 1989, § 280.06; Ord. No. 618, 3-3-1981)

Secs. 2-376—2-393. - Reserved.

DIVISION 3. - BEAUTIFICATION COMMISSION

Sec. 2-394. - Establishment.

There is hereby established in and for the city a beautification commission, which shall serve in an advisory capacity to the council.

(Code 1989, § 272.01)

Sec. 2-395. - Membership; qualifications.

The beautification commission shall consist of 11 members to be appointed by the mayor, subject to the approval of a majority vote of the members of the council. All members shall be residents and electors in compliance with the city Charter.

(Code 1973, § 1.202; Code 1989, § 272.02; Ord. No. 939, 4-6-2004)

Sec. 2-396. - Terms of office; appointments; removals; vacancies.

(a) Members of the beautification commission shall serve for a term of three years, and appointments shall be as follows: three members shall be appointed for a period of three years; three members shall be appointed for a period of two years and three members shall be appointed for a period of one year, respectively. Thereafter, each member shall hold office for the full three-year term.

(b) Members of the beautification commission shall be subject to division 1 of this article as to removal, vacancies, and compensation.

(Code 1973, § 1.203; Code 1989, § 272.03; Ord. No. 980, § 272.03, 11-14-2006)

Sec. 2-397. - Chairperson.

The beautification commission shall select its own chairperson, who shall serve for a term of one year and who may be reelected as chairperson if the other commission members so desire.

(Code 1973, § 1.204; Code 1989, § 272.04)

Sec. 2-398. - Ex officio members.

The beautification commission shall consist of the following ex officio members who shall have no voting powers on such commission: one representative from the city manager's office; one representative from the department of public works; one representative from the department of parks and recreation; one representative from the downtown development authority; one representative from the council; and one representative from the planning commission.

(Code 1989, § 272.05)

Sec. 2-399. - Objectives and purposes.

(a) The objectives and purposes of the beautification commission shall be to keep the city beautiful in the following manner:

(1) Promoting public education against the discarding of litter in the streets, alleys, sidewalks, gutters, parks and recreational areas or similar public places;

(2) Enlisting the active support of interested individuals, businesses, industry, the city national farm and garden associations, the schools and civic organizations that would share the same objectives;

(3) Encouraging developers, absentee owners and businessmen to accept basic responsibilities in preserving and enhancing the beauty of public and private properties;

(4) Sponsoring, planning and promoting a special spring and fall fix-up, paint-up, clean-up campaign;

(5) Investigating, studying and recommending plans for improving the general health, sanitation, safety and cleanliness of the city;

(6) Encouraging the placing, planting and preservation of trees, flowers and shrubbery, and sponsoring and promoting Arbor Week; and

(7) Sponsoring a program of general improvement of appearance of all properties in the city.

(b) The several departments of the city are to work in harmony with the commission and to provide such necessary assistance and cooperation as may be necessary to assist the commission in carrying out its objectives and purposes, whenever possible.

(Code 1973, § 1.206; Code 1989, § 272.06; Ord. No. 788, 8-25-1992)

Sec. 2-400. - Budget.

The beautification commission shall annually prepare and present to the council an estimate of any necessary costs and expenses required to carry on the work of such commission.

(Code 1973, § 1.207; Code 1989, § 272.07)

Secs. 2-401—2-428. - Reserved.

DIVISION 4. - HOUSING COMMISSION[9]

Footnotes:

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State Law reference— Housing facilities, MCL 125.651 et seq.; housing projects, MCL 125.731 et seq.

Sec. 2-429. - Establishment.

There is hereby established in and for the city a housing commission, pursuant to Public Act No. 18 of 1933 (Extra Session) (MCL 125.651 et seq.).

(Code 1973, § 1.190; Code 1989, § 276.01)

Sec. 2-430. - Membership; terms; compensation; removals; vacancies.

The housing commission shall consist of five members to be appointed by the city manager. City employees and officials are hereby declared eligible for appointment to such commission. The term of office of a member of the commission shall be five years. Members of the first commission shall be appointed for terms of one year, two years, three years, four years and five years, respectively. Annually thereafter, one member shall be appointed for a five-year term. Members of the commission shall serve without compensation and may be removed from office by the appointing authority. Any vacancy in office shall be filled by the appointing authority for the remainder of the unexpired term.

(Code 1973, § 1.191; Code 1989, § 276.02)

Sec. 2-431. - Powers and duties.

The housing commission shall have all the powers and duties vested or permitted to be vested in housing commissions by Public Act No. 18 of 1933 (Extra Session) (MCL 125.651 et seq.), and any laws heretofore or hereafter enacted which are supplemental thereto.

(Code 1973, § 1.192; Code 1989, § 276.03)

Sec. 2-432. - Meetings; officers and employees.

The housing commission shall meet at regular intervals, such meetings to be open to the public. It shall adopt its own rules of procedure and shall keep a record of the proceedings. Three members shall constitute a quorum for the transaction of business. A president and vice-president shall be elected by the commission. The commission may appoint a director, who may also serve as secretary, and such other employees or officers as shall be necessary. The commission shall prescribe the duties of all its officers and employees and may, with the approval of the appointing authority, fix its compensation. The commission may, from time to time, as necessary, employ engineers, architects, attorneys and consultants, within the limitation of its established budget.

(Code 1973, § 1.193; Code 1989, § 276.04)

Sec. 2-433. - Funds for operation.

Funds for the operation of the housing commission may be provided by the council, but the commission shall, as soon as possible, reimburse the city for all moneys expended by it for the commission from revenues received from the sale of bonds.

(Code 1973, § 1.194; Code 1989, § 276.05)

Sec. 2-434. - Conflicts of interest.

No member of the housing commission or any of its officers or employees shall have any interest, directly or indirectly, in any contract for property, material or services to be acquired by such commission.

(Code 1973, § 1.195; Code 1989, § 276.06)

Sec. 2-435. - Reports to council.

The housing commission shall make an annual report of its activities to the council and shall make such other reports as the council may from time to time require.

(Code 1973, § 1.196; Code 1989, § 276.07)

Secs. 2-436—2-453. - Reserved.

DIVISION 5. - PARKS COMMISSION[10]

Footnotes:

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Editor's note— Ord. No. 1153, adopted July 10, 2018, amended Div. 5 in its entirety to read as herein set out. Former Div. 5, §§ 2-454—2-456, pertained to similar subject matter and derived from Code 1973, §§ 3.6, 3.7; Code 1989, §§ 282.01—282.07; Ord. No. 742, 11-13-1989; Ord. No. 788, 8-25-1992; Ord. No. 980, § 282.01, 11-14-2006.

Sec. 2-454. - Establishment; membership; terms; vacancies; removals.

(a) There is hereby established in and for the city a parks commission. The commission shall consist of seven inhabitants of the city who shall serve without compensation. Members of the commission shall be appointed by the mayor and confirmed by council. Three members shall be appointed for a one-year term, two members for a two-year term, and two members for a three-year term, such terms starting August 1, 2018. Thereafter, all such appointments, except to fill vacancies, shall be for three-year terms starting August 1, 2019. Vacancies occurring otherwise than by expiration of term shall be filled by the mayor and confirmed by council for the unexpired term.

(b) Members of the parks commission shall be subject to division 1 of this article as to removal, vacancies and compensation. A representative from the Eastpointe Community Schools, and a city councilperson appointed by the mayor and confirmed by the council shall be ex officio (nonvoting) members of the commission.

(Ord. No. 1153, 7-10-2018)

Sec. 2-455. - Officers; rules.

Immediately after their appointment, the members of the parks commission shall meet and organize by electing one of their members as chairperson and electing such other officers as may be necessary. The commission shall have the power to adopt bylaws, rules and regulations for the proper conduct and operation of parks in the city.

(Ord. No. 1153, 7-10-2018)

Sec. 2-456. - Powers of commission.

The parks commission shall be an advisory board with the power to make recommendations and advise the council, city manager and parks director on any matters pertaining to park programs, projects or facilities operated or conducted by the city on any properties owned or controlled by the city, or on any other properties with the consent of the owner and authorities who control it. Such advice shall include, but not be limited to, interpreting the needs of the community and the desires of its citizens as to the allocation of available funds among the city's park programs, interpreting the needs of the community as to the acquisition or constructing of any additional park facilities, advising in the preparation of departmental requests in connection with the preparation of the city's annual budgets, assisting in the

formulation of any rules and regulations considered necessary or advisable to provide the optimum public benefit from any phase of the city's parks and programs, assisting in the settling of any disputes, conflicting interests or differences of opinion between two or more citizens, or groups of citizens, involving the use or operation of the city's park facilities and recommending programs and activities as the commission feels may benefit the public health and welfare of the citizens of Eastpointe.

(Ord. No. 1153, 7-10-2018)

Secs. 2-457—2-488. - Reserved.

DIVISION 6. - POLICE/TRAFFIC SAFETY ADVISORY COMMISSION[11]

Footnotes:

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State Law reference— Michigan vehicle code, MCL 257.1 et seq.

Sec. 2-489. - Establishment.

There is hereby established in and for the city a police/traffic safety advisory commission, which shall serve as an advisory commission to the mayor and the council.

(Code 1989, § 284.01; Res. No. 1001, 4-29-1980)

Sec. 2-490. - Purposes.

The purposes of the police/traffic safety advisory commission are as follows:

(1) To make recommendations regarding crime apprehension and prevention activities;

(2) To make recommendations that would alleviate hazardous traffic conditions that may exist and thereby help prevent accidents and create a smoother flow of traffic;

(3) To make recommendations regarding changes in traffic patterns; and

(4) To serve as a sounding board regarding community concerns and opinions as to police/traffic activity.

(Code 1989, § 284.02; Res. No. 1001, 4-29-1980)

Sec. 2-491. - Membership.

(a) The police/traffic safety advisory commission shall be composed of 11 members. There shall be four ex officio members: one representing the mayor and council; the chief of police; the traffic safety officer, at the direction of the chief of police; and the youth counselor/probation officer. The council representative shall be appointed by the mayor with the concurrence of the council and shall serve until replaced by the mayor. The other ex officio members shall serve until they vacate their positions as chief of police, traffic safety officer and youth counselor/probation officer. The ex officio members shall not be voting members of the commission.

(b) The seven citizen members of the commission shall be appointed by the mayor with the concurrence of the council and shall be voting members of the commission. All citizen members of the commission shall be city residents and electors.

(Code 1989, § 284.03; Res. No. 1001, 4-29-1980)

Sec. 2-492. - Terms of office; removals; vacancies; compensation.

(a) The terms of office of the members of the police/traffic safety advisory commission shall be three years, and initial appointments shall be as follows: three members shall be appointed for a period of three years; two members shall be appointed for a period of two years; and two members shall be appointed for a period of one year. Thereafter, each member shall hold office for the full three-year term.

(b) Members of the police/traffic safety advisory commission shall be subject to division 1 of this article as to removal, vacancies and compensation.

(Code 1989, § 284.04; Res. No. 1001, 4-29-1980; Ord. No. 980, § 284.04, 11-14-2006)

Sec. 2-493. - Officers.

The officers of the police/traffic safety advisory commission shall be a chairperson, a vice-chairperson and a secretary. The chairperson shall perform such duties as usually pertain to such office and shall preside at all meetings. He or she shall be an ex officio member of all subcommittees. The vice-chairperson, in the absence of the chairperson, or at his or her request, shall perform the duties of the chairperson. The secretary of the commission shall be a member of the commission and shall perform the commission's secretarial duties without compensation.

(Code 1989, § 284.05; Res. No. 1001, 4-29-1980)

Sec. 2-494. - Meetings; quorum.

(a) Meetings may be called by the chairperson, or by the vice-chairperson in the absence of the chairperson, at any time business needs to be transacted. However, the police/traffic safety advisory commission shall meet at least quarterly to discuss general and/or pertinent police/traffic concerns and activities.

(b) A majority of the voting membership shall constitute a quorum for the transaction of business.

(Code 1989, § 284.06; Res. No. 1001, 4-29-1980)

Sec. 2-495. - Rules of procedure.

The police/traffic safety advisory commission shall have the authority to establish rules of procedure, so long as such rules are not in conflict with any ordinances and resolutions of the city or this Code.

(Code 1989, § 284.07; Res. No. 1001, 4-29-1980)

Secs. 2-496—2-506. - Reserved.

DIVISION 7. - SENIOR CITIZENS ADVISORY COMMISSION[12]

Footnotes:

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State Law reference— Discrimination generally, Mich. Const. art. I, § 2, MCL 37.2101 et seq.; inspection of motor vehicles used by senior citizen centers, MCL 257.715a; older Michiganians act, MCL 400.581 et seq.; recreational bingo, MCL 432.105a.

Sec. 2-507. - Establishment.

There is hereby established in and for the city a senior citizens advisory commission, which shall serve as an advisory commission to the mayor and council.

(Code 1989, § 286.01; Res. No. 965, 1-10-1978)

Sec. 2-508. - Purpose.

The purpose of the senior citizens advisory commission is to advise the council on programs, services and facilities for senior citizens.

(Code 1989, § 286.02; Res. No. 965, 1-10-1978)

Sec. 2-509. - Membership; secretary.

(a) The senior citizens advisory commission shall be composed of 11 members. There shall be two ex officio members: a representative of the council and the mayor; and the parks and recreation director or his or her designate. Each of the ex officio members shall be appointed by the mayor with the concurrence of the council. The council representative shall serve until the next organizational meeting of the council, pursuant to chapter III, section 5, of the city Charter. The other ex officio member shall serve a three-year term or until he or she vacates his or her position as director of parks and recreation. The ex officio members shall not be voting members of the commission.

(b) The nine citizen members of the commission shall be appointed by the mayor with the concurrence of the council. All such members of the commission shall be city residents and electors.

(c) The secretary of the commission shall be a member of the commission.

(Code 1989, § 286.03; Res. No. 965, 1-10-1978)

Sec. 2-510. - Terms of office; removals; vacancies; compensation.

(a) The term of office of the members of the senior citizens advisory commission shall be three years, and initial appointments shall be as follows: three members shall be appointed for a period of three years; and three members shall be appointed for a period of two years; and three members shall be appointed for a period of one year. Thereafter, each member shall hold office for the full three-year term. Members of the commission may be removed by the council pursuant to the provisions of the city Charter. Any appointed vacancy in the commission shall be filled by the mayor with the approval of the council for the remainder of the unexpired term.

(b) Members of the senior citizens advisory commission shall be subject to division 1 of this article as to removal and compensation.

(Code 1989, § 286.04; Res. No. 965, 1-10-1978; Res. No. 1137, 1-7-1986; Ord. No. 980, § 286.04, 11-14-2006)

Sec. 2-511. - Organization.

The senior citizens advisory commission shall have the authority to determine its officers and their method of selection, as well as the dates and frequency of meetings. The commission shall also have the authority to establish operating procedures and bylaws within the broad limitations of this chapter and other provisions of this Code.

(Code 1989, § 286.05; Res. No. 965, 1-10-1978)

Secs. 2-512—2-515. - Reserved.

DIVISION 8. - PROPERTY MAINTENANCE BOARD OF APPEALS

Sec. 2-516. - Application for appeal.

Any person directly affected by a decision of the code official rendered pursuant to the International Property Maintenance Code (Code) as adopted by the City of Eastpointe shall have the right to appeal to the property maintenance board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or the requirements of the code are adequately satisfied by other means.

(Ord. No. 1042, 3-15-2011)

Sec. 2-517. - Membership of board.

The property maintenance board of appeals shall consist of five members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the City of Eastpointe. At least one member shall be a licensed contractor, at least one member shall be a professional architect, and at least one member shall be a professional engineer. The code official shall be an ex-officio member but shall have no vote on any matter before the board. Board members shall be appointed by the mayor, and confirmed by the city council, as follows: One for five years, one for four years, one for three years, one for two years, and one for one year. Thereafter, each new member shall serve for five years or until a successor has been appointed.

(Ord. No. 1042, 3-15-2011)

Sec. 2-518. - Alternate members.

The city council shall appoint two or more alternate members who shall be called by the chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

(Ord. No. 1042, 3-15-2011)

Sec. 2-519. - Chairman.

The board shall annually select one of its members to serve as chairman.

(Ord. No. 1042, 3-15-2011)

Sec. 2-520. - Disqualification of member.

A member shall not hear an appeal in which that member has a personal, professional or financial interest.

(Ord. No. 1042, 3-15-2011)

Sec. 2-521. - Secretary.

The chairman shall designate a qualified person to serve as secretary to the board. The secretary shall file with the city a detailed record of all proceedings.

(Ord. No. 1042, 3-15-2011)

Sec. 2-522. - Compensation of members.

Board members shall not receive any compensation unless otherwise determined by resolution of the city council.

(Ord. No. 1042, 3-15-2011)

Sec. 2-523. - Notice of meeting.

The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.

(Ord. No. 1042, 3-15-2011)

Sec. 2-524. - Open hearing.

All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard.

(Ord. No. 1042, 3-15-2011)

Sec. 2-524.1. - Procedure.

The board shall adopt and make available to the public through the secretary, procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

(Ord. No. 1042, 3-15-2011)

Sec. 2-524.2. - Postponed hearings.

When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

(Ord. No. 1042, 3-15-2011)

Sec. 2-524.3. - Board decision.

The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.

(Ord. No. 1042, 3-15-2011)

Sec. 2-524.4. - Records and copies.

The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

(Ord. No. 1042, 3-15-2011)

Sec. 2-524.5. - Administration.

The code official shall take immediate action in accordance with the decision of the board.

(Ord. No. 1042, 3-15-2011)

Sec. 2-524.6. - Court review.

Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision with the city.

(Ord. No. 1042, 3-15-2011)

Sec. 2-524.7. - Stays of enforcement.

Appeals of notice and orders shall stay the enforcement of the notice and order until the appeal is heard by the board.

(Ord. No. 1042, 3-15-2011)

Secs. 2-524.8—2-524.20. - Reserved.

DIVISION 9. - ARTS AND CULTURAL DIVERSITY COMMISSION[13]

Footnotes:

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Editor's note— Ord. No. 1152, adopted May 15, 2018, set out provisions intended for §§ 2-525—2-531. To avoid duplication of section numbers, and at the editor's discretion, these provisions have been included as §§ 2-524.21—2.524.27.

Sec. 2-524.21. - Establishment.

There is hereby established in and for the city an arts and cultural diversity commission, which shall serve in an advisory capacity to the council.

(Ord. No. 1152, 5-15-2018)

Sec. 2-524.22. - Membership; qualifications.

The arts and cultural diversity commission shall consist of nine members to be appointed by the mayor, subject to the approval of a majority vote of the members of the council. All members shall be residents and electors in compliance with the City Charter. City employees who are also residents and electors in compliance with the City Charter may also be considered and appointed to the commission.

(Ord. No. 1152, 5-15-2018)

Sec. 2-524.23. - Terms of office; appointments; removals; vacancies.

(a) Members of the arts and cultural diversity commission shall serve for a term of three years, and appointments shall be as follows: three members shall be appointed for a period of three years; three members shall be appointed for a period of two years and three members shall be appointed for a period of one year, respectively. Thereafter, each member shall hold office for the full three-year term.

(b) Members of the arts and cultural diversity commission shall be subject to division 1 of this article as to removal, vacancies, and compensation.

(Ord. No. 1152, 5-15-2018)

Sec. 2-524.24. - Chairperson.

The arts and cultural diversity commission shall select its own chairperson, who shall serve for a term of one year and who may be reelected as chairperson if the other commission members so desire.

(Ord. No. 1152, 5-15-2018)

Sec. 2-524.25. - Ex officio members.

The arts and cultural diversity commission shall consist of the following ex officio members who shall have no voting powers on such commission: one representative from the city manager's office; one representative from the department of public works; one representative from the department of parks and recreation; one representative from the downtown development authority; one representative from the council, and one representative from the planning commission.

(Ord. No. 1152, 5-15-2018)

Sec. 2-524.26. - Objectives and purposes.

(a) The objectives and purposes of the arts and cultural diversity commission shall be to enrich the city with arts and cultural diversity in the following manner:

(1) Promoting arts and cultural initiatives in the public areas of the city and other locations;

(2) Recommending, developing and implementing city-wide programs and events which provide community access to the performing and creative arts, including those which celebrate cultural diversity;

(3) Enlisting the active support of interested individuals, businesses, industry, the schools and civic organizations that would share the same objectives;

(4) Working with local, state and federal agencies to take advantage of available resources, including funding, and

(5) Actively sponsoring, planning and staffing appropriate programs.

(b) The several departments of the city are to work in harmony with the commission and to provide such necessary assistance and cooperation as may be necessary to assist the commission in carrying out its objectives and purposes, whenever possible.

(c) The commission may partner with, including, but not limited to, the Recreational Authority of Roseville and Eastpointe (RARE) and Friends of the Library on any programs which provide community access to the performing and creative arts and celebrate cultural diversity.

(Ord. No. 1152, 5-15-2018)

Sec. 2-524.27. - Budget.

The arts and cultural diversity commission shall annually prepare and present to the council an estimate of any necessary costs and expenses required to carry on the work of such commission.

(Ord. No. 1152, 5-15-2018)

Secs. 2-524.28—2-524.40. - Reserved.

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ARTICLE VI. - FINANCE[14]

Footnotes:

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Charter reference— Department of finance, ch. XII; taxation, ch. XIV; bonds, ch. XV; special assessments, ch. XVI.

State Law reference— Revised municipal finance act, MCL 141.2101 et seq.; uniform budgeting and accounting act, MCL 141.421 et seq.; deposit of public moneys, MCL 211.43b.

DIVISION 1. - GENERALLY

Sec. 2-525. - City fee schedule for public records and city services and programs.

The fee schedule in this section is hereby established for public records, services, and programs provided by the city.

	Fees
ADMINISTRATION	
Engineering and Architectural Services	
Plan review fees	Consultant fee + 10% administrative fee
Plan revision review fee	Consultant fee + 10% administrative fee
Engineering bid packet fee	Consultant fee + 10% administrative fee
R.O.W. permits	
Review fees—public improvements	Consultant fee + 10% administrative fee
Review fees—privately owned facility	Consultant fee + 10% administrative fee
Inspection	Consultant fee + 10% administrative fee
Telecommunications R.O.W. application fee	550.00
Inspection fees	Consultant fee + 10% administrative fee
Easement vacations	Attorney and consultant fees + 200.00
Easement encroachments	Attorney and consultant fees + 225.00
ASSESSING	
Lot Combinations/Lot Splits	75.00 per each new parcel number
Address Assignment	10.00

BUILDING AND ENFORCEMENT	
Administrative Fee	
Snow, ice and debris removal	Actual expense plus: 100.00 administrative fee
Noxious weeds and refuse	Actual expense plus: 100.00 administrative fee
Permit Fees for Specified Work	
Aboveground swimming pool	50.00
Demolition—residential	75.00
Demolition—commercial/industrial	300.00
Parking lot	
0—5,000 sq. ft.	100.00 + engineering review fee
5,001 and over sq. ft.	150.00 + engineering review fee
Zoning	
Shed—200 sq. ft. or less	40.00
Shed—over 200 sq. ft.	Require building permits—fee calculated under "Construction and Installation Permit Fees"
Residential fence (6 ft. or less in height)	40.00
Sidewalk/driveway (not more than 30 inches above adjacent grade and not over a basement or story below)	40.00
Re-instatement fee	All permits remain valid as long as work is progressing and inspections are requested and conducted. A permit shall become invalid if the authorized work is not

	commenced within 180 days after issuance of the permit or if the authorized work is suspended or abandoned for a period of 180 days after the time of commencing the work. Minimum fee is 50.00.
Plan Review Fees	
Residential plan review (new 1-2 family residential structure)	75.00
Residential plan review (home in excess of 3,500 sq. ft.)	100.00 + 20% of valuation of home exceeding 100,000.00
Commercial/industrial plan review fee	30% of building permit fee
Special Inspections/Permits	
Special events and activities application	$75.00 + $5.00 for each farmers market vendor per week
Chicken keeping permit	75.00
Pre-permit issuance	50.00
Liquor license inspection	75.00
Coin operated machines, each location	30.00 + 10.00 for each additional machine
Change of occupancy	50.00
Progress inspection	50.00
Property record report	25.00
Reinspection—building permit	50.00
Reinspection—mechanical, electrical, and plumbing	50.00 + administrative fee

Temporary outdoor sales (other than garage sales)	50.00
Christmas tree lots—bond	150.00
Garage sales	
First sale in calendar year	5.00
Second sale in calendar year	10.00
Information inspection (for business license)	75.00
Residential Rental Property	
Single-family (registration and first inspection)	135.00
Late fee	25.00 per unit (21-day grace period)
Duplex (two-family) (registration and first inspection)	210.00
Late fee	25.00 per unit (21-day grace period)
Multifamily>(registration and first inspection)	105.00 + 105.00 each additional unit in the same building inspected at the same time
Late fee	25.00 per unit (21-day grace period)
Second inspection	50.00 per unit
Lock out per unit	35.00
3rd or more inspections	100.00

Failure to certify rental property within 120 days of expired certificate (when property is occupied)	250.00
Failure to register property as a rental (when property is occupied)	250.00
Vacant Structures	
Fee to cover cost of record maintenance, initial inspection and final certificate of compliance inspection	250.00
If paid on or before the due date	225.00
Properties vacant in excess oftwo years, additional fee peryear	75.00
If paid on or before the due date	50.00
Bonds	
Demolition of residential and accessory building	300.00
Demolition of commercial or industrial building	1,000.00
One- and two-family building	500.00
Alterations, accessory structures, in-ground swimming pools	200.00
Multifamily structures (per unit)	250.00
Commercial or industrial building	1,000.00

Projects with a value less than $5,000.00		No bond required
Monthly Meeting Fees		
Construction board of appeals		350.00
Property maintenance board of appeals		250.00
Planning commission		
	Regular or special meeting	300.00
	Special use approval	400.00
	Rezoning	1,000.00
	Application review	Actual engineer, planner, and attorney fees + 10% administrative fee
	Masonry wall review	50.00
Zoning board of appeals		
	Regular or special meeting	425.00
	Multiple variances	500.00
	Application review	Actual engineer, planner, and attorney fees + 10% administrative fee
Contractor License Registration Fees		
Journeyman*		0.50
Master plumber*		1.00

Mechanical*	15.00
Electrical	15.00
Building	15.00
*Required to register and pay a registration fee at the time state license expires. License holder must appear in person to register license.	
Construction and Installation Permit Fees	
Application fee (nonrefundable)	30.00
Re-instatement fee	All permits remain valid as long as work is progressing and inspections are requested and conducted. A permit shall become invalid if the authorized work is not commenced within 180 days after issuance of the permit or if the authorized work is suspended or abandoned for a period of 180 days after the time of commencing the work. Minimum fee is 50.00.
Construction cost up to $1,000.00*	75.00
Construction cost $1,001.00 to $10,000.00*	75.00 + 10.00 per 1,000.00 in construction cost over 1,000.00
Construction cost $10,001.00 to $100,000.00*	165.00 + 4.00 per 1,000.00 in construction cost over 10,000.00
Construction cost $100,001.00 to $500,000.00*	435.00 + 4.00 per 1,000.00 in construction cost over 100,000.00
Construction cost $500,001.00 and over*	1,235.00 + 3.00 per 1,000.00 in construction cost over 500,000.00
Permit extension—six months	50.00

Fine for work commenced prior to issuance of permit	50.00
Refunds	First 50.00 nonrefundable
*Construction costs are based on state construction codes square foot construction cost table.	
Electrical Permit Fees	
Administration fee	Permit fee × 10%
Application fee	50.00
Service through 200 amp	10.00
Service > 200 to 600 amp	15.00
Service > 600 to 800 amp	20.00
Service > 800 to 1200 amp	25.00
Service over 1200 amp GFI only	50.00
Circuits	5.00
Light fixtures—per 25	6.00
Dishwasher	5.00
Furnace—unit heater	5.00
Electrical heating units (baseboard)	4.00
Power outlets (ranges, dryers, etc.)	7.00
Signs—unit	10.00

Signs—letter			15.00
Signs—neon, each 25 feet			20.00
Feeders—bus ducts, etc.—per 50 ft.			6.00
Units up to 20 K.V.A. or H.P.			6.00
Units 21 to 50 K.V.A. or H.P.			10.00
Units 51 K.V.A. or H.P. or over			12.00
Fire alarms—up to 10 devices			50.00
Fire alarms—11 to 20 devices			100.00
Fire alarms—over 20			5.00 each
Data/telecommunications outlets			
	1—19 devices		5.00 each
	20—300 devices		100.00
	Over 300 devices		300.00
New house (includes first 25 fixtures, 9 circuits, 100 amp service, smoke detectors, range, dryer, range hood, and furnace connection)			175.00
Air conditioning			
	Residential		17.00
	Commercial		
		Up to 5 tons	22.00
		5 to 40 tons	33.00

Over 40 tons	55.00
Standby generator—emergency generator	55.00
Standby generator—over 30 K.W.	110.00
Special/safety inspection	50.00
Additional inspection	50.00
Continuation inspection	25.00
Final inspection	50.00
License registration fee	15.00
Electrical plan (code) review—commercial/ industrial	30% of total electrical permit fees
Mechanical Permit Fees	
Administrative fee	10% of total permit fees
Application fee (nonrefundable)	50.00
Residential heating system (includes duct and pipe—new buildings only)	50.00
Gas/oil burning equipment (new or conversion units)	30.00
Residential boiler	30.00
Water heater	5.00
Flue/vent damper	5.00
Solid fuel equipment (including chimney)	30.00

Solar (set of 3 panels, including piping)	20.00
Gas piping—each opening, new installation	5.00
Air conditioning (includes split system)	30.00
Heat pumps—complete residential	30.00
Bath and kitchen exhaust	5.00
Tanks	
Aboveground	20.00
Aboveground connection	20.00
Underground	25.00
Underground connection	25.00
Humidifiers	10.00
Piping—minimum	25.00 or 0.05/foot, whichever is greater
Process piping	0.05/foot
Duct—minimum	25.00 or 0.10/foot, whichever is greater
Heat pumps—commercial, pipe not included	20.00
Air handlers/heat wheels	
Under 10,000 CFM	20.00
10,000 CFM and over	60.00
Commercial hoods	15.00
Heat recovery units	10.00

V.A.V. boxes	10.00
Unit ventilators	10.00
Unit heaters (terminal units)	15.00
Fire suppression/protection—minimum	20.00 or 0.75/head, whichever is greater
Evaporator coils	30.00
Refrigeration (split system)	30.00
Chiller	30.00
Cooling tower	30.00
Compressor	30.00
Additional inspection	50.00
Continuation inspection	25.00
Final inspection	50.00
License registration fee	15.00
Mechanical code review—commercial and industrial	30% of total mechanical permit fees
Plumbing Permit Fees	
Administrative fee	10% of total plumbing permit fees
Application fee (nonrefundable)	50.00
Mobile home park site	5.00 each

Fixture, floor drain, special drain, water-connected appliance		5.00 each
Stacks (soil, waste, vent, and conductor)		3.00 each
Sewage ejector or sump		5.00 each
Subsoil drain		5.00 each
Water service		
	Less than 2 inches	5.00
	2 inches to 6 inches	25.00
	Over 6 inches	50.00
Connection of building drain—building sewers		5.00
Sewers—sanitary, storm, or combined		
	Less than 6 inches	5.00
	6 inches and over	25.00
Manholes and catch basins		5.00 each
Watering distribution pipe (system)		
	¾-inch pipe	5.00
	1-inch pipe	10.00
	1¼-inch pipe	15.00
	1½-inch pipe	20.00
	2-inch pipe	25.00

Over 2-inch pipe	30.00
Reduced pressure zone backflow preventer	5.00 each
Domestic water treatment and filtering equipment	5.00
Medical gas system	45.00
Additional inspection	50.00
Continuation inspection	25.00
Final inspection	50.00
License registration fee—master plumber	1.00
Plumbing code review fee—commercial and industrial	30% of total plumbing permit fees
CITY CLERK	
Adult Book Store	
Initial license/investigation	310.00
Annual renewal fee	155.00
Adult Mini Motion Picture Theater (less than 50 persons)	
Initial license/investigation	310.00
Annual renewal fee	155.00

Adult Motion Picture Theater (more than 50 persons)	
Initial license/investigation	310.00
Annual renewal fee	155.00
Amusement Park/Carnival	
Less than 2 weeks in any year	
First day	31.00
Each additional day	7.00
Over 2 weeks in any year	
Annual fee	350.00
IRS 501(c)(3) Purpose	Exempt
Auction/Auctioneer	72.00
Bar-Tavern	72.00
Billiard Rooms	
Initial license/investigation	310.00
Annual renewal fee (incl. first table)	36.00

Each additional table	7.00
Bike License (4-year cycle)	
4 year	3.00
3 year	2.25
2 year	1.50
1 year	0.75
Block Party	50.00 cash, personal or surety bond
Business Listing Report (printed only)	50.00
Cabaret	
Initial license/investigation	310.00
Annual renewal fee	155.00
Car Wash	31.00
IRS 501(c)(3) Solicitors	No fee

Copies		
Miscellaneous single copies		
	First page	1.00
	Additional pages	0.50
Dance Halls (nontransferable)		
Initial license/investigation		310.00
Annual renewal fee		31.00
Dog License		
Neutered		
	One-year	7.00
>	Three-year	10.00
Show dog		
	One-year	10.00
	Three-year	Not available
Non-neutered		
	One-year	13.00
	Three-year	25.00
Puppy		

	One-year	7.00
	Three-year	Not available
Late license (after March 1 or after 30 days)		
	One-year	10.00 additional
	Three-year	10.00 additional
Replacement tag		2.00
Vicious dog		
	One-year	25.00
	Three-year	Not available
Kennel permit application/inspection by ACO		20.00
Duplicate Business License (replacing lost, mutilated, etc.)		5.00
Fire Extinguisher (Portable Services) (nontransferable)		
Initial registration		103.00
Annual renewal fee		31.00
Fireworks Sales Permit		31.00

Fortunetelling Business	31.00
Annual renewal fee	31.00
Fortuneteller (each individual)	155.00
Annual renewal fee	31.00
Going Out of Business Sale	52.00
Handbill Distribution (political is exempt)	55.00
Home Occupation Fee (includes building department inspection)	35.00
Annual renewal fee	20.00
Hotels and Motels	
First 10 units	31.00
Additional unit	3.00
Ice Cream Vendors	
Clerk's licensing	

	First vehicle and driver	36.00
	Each additional driver	20.00
Ice Cream Vendors		
Police department		
	Safety inspection (per vehicle)	35.00
	Reinspection (per vehicle)	35.00
Kennels		
License (10 dogs)		31.00
Additional per dog (11 to 20)		7.00
Additional per dog (21 +)		3.00
Martial Arts Weapons Sales (nontransferable)		
Initial license/investigation		310.00
Annual renewal fee		31.00
Massage Parlors (nontransferable)		
Initial license/investigation		310.00
Annual renewal fee		155.00

Mechanical Amusement Devices and Electronic Video		
Games (token or coin-operated)*		
Distribution fees		
	Initial license (nonrefundable)	206.00
	Annual renewal fee	31.00
Arcade (4 or more devices/EP business obligation)		
	Initial license (nonrefundable)	650.00
	License per device (max = $500.00/year)	31.00
	Annual renewal fee per device (max = $500.00/year)	31.00
Arcade (3 or less devices/EP business obligation)		
	Initial license (nonrefundable)	31.00
	License per device	31.00
	Annual renewal fee per device	31.00
Miscellaneous Licensing in general; includes, but not limited to:		

	Contracting business	31.00
	Employment agency	31.00
	Garage	31.00
	Laundromats	31.00
	Manufacturing/processing	31.00
	Recreational (bowling, batting cage, laser tag, etc.)	31.00
	Rental shops (does not include trailers)	31.00
	Repair service	31.00
	Retail	31.00
	School (business)	31.00
	Wholesale	31.00
	Mobile food truck	36.00
	Mobile food truck police department inspection	35.00
Pawnbroker/Secondhand and Junk Dealers (nontransferable)		515.00
Peddlers and Vendors		
Three-day license		

	Initial license/investigation (company + 10 employees)	55.00
	Additional employees—each	5.00
	Renewal—three days (no sig. changes)	30.00
	Current Eastpointe business	35.00
>	Expedited processing fee (within 7 days of event)	50.00
90-day license		
	Initial license/investigation (company + 10 employees)	160.00
	Additional employees—each	5.00
	Renewal—ninety days (no sig. changes)	30.00
	Current Eastpointe business	35.00
	Expedited processing fee (within 7 days of event)	50.00
Precious Metal and Gem Dealer (state law fee)		50.00
Restaurants		31.00
Service Stations and Motor Lubricants		
Annual license		31.00

First pump	8.00
Additional pumps (each)	4.00
Showmobile (must provide proof of liability insurance)	175.00/day
Snow Removal	
Annual license	20.00
Additional vehicle (per vehicle)	5.00
Snow Ban Parking Permit	15.00
Tattoo Parlor (nontransferable)	
Initial license/investigation	310.00
Annual renewal	155.00
Tattooist (nontransferable)	
Initial license/investigation	155.00
Annual renewal	31.00

Temporary Structures (if approved by ZBA)	
Per building/structure	103.00
Theater—Indoor	55.00
Theater—Adult (see Adult Motion Picture Theater)	
Trailer Rental Agencies	31.00
Transfer of License	20.00
Tree Trimmer	
Per vehicle	15.00
Used Car Lot/Sales	
Initial license/investigation	155.00
Annual renewal	31.00
Vending Devices*	

License application fee	None
Coin-operated children's amusement per device	15.00
Coin-operated billiards table (per table)	15.00
Coin-operated vending (food, tobacco, beverage) per device	10.00
Vendors (see Peddlers and Vendors)	
Voter Information	
Voter listing on CD/email	10.00
Voter listings on labels	5.00 + 0.25 per page
Daily AV report by email	1.00
Daily AV report on paper/labels	1.00 per page
Precinct map	2.50
Election results	2.50
*Licensing fees are in addition to the general business license fee	
CITY MANAGER	
Freedom of Information Requests	As determined by state law

FINANCE	
Recreate tax bill	2.00
Recreate water bill	2.00
Monthly water bill—Mailed	No charge
Monthly water bill—Emailed	No charge
Monthly water bill—Mailed non-United States	.66
Duplicate monthly water bill—Mailed	.75
Duplicate monthly water bill—Emailed	No charge
Duplicate monthly water bill—Mailed non-United States	1.41
Create final water bill	10.00

Returned check charge	42.00
Create tax certification	10.00
FIRE	
Fire Investigation Fees	
Audio CD (dispatch recordings)	75.00
Basic fire/ambulance report	10.00
Investigative fire report (i.e., basic fire report, drawings, field notes, witness statements, anything written)	50.00
Mailing fees (certified)	10.00
Paper copies	1.00 first page 0.50 additional pages
Photos	
5 in. × 7 in. color print	10.00
8 in. × 10 in. color print	15.00
Photo CD	50.00
Fire Prevention User Fees	
Annual fire inspection	No fee

Commercial plan review	100.00
Dry or wet fire suppression plan review	25.00
False alarm fees (within a 12-month period)	
First response	No fee
Second response	115.00
Third response	270.00
Fourth and subsequent responses	550.00
Fire alarm plan review	50.00
LLC inspection	75.00
New business license (C of O)	75.00
Reinspection	
First time	No fee
Second time	125.00
Third time	200.00
Fourth time +	325.00
Sprinkler plan review, plus witness hydrostatic and flow test	
1-100 heads	225.00
101-200 heads	250.00
201+ heads	350.00
Witness fire alarm or puff test	75.00

LIBRARY	
Fees	
Any case not returned for AV material	2.50
Lost AV/damaged material	Replacement cost + 10.00 processing fee
Lost/damaged book	Replacement cost + 5.00 processing fee
Lost/damaged magazines	3.00
Nonresident card (outside of cooperative)	200.00/year
RFID tag removed	2.00
Barcode removed	1.00
Loan Fines	
Auto manuals	0.50/day
Books/audio cassettes/compact discs	0.25/day
Videocassettes/nonfiction & 7-day loan DVDs	1.00/day
DVDs (2-day rental)	2.00/day
Maximum Fines	
Books/videocassettes/compact discs/nonfiction & 7-day loan DVDs	10.00

DVDs (2-day rental)	20.00
Magazines	2.00
Auto manuals	30.00
POLICE	
Animal Control Services Fees	
Impound	$25.00 per day
Humane euthanasia	$75.00
Owner surrender	$75.00
Disposal (domestic)	$10.00
Microchip	$25.00 for every dog that is returned
Audio Tape	25.00
Black and White Photographs	5.00/page
Color Photographs	10.00/disc
Compact Disc/DVD	25.00/disc

Defective Equipment	$5.00 resident; $10.00 non-resident
Drug Kits	$10.00 single panel (THC); $10.00 single panel (opioids); $25.00 multi-panel;
False Alarm Fees	
First time	No fee
Second time	25.00
Third time	50.00
Fourth time	100.00
Fifth time	125.00
Sixth time+	175.00
Fingerprints	20.00
Gun Purchase Permit	$10.00 per weapon
Ice Cream Truck Inspection	
Per vehicle	35.00
Reinspection (per vehicle)	35.00

Impounded Vehicles	50.00
Liquor License Fees (nonrefundable)	
Application for SDM/SDD	500.00
Application for Class B, C, private club, tavern	1,000.00
Drop/add names (immediate family or shareholder partial transfer)	150.00
Temporary liquor license	25.00
Permit Requiring Notarization	
Duplicate or replacement	10.00
Preliminary Breath Tests	
Resident	10.00
Nonresident	20.00
Public Vehicle License	
Original or renewal	20.00
Purchase Permit Notarization	15.00

Record Check/CCH	MSP form
Release of Prisoner Property	15.00
PUBLIC WORKS	
Rubbish	Current labor and benefit rate charged in increments of one hour, per employee used. One hour of supervision time will be charged for each pick. Equipment—current state schedule C rental rates.
Solid Waste Collection and Disposal Fee	10.86 per month per residential address
Disposal	
Less than a pickup truck load	30.00
Full pickup truck load	60.00
Dump truck load	100.00 + dump fees
Signs—Damaged or New	Cost of material, labor, benefits, equipment and ten percent overhead
Trees—Private Trees That Fall Into Right-of-Way	Cost of material, labor, benefits, equipment and ten percent overhead

WATER/SEWER	
Water Tap and Meter Fees	
5/8 -inch service	2,000.00 + concrete replacement
¾-inch service	2,100.00 + concrete replacement
1-inch service	2,800.00 + concrete replacement
1½-inch service	3,700.00 + concrete replacement
2-inch service	5,200.00 + concrete replacement
4-inch service	9,000.00 + concrete replacement
6-inch service	10,500.00 + concrete replacement
Meter only	Cost and labor + 10%
Water Tap Disconnection Fee	
With turn-in of meter and MTU	500.00
Without turn-in of meter and MTU	500.00 + cost of equipment
Without turn-in of meter and MTU	If at main time + material + 10% adm. fee
Construction Water Use	
Hydrant at water department	125.00
Hydrant anywhere else within city	150.00

Plus hydrant meter and sign deposit Plus $12.00 per unit used	1,000.00
Hydrant flow testing	150.00
Hydrant flow testing if salt needed	225.00
Fire detector meter	175.00 each
Frozen Meter Charges (with Service Charge)	
5/8 -inch or ¾-inch	Actual meter cost + 175.00 + 10% adm. fee
1-inch	Actual meter cost + 220.00 + 10% adm. fee
1½-inch	Actual meter cost + 475.00 + 10% adm. fee
2-inch	Actual meter cost + current price + 10% adm. fee
3-inch	Actual meter cost + current price + 10% adm. fee
4-inch	Actual meter cost + current price + 10% adm. fee
Damage to City Water and Sewer Appurtenances	Labor and material + 10%
No-Show for Appointment	50.00
Overtime Charge for Water Service	
Monday through Saturday	180.00

Sundays and Holidays	300.00
Turn Water Stop Box on Without City	
With meter set correctly	200.00
Without meter set correctly	
Plus 100 units—city may prosecute	
Plus any costs of damaged equipment	500.00
Residential Meter Tampering*	50 units—city may prosecute 100.00 + service call
Commercial Meter Tampering*	100 units—city may prosecute 200.00 + service call
Bypass Violations*	100 units—city may prosecute 500.00 + service call
*Cost of damages to equipment will be added to above costs if needed	
Water Meter Testing	
Customer requested	125.00
City requested	Free
Downsizing of Water Meter	Time and material + 10%

Sewer Tap and Repair	
Permit (includes one inspection) and surety bond for $25,000.00 (with city as named insured)	125.00
Sewer Tap Demolition at Main	Time + material + 10% adm. Fee
Concrete/Street Repair	
¼ joint	450.00
Full panel	800.00
City Order Repair of Sanitary Sewer Service	Contractor's cost + 10% overhead
Water Shut-Off Policy Charge	125.00

(Ord. No. 1035, § 1, 11-16-2010; Ord. No. 1052, § 1, 9-20-2011; Ord. No. 1055, § 1, 11-1-2011; Ord. No. 1067, § 1, 6-19-2012; Ord. No. 1073, § 1, 7-3-2012; Ord. No. 1081, § 1, 3-19-2013; Ord. No. 1092, § 1, 7-16-2013; Ord. No. 1107, 7-1-2014; Ord. No. 1115, § 1, 11-18-2014; Ord. No. 1131, § 1, 9-20-2016; Ord. No. 1142, 7-18-2017; Ord. No. 1172, §§ 1(A), 1(B), 7-2-2019)

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Secs. 2-526—2-544. - Reserved.

DIVISION 2. - PURCHASES, CONTRACTS AND SALES[15]

Footnotes:

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Charter reference— Purchasing agent, ch. III, § 36; requisitions, ch. III, § 37; contracts, ch. XII, § 22 et seq.; sale at public auction for special assessment, ch. XVI, § 20.

State Law reference— Discrimination in contracts, MCL 37.2209, 37.2605.

Sec. 2-545. - Establishment of position of purchasing agent.

Pursuant to chapter III, section 36, of the city Charter, there is hereby established the office of purchasing agent, under the direction and control of the city manager, who shall designate himself or herself or some other officer, other than a person connected with the department of finance, to act as purchasing agent, whose duties shall be as set forth in this division.

(Code 1973, § 1.141; Code 1989, § 212.01)

Sec. 2-546. - Powers and duties of purchasing agent; definitions.

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

Contractual services means any and all telephone, gas, water, electric light and power service; towel and cleaning service; insurance; leases for all grounds, buildings, office space or other space required by the using agencies; and the rental, repair or maintenance of equipment, machinery and other city-owned personal property.

Supplies, materials and equipment mean any and all articles or things which shall be furnished to or used by any agency, including any and all printing, binding or publication of stationery, forms, journals and reports.

(b) The purchasing agent shall have the power, and it shall be his or her duty, to purchase or contract for all departments, boards, commissions and other agencies which derive their support, wholly or in part, from city funds and which are hereinafter referred to as the using agencies.

(Code 1973, § 1.142; Code 1989, § 212.02)

Sec. 2-547. - Estimates of requirements.

All using agencies of the city shall file with the purchasing agent detailed estimates of their requirements in supplies, materials, equipment and contractual services in such manner, at such times, and for such future periods, as the purchasing agent prescribes. This shall not prevent any using agency from filing with the city purchasing agent at any time a duly approved requisition as provided in chapter III, section 37, of the city Charter.

(Code 1973, § 1.143; Code 1989, § 212.03)

Sec. 2-548. - Purchases of $5,000.00 or more; formal bidding.

All purchases of, and contracts for, supplies, materials, equipment and contractual services, and all sales of personal property which has become obsolete and unusable, shall be based wherever possible on competitive bids. If the amount of any expenditure or sale is estimated to be $5,000.00 or more, the purchasing agent shall, unless otherwise approved by the council, solicit sealed bids and, when deemed necessary by him or her, such sealed bids shall be accompanied by surety in the form of a check, cash or bond in such amount as shall be prescribed in the notice inviting bids. All bids shall be submitted sealed to the city clerk and shall be opened at the time and place stated in the notice. All bid openings shall be advertised on the city's cable channel, website and posted in public places in city buildings. A tabulation

of the bids shall be submitted to the council and no purchase order shall be written or voucher drawn until the same has been approved by the council.

(Code 1989, § 212.04; Ord. No. 900, 12-19-2000; Ord. No. 947, 1-4-2005)

Sec. 2-549. - Purchases under $5,000.00; informal bidding.

All purchases in an amount less than $5,000.00 may be made in the open market without the necessity of sealed bids and council approval. However, it shall be the duty of the purchasing agent to secure informal bids, by telephone or otherwise, on any purchase when feasible.

(Code 1989, § 212.05; Ord. No. 900, 12-19-2000)

Sec. 2-550. - Emergency purchases.

In case of actual emergency, and with the consent of the purchasing agent, any using agency may purchase directly any supplies, materials or equipment whose immediate procurement is essential to prevent delays in the work of the using agency which may vitally affect the life, health or convenience of the residents of the city.

(Code 1973, § 1.146; Code 1989, § 212.06)

Sec. 2-551. - Requisitions.

The purchasing agent shall not issue any purchase order, except in cases of emergency, until a requisition has been submitted, signed by the head of the using department or agency, countersigned by the city manager and approved by the director of finance, showing that there is to the credit of the using agency concerned a sufficient unencumbered appropriation for that purpose to defray the amount of such order, in accordance with chapter III, section 37, of the city Charter.

(Code 1973, § 1.147; Code 1989, § 212.037)

Sec. 2-552. - Purchase orders.

The purchasing agent shall keep a record of all purchase orders and the bids submitted in competition thereon, and such records shall be open to public inspection.

(Code 1973, § 1.148; Code 1989, § 212.08; Ord. No. 978, 10-3-2006)

Sec. 2-553. - Vouchers.

No voucher shall be issued for payment unless the invoice is endorsed as approved by the purchasing agent and until a receiving slip has been received from the using agency signed by the person receiving the materials, supplies or equipment and bearing a certificate by the department head that the quantity and quality of materials, supplies or equipment conform with the specifications and purchase order.

(Code 1973, § 1.149; Code 1989, § 212.09)

Sec. 2-554. - Rules and regulations.

The manager, the purchasing agent and the director of finance shall formulate and establish such additional rules and regulations for purchasing procedures as are necessary for the operation of this division.

(Code 1973, § 1.150; Code 1989, § 212.10)

Secs. 2-555—2-571. - Reserved.

DIVISION 3. - LIVING WAGE

Sec. 2-572. - Purpose.

The purpose of this division is to improve the lives of working people and their families by requiring employers that contract with the city or which receive financial assistance from the city to pay their employees a wage sufficient to meet basic subsistence needs, defined herein as a living wage.

(Code 1989, § 213.01; Ord. No. 901, 4-3-2001)

Sec. 2-573. - 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:

Contractor means a person who enters into a contract with the city.

Employee means an individual who is employed by another to provide labor in exchange for payment of wages or salary.

Federal poverty level means the official poverty level defined by the Office of Management and Budget based on Bureau of Census data for a family of four, as adjusted to reflect the percentage change in the Consumer Price Index for all urban consumers.

Grant means any financial assistance from the city in the form of any federal, state, or local grant program administered by the city, including, but not limited to revenue bond financing, tax increment financing, tax abatement, tax credit, direct grant, or any other form of financial assistance, that exceeds $5,000.00 in any 12-month period.

Grantee means a person who is the recipient of a grant.

Health care benefits means comprehensive medical coverage fully paid for by the contractor or grantee, whether provided on an insured or self-funded basis. The term "health care benefits" may include membership in a health maintenance organization or similar entity, if the membership or subscription fee is fully paid for by the contractor or grantee. The term "health care benefits" means medical coverage for the employee and the employee's dependents if the employee is married or otherwise legally responsible for the care of a dependent.

Living wage means an hourly rate which on an annual basis, based on 40 hours per week, 50 weeks per year, is equivalent to either of the following:

(1) 125 percent of the federal poverty level; or

(2) 100 percent of the federal poverty level, if health care benefits are provided to the employee.

Person means firms, joint ventures, partnerships, corporations, clubs and all associations or organizations of natural persons, either incorporated or unincorporated, however operating or named, and whether acting by themselves or by a servant, agent or fiduciary, and includes all legal representatives, heirs, successors and assigns thereof.

Plant rehabilitation and industrial development district act means Public Act No. 198 of 1974 (MCL 207.551 et seq.).

Service contract means any contract with the city for the provision of services to any city department or agency with a budget under control of the city council. The term "service contract" includes subcontracts, but does not include any contract, whether or not a subcontract, which:

(1) Involves only the purchase of goods;

(2) Is a public works contract defined under state statutes;

(3) Has a value of less than $5,000.00;

(4) Involves services provided by high school student interns or college student interns pursuant to a contract with a school district or college;

(5) Involves services provided by persons with disabilities working in employment programs where the employer holds a current subminimum wage certificate issued by the U.S. Department of Labor or where such a certificate could be issued but for the fact that the employer is paying a wage higher than the minimum wage;

(6) Is a contract in existence prior to the effective date of the ordinance from which this division is derived through the duration of its terms;

(7) Is a contract with a school district, other municipalities or other units of government;

(8) Is a grant project or contract as to which federal or state law imposes the obligation to pay prevailing wages;

(9) Is a grant project or contract as to which labor agreements otherwise require the payment of a wage in excess of the living wage;

(10) Involves the employment of high school or college students temporarily employed or enrolled in a student job training program, summer or youth employment program or work study program, for the period of training or employment in the program not exceeding 90 days in any calendar year, except for those services as provided in subsection (4) of this definition;

(11) Is a grant project or contract with nonprofit contractors or grantees which are recognized by the Internal Revenue Service as tax exempt under section 501(c)(3) of the Internal Revenue Code provided that the nonprofit employer employs five or fewer employees on a continuous basis. The term "a continuous basis" is defined as employing ten or fewer employees on each working day in each of 20 or more calendar weeks in the current or preceding year.

(Code 1989, § 213.02; Ord. No. 901, 4-3-2001)

Sec. 2-574. - Payment of living wage.

The city shall not enter into any service contract with any contractor or provide any grant to a grantee who does not demonstrate that it pays its work force a living wage. The contractor or grantee shall be required to maintain this rate of pay for the duration of the contract or grant period.

(Code 1989, § 213.03; Ord. No. 901, 4-3-2001)

Sec. 2-575. - Adjustments in the federal poverty level; notice.

The city manager or his or her designee shall monitor the federal poverty level and shall notify all contractors or grantees of any adjustment in the federal poverty level. The city manager or his or her designee shall require all contractors and grantees to annually demonstrate compliance with the requirements contained in section 2-574. In addition, any contractor or grantee who is required to pay its employees a living wage under section 2-574 shall post a notice of such requirement in the work place

during the contract or grant period. The notice shall also state that if the contractor or grantee has failed to comply with the requirement of section 2-574, an employee may file a notice of noncompliance upon the city manager or his or her designee. All city agencies shall be provided with standard notices which set forth the requirements of this division for inclusion in the solicitation of proposals, bids or applications for city contracts or financial assistance. Agencies shall include said notices in their RFP's, RFQ's, specifications, application materials, notices of funding availability, notices inviting bids or any other solicitations for contracts or notices for applications or other processes related to the application for city financial assistance.

(Code 1989, § 213.04; Ord. No. 901, 4-3-2001)

Sec. 2-576. - Notice of noncompliance.

Any employee of a contractor or grantee who believes the contractor or grantee has failed to comply with this division shall file a notice with the city manager or his or her designee, who shall promptly serve it on the contractor or grantee. The city manager or his or her designee shall notify the contractor or grantee to submit proof of compliance within 30 days or it shall be grounds for termination of the contract or grant. The city manager or his or her designee shall have 60 days to investigate and remedy the complaint. This division shall not be construed to limit an employee's right to bring legal action for violation of any other minimum compensation or wage and hour law.

(Code 1989, § 213.05; Ord. No. 901, 4-3-2001)

Sec. 2-577. - Noncompliance.

In the event the city manager or his or her designee determines the contractor or grantee has failed to comply with the provisions of this division, the failure to rectify the noncompliance within 30 days shall be grounds for the termination of a contract or grant. A contractor or grantee who violates the living wage requirement shall pay to each employee affected the amount of deficiency, for each day the violation continues. Willful violation of this division will result in a penalty paid to the city in the amount of $50.00 per violation for each day the violation continues. The city may withhold from contract payments, grants or financial assistance such amounts as are necessary to effectuate the payments provided in this section.

(Code 1989, § 213.06; Ord. No. 901, 4-3-2001)

Sec. 2-578. - Limitation on bid acceptance.

The city shall not accept any bids or grant applications or requests for a period of five years from any contractor or grantee who has failed on two separate occasions to comply with section 2-574 during the previous five-year period.

(Code 1989, § 213.07; Ord. No. 901, 4-3-2001)

Sec. 2-579. - Retaliation prohibited.

An employer shall not discharge, demote or otherwise discriminate or retaliate against an employee for exercising any rights under this division, including but not limited to the filing of a complaint. Any employer who is found to have violated section 2-574 shall have its contract or grant terminated immediately and such employer shall be barred from bidding on or entering into any contracts with the city or from receiving any financial assistance from the city in the future. The city manager or his or her designee may order the employer to pay appropriate restitution to the employee, including back pay, and

may withhold such amounts from contract or grant payments due the employer as are necessary to make the employee whole.

(Code 1989, § 213.08; Ord. No. 901, 4-3-2001)

Sec. 2-580. - Recordkeeping.

Contractors and grantees shall maintain a listing of the name, address, date of hire, occupation classification, rate of pay and benefits paid for each of their employees covered by this division and shall submit a copy of the list to the city manager or his or her designee by June 30 and December 31 of each year covered by the contract or grant. Failure to provide this list within five business days of the due date will result in a penalty of $50.00 per day; provided, however, that the penalty may be waived by the city manager or his or her designee for good cause shown. Employers shall maintain payroll records for all employees and shall preserve them for a period of at least four years. Employers shall permit access to job sites and relevant payroll records for authorized city representatives for the purpose of monitoring compliance with this division, investigating employee complaints of noncompliance, and evaluating the operation and effects of this ordinance. In addition to any other penalties set forth demonstrate compliance with this division shall be deemed noncompliant or nonresponsive and shall have contract payments or grant payments or financial assistance denied or suspended until compliance is demonstrated.

(Code 1989, § 213.009; Ord. No. 901, 4-3-2001)

Sec. 2-581. - Reporting.

The city manager or his or her designee shall submit periodic reports to the city council and the mayor, no less frequently than annually, which shall include the following information at a minimum:

(1) A listing and the status of all contracts and grants of financial assistance to which this division applies, including the term, dollar amount and the services performed or assistance provided;

(2) A listing of all complaints, hearings, determinations and findings and a report on compliance with this division;

(3) A report on adjustments to the living wage made during the previous reporting period, if any; and

(4) A report of any significant administrative problems encountered and recommendations for more efficient and effective administration of the provisions of this division.

(Code 1989, § 213.10; Ord. No. 901, 4-3-2001)

Sec. 2-582. - Effective date.

This division shall apply to any contract entered into and any grant awarded or renewed after the effective date of the ordinance from which this division is derived. Entering into an agreement for extension of a contract for a period beyond its original term shall be considered entering into a contract for purposes of this section.

(Code 1989, § 213.11; Ord. No. 901, 4-3-2001)

Secs. 2-583—2-612. - Reserved.

DIVISION 4. - EXPENSES OF EMERGENCY RESPONSE DUE TO DRIVERS UNDER INFLUENCE OF ALCOHOLIC LIQUOR OR CONTROLLED SUBSTANCE[16]

Footnotes:

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State Law reference— Environmental remediation, MCL 324.20101 et seq.; expenses for reimbursement for emergency response, MCL 769.1f.

Sec. 2-613. - Findings of fact.

The city finds that a significant number of traffic arrests and traffic accidents in the city involve drivers who were operating a motor vehicle while under the influence of alcoholic liquors and/or a controlled substance. In addition, the city finds that in traffic accidents involving drivers who were operating a motor vehicle while under the influence of alcoholic liquors and/or a controlled substance, there is a greater likelihood of personal injury and property damage. In addition, the city finds that because of the foregoing factors, a greater operational and/or financial burden is placed upon the city police and fire departments and rescue services by persons who are operating a motor vehicle while under the influence of alcoholic liquors and/or a controlled substance.

(Code 1989, § 214.01; Ord. No. 736, 3-20-1989)

Sec. 2-614. - Definitions.

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

Emergency response means:

(1) Providing, sending and/or utilizing police, firefighting and rescue services by the city to an accident involving a motor vehicle where one or more of the drivers were operating a motor vehicle while under the influence of an alcoholic liquor or a controlled substance or the combined influence of an alcoholic liquor or and a controlled substance; or

(2) Making a traffic stop and arrest by a police officer when the driver was operating the motor vehicle while under the influence of an alcoholic liquor or a controlled substance.

Expense of emergency response means the direct costs associated with the occurrence of an emergency response as set forth in subsection (1) or (2) of the definition of the term "emergency response," whichever is applicable. The expenses of making an emergency response as set forth in subsection (2) of the definition of the term "emergency response" shall include the costs connected with the administration and provision of a breathalyzer test and the videotaping of the driver, if applicable. These costs shall be in an amount as adopted by the city council from time to time.

(Code 1989, § 214.02; Ord. No. 736, 3-20-1989)

Sec. 2-615. - Responsibility for expenses.

(a) Any person who, while under the influence of an alcoholic liquor or a controlled substance, or the combined influence of an alcoholic liquor and a controlled substance, operates a motor vehicle which results in an emergency response shall be responsible and/or liable for the expenses of the emergency response.

(b) For purposes of this division, it shall be presumed that a person was operating a motor vehicle under the influence of an alcoholic liquor if chemical analysis of the driver's blood, urine or breath indicates that the amount of alcohol in the driver's blood was in excess of 0.07 percent.

(Code 1989, § 214.03; Ord. No. 736, 3-20-1989)

Sec. 2-616. - Civil liability.

This division shall be construed to be a responsibility and liability of a civil nature on the part of the driver of a motor vehicle and shall not be construed to conflict with, contravene, enlarge or reduce any criminal liability or responsibility, including fines imposed by a judge under the state vehicle code on a driver for operating a motor vehicle while under the influence of an alcoholic liquor and/or a controlled substance.

(Code 1989, § 214.04; Ord. No. 736, 3-20-1989)

Secs. 2-617—2-635. - Reserved.

DIVISION 5. - COST RECOVERY FOR FIRE AND HAZARDOUS/TOXIC MATERIALS EMERGENCIES[17]

Footnotes:

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State Law reference— Environmental remediation, MCL 324.20101 et seq.; expenses for reimbursement for emergency response, MCL 769.1f.

Sec. 2-636. - Purpose.

This division shall provide procedures for recovering costs incurred by the city for its assistance in deliberately caused fires, negligently caused fires and hazardous/toxic materials emergencies.

(Code 1989, § 1620.01; Ord. No. 757, 11-27-1990; Ord. No. 788, 8-25-1992)

Sec. 2-637. - 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:

Deliberately caused fire means a fire purposely caused by a person which presents a direct and immediate threat to public safety and requires immediate action to mitigate the threat.

Expenses means the actual labor costs to the city and its personnel, including workers' compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, costs of disposal, costs of any contract labor and materials and those costs associated with incident abatement, mitigation and clean up in order to ensure the safety of the city and its populace.

Hazardous/toxic materials emergencies means a sudden and unexpected release or threat of release of any substance that, because of its quantity, concentration or physical, chemical, or infectious characteristics, presents a direct and immediate threat to the public health or safety or the environment, and that requires immediate action to mitigate the threat.

Negligently caused fire means a fire proximately caused by the negligence of an owner or occupier of property and/or structures, or by any other person, which fire presents a direct and immediate threat to the public safety and requires immediate action to mitigate the threat.

(Code 1989, § 1620.02; Ord. No. 757, 11-27-1990; Ord. No. 788, 8-25-1992; Ord. No. 891, 6-15-1999)

Sec. 2-638. - Cost recovery.

The city is hereby empowered to recover all expenses from any person, corporation, partnership or other individual or entity whose actions resulted in a deliberately caused fire, a negligently caused fire, or a hazardous/toxic materials emergency. Costs shall be assessed against the person, corporation, partnership or other individual or entity whose actions resulted in a deliberately caused fire, a negligently caused fire, or a hazardous/toxic materials emergency, and shall be paid within 30 calendar days of the incident.

(Code 1989, § 1620.03; Ord. No. 757, 11-27-1990; Ord. No. 788, 8-25-1992)

Secs. 2-639—2-664. - Reserved.

DIVISION 6. - ACCIDENT COST RECOVERY

Sec. 2-665. - Findings of fact.

The city finds that the city police and fire departments and rescue services' response to motor vehicle accidents continues to increase in cost each year and create increased demands on all operational areas of such services. In addition, a significant number of traffic accidents in the city are caused by drivers who do not own property or pay property taxes in the city. In addition, the city finds that because of the foregoing factors, a greater operational and/or financial burden is placed upon the city police and fire departments and rescue services. In addition, raising the real property tax to meet the increase in service demands would be unfair to the property owners, when an increasing number of the motor vehicular accidents are caused by individuals not owning property or paying property taxes in the city; and the ability of the city police and fire departments and rescue services to effectively respond decreases the liability of the insurance companies by saving lives and minimizing vehicular damage by fire.

(Ord. No. 1024, § 211.01, 6-15-2010)

Sec. 2-666. - Service fees.

The city police and city fire departments and rescue services shall initiate services fees for the delivery of services, personnel, supplies and equipment to the scene of motor vehicle accidents. The rate of the service fees shall be that which is the usual, customary and reasonable costs, which includes any services, personnel, supplies and equipment, and may vary based on the actual costs of the individual accident.

(Ord. No. 1024, § 211.02, 6-15-2010)

Sec. 2-667. - Costs to responsible driver.

The service fees shall be charged to the responsible or at-fault driver, initially filed to their motor vehicle insurance, representing an add-on cost of the claim for negligent driving damages of the vehicles, property and/or injuries. The claim costs shall be filed with the insurance company, the owner of a vehicle, owner of property, or other responsible parties.

(Ord. No. 1024, § 211.03, 6-15-2010)

Sec. 2-668. - Rules and regulations.

The city manager and/or finance director may make rules or regulations, and from time to time may amend, revoke or add rules and regulations, relating to this division as they may deem necessary or expedient in respect to billing for these fees or the collection thereof.

(Ord. No. 1024, § 211.04, 6-15-2010)

Sec. 2-669. - Placement of funds.

All amounts collected as a result of this division shall be placed in a fund as established by the finance director to be used exclusively for personnel, supplies and equipment for the city police and/or city fire departments and/or city rescue services.

(Ord. No. 1024, § 211.05, 6-15-2010)

Sec. 2-670. - Civil liability.

This division shall be construed to be a responsibility and liability of a civil nature on the part of the driver of a motor vehicle and shall not be construed to conflict with, contravene, enlarge, or reduce any criminal liability or responsibility, including fines imposed by a court of competent jurisdiction under the Michigan Vehicle Code or the traffic code of the city on a driver for operating a motor vehicle in violation of said codes.

(Ord. No. 1024, § 211.06, 6-15-2010)

Secs. 2-671—2-700. - Reserved.

DIVISION 7. - WASTEWATER SYSTEM REVENUE

Sec. 2-701. - Allocation of revenues.

All revenues of the wastewater system of the city shall be deposited in a qualified depository designated by the city and in an account designated "sewage disposal system receiving fund," hereinafter referred to as the receiving fund.

(1) *Operation and maintenance fund.*

a. There shall first be allocated from the receiving fund and deposited in a separate account designated the "operation and maintenance fund" sufficient sums to pay the anticipated expenses of operation, maintenance, and administration of the wastewater system. Charges made to the city by the South Macomb Sanitary District for wastewater disposal shall be considered operational expenses and an amount sufficient to pay such charges and rates during such period shall likewise be set aside into the fund.

b. For budgeting and rate-setting purposes, accounting records that separate wastewater system expenses from water supply system expenses shall be kept. The city shall set rates and charges so that wastewater system rates and charges are sufficient to cover the operation and maintenance costs of the wastewater system.

c. The director of the department of water and sewers, based upon the costs of the prior year and the anticipated costs for the ensuing year, shall annually recommend a separate budget for each system to the council. If the costs of the prior year or the recommended budget for the ensuing year indicate a deficiency of revenues to meet the costs in either system, the

council shall adjust the rates and charges for the system to eliminate the deficiency. The rates and charges shall be in relation to the costs incurred to provide services to each user.

(2) *Reserve fund.* Out of the revenues remaining in the receiving fund after provision has been made for the operation and maintenance fund, there shall be established and maintained a separate account designated the "reserve fund." Funds deposited in the reserve fund shall be transferred to the operation and maintenance fund in ensuing years to offset increased costs for operation and administration of the department.

(Code 1989, § 242.02; Ord. No. 603, 6-10-1980)

Sec. 2-702. - Investments.

Moneys in funds of the wastewater system of the city may be invested in accordance with applicable state statutes and the limitations imposed therein. Income received from such investments shall be credited to the receiving fund.

(Code 1989, § 242.03; Ord. No. 603, 6-10-1980)

Sec. 2-703. - Annual statements and audits.

(a) All accounting for revenues generated by the wastewater and water supply systems of the city shall be based on a fiscal year commencing on July 1 and ending on June 30.

(b) The city shall maintain and keep books of record and account, in which shall be made full and correct entries of all transactions relating to the wastewater and water supply systems. Not later than December 31st after the end of each fiscal year, the city shall cause to be prepared a statement, showing the cash income and disbursements of the systems at the beginning and end of the fiscal year, and such other information as may be necessary to enable any person to be fully informed as to all matters pertaining to the fiscal operation of the systems during such year. Such annual statement shall be filed in the office of the city clerk and open to public inspection. Such books of record and account shall be audited annually by a certified public accountant to be designated by council. A certified copy of such audit shall be filed with the city clerk.

(Code 1989, § 242.04; Ord. No. 603, 6-10-1980)

Chapter 4 - ALCOHOLIC LIQUORS[1]

Footnotes:

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State Law reference— Michigan liquor control code of 1998, MCL 436.1101 et seq.

ARTICLE I. - IN GENERAL

Sec. 4-1. - Definitions.

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

Alcoholic liquor and license means as defined in Public Act No. 58 of 1998 (MCL 436.1101 et seq.).

(Code 1973, § 9.141; Code 1989, § 608.01)

Sec. 4-2. - Consumption in public places.

No person shall consume alcoholic liquor in or on any public street, park, school property or any other public place, including any store or establishment that does business with the public but that is not licensed to sell alcoholic liquor for consumption on the premises.. No person who owns, operates or controls any such public establishment or store shall permit the consumption of alcoholic liquor therein, except that beer and/or wine may be consumed in the picnic areas of Kennedy Park, Memorial Park and Spindler Park from 4:00 p.m. to 10:00 p.m. Monday through Friday and from 12:00 noon to 10:00 p.m. on Saturday, Sunday and holidays. Persons attending picnics on a picnic permit issued by the parks and recreation department shall be allowed to consume beer and/or wine in the picnic areas of Kennedy Park, Memorial Park and Spindler Park without any time limit as set forth in this section. The council's designee may extend the 10:00 p.m. time limit upon written application from a person or organization holding a park group permit issued by the parks and recreation department. Beer may be consumed at the Memorial Field Softball Stadium only if such beer is purchased from vendors at Memorial Field who have obtained the proper sales permits from the state liquor control commission and have also received approval from the council or its designate. Any person who is refused a permit shall have the right of appeal to the council.

(Code 1989, § 608.02; Ord. No. 717, 1-26-1988; Ord. No. 892, 9-21-1999)

State Law reference— Possessing, or consuming alcoholic liquor on public highway or park, place of amusement, or publicly owned area, MCL 436.1915.

Sec. 4-3. - Sales to intoxicated persons or during prohibited hours.

No licensee, by himself or herself or by another, shall sell, furnish, give or deliver any alcoholic liquor to any person:

(1) Who is so intoxicated as not to be in control of all of his or her faculties; or

(2) On any day during the hours not permitted by state law or the state liquor control commission.

(Code 1973, § 9.143; Code 1989, § 608.03)

State Law reference— Sales to intoxicated persons prohibited, MCL 436.1707.

Sec. 4-4. - Rules of conduct for licensed premises.

No licensee shall permit any of the following activities on licensed premises:

(1) Spirits to be consumed if licensed to sell only beer or wine or both;

(2) Any disorderly conduct or action which disturbs the peace and good order of the neighborhood;

(3) Any resorting of thieves, prostitutes or other disorderly persons;

(4) Knowingly allow an individual to conduct any illegal activity such as, but not limited to, narcotics transactions, pick pockets, and prostitution within the establishment or on its property;

(5) Any gambling, or the placing or using of any gambling apparatus or paraphernalia therein;

(6) Any lewd or obscene exhibition or entertainment; or

(7) Any employee to visit, fraternize or drink alcoholic liquor with any of the patrons.

(Code 1973, § 9.144; Code 1989, § 608.04)

Sec. 4-5. - Sales to minors; prohibitions and misrepresentations.

(a) No person shall knowingly sell or furnish alcoholic liquor to a person who is under 21 years of age, nor shall any person fail to make diligent inquiry as to whether the other person is under 21 years of age. A suitable sign which describes this section and the penalties for violating it shall be posted in a conspicuous place in each room where alcoholic liquor is sold. The sign shall be approved and furnished by the state liquor control commission.

(b) In an action for a violation of this section, proof that the defendant or the defendant's agent or employee demanded and was shown, before furnishing alcoholic liquor to a person under 21 years of age, a motor vehicle operator's license or a registration certificate issued by the Federal Selective Service, or other bona fide documentary evidence of the age and identity of that person, shall be a defense to an action under this section.

(c) No person under 21 years of age shall purchase alcoholic liquor, consume alcoholic liquor in a licensed premises, public street, highway, park or public place, or possess alcoholic liquor.

(d) No person shall furnish fraudulent identification to a person under 21 years of age, and no person under 21 years of age shall use fraudulent identification to purchase alcoholic liquor.

(e) This section shall not be construed to prohibit a person under 21 years of age from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by the liquor control commission, or by an agent of the liquor control commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(f) This section shall not be construed to limit the civil or criminal liability of a vendor's clerk, servant, agent or employee for a violation of any of the provisions of this chapter.

(Code 1989, § 608.05; Ord. No. 588, 1-23-1979; Ord. No. 610, 9-2-1980)

State Law reference— Similar provisions, MCL 436.1701, 436.1703.

Sec. 4-6. - Dancing in licensed premises.

No licensee shall permit any dancing within his or her establishment without first obtaining a dance permit from the state liquor control commission. No dance permit shall be approved until certification by the building official, the chief of police and the chief of the fire department has been obtained. No public dance license for any licensed liquor establishment shall be granted unless there is within such licensed place a minimum dance floor space of 200 square feet in establishments having a seating capacity of less than 100 persons and a minimum dance floor space of 400 square feet in establishments having a seating capacity of more than 100 persons, which minimum floor space shall be reserved for dancing and shall be adequately marked and defined. No tables, chairs or other obstacles shall be allowed within such minimum floor space during the time that dancing is permitted.

(Code 1973, § 9.147; Code 1989, § 608.06)

State Law reference— Dance permits, MCL 436.1916.

Sec. 4-7. - Open containers.

No person shall be found in any motor vehicle, or upon any public street, park or other public place, except for that which is allowed in section 4-2, having in his or her possession an open receptacle or container containing an alcoholic liquor.

(Code 1973, § 9.148; Code 1989, § 608.07; Ord. No. 892, 9-21-1999)

State Law reference— Possessing, or consuming alcoholic liquor on public highway or park, place of amusement, or publicly owned area, MCL 436.1915.

Sec. 4-8. - Additional licenses; referendum.

The council shall not approve and/or signify its approval of the issuance of any additional class C and/or tavern licenses in the city unless such additional license receives prior approval, by referendum vote, of the residents of the city at a general or special election called for such purpose.

(Code 1973, § 9.149; Code 1989, § 608.08)

State Law reference— Referendum vote, MCL 436.2101.

Secs. 4-9—4-34. - Reserved.

ARTICLE II. - LICENSING[2]

Footnotes:

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State Law reference— Licensing, MCL 436.1501 et seq.

Sec. 4-35. - Objection by city.

The council may object to a renewal of a liquor license held by a license holder in the city or request the revocation of a liquor license held by a license holder in the city with the state liquor control commission.

(Code 1989, § 842.01; Ord. No. 681, 1-7-1986)

Sec. 4-36. - Procedure.

(a) Before filing an objection to the renewal, or a request for a revocation of a license with the state liquor control commission, the council shall serve the license holder, by first class mail, mailed not less than ten days prior to the hearing, a notice of such hearing, which notice shall contain the following information:

(1) Notice of the proposed action;

(2) The reason for the proposed action;

(3) The date, time and place of such hearing;

(4) A statement that the license holder may present evidence and testimony, may confront witnesses and may be represented by a licensed attorney; and

(5) Notice of what criteria resulted in the council's initiation of nonrenewal or revocation proceedings.

(b) A written statement of the findings of the council will be provided to the license holder within seven days from the conclusion of the hearing.

(Code 1989, § 842.02; Ord. No. 681, 1-7-1986)

Sec. 4-37. - Hearing; findings.

The hearing may be conducted by the council as a whole or by a hearing officer appointed by the council for such purpose. If a hearing officer is appointed, it shall be the officer's duty to undertake such hearing and hear and take evidence and testimony from the licensee or from witnesses on its behalf in opposition thereto. After such hearing, the hearing officer shall make a recommendation to the council for the latter's ultimate final review and decision. The council will submit to the license holder and to the state liquor control commission a written statement of its ultimate findings and determination within seven days from the conclusion of the hearing.

(Code 1989, § 842.03; Ord. No. 681, 1-7-1986)

Sec. 4-38. - Criteria for nonrenewal or revocation.

The council may recommend nonrenewal or revocation of a license upon a determination by it that, based upon a preponderance of the evidence presented at the hearing, any of the following exists:

(1) A license holder or officer of a licensed corporation has been convicted of a crime punishable by imprisonment in excess of one year; a crime involving theft, dishonesty or false statement, including tax evasion, regardless of punishment; or a crime or administrative violation of a federal or state law concerning the manufacture, possession or sale of alcoholic liquors or controlled substances.

(2) There exists on the licensed premises a violation of the applicable building, electrical, mechanical, plumbing or fire code, applicable zoning regulations, applicable public health regulations or any other applicable city ordinance.

(3) A license holder or officer of a licensed corporation is selling alcoholic liquors to minors on the licensed premises.

(4) A public nuisance is being maintained upon the premises.

(5) There is a violation of any resolution adopted by the council in regard to criteria and conditions for the issuance of a class C liquor license or tavern license.

(Code 1989, § 842.04; Ord. No. 681, 1-7-1986)

Secs. 4-39—4-60. - Reserved.

ARTICLE III. - DOWNTOWN DEVELOPMENT AUTHORITY DISTRICT LIQUOR LICENSES[3]

Footnotes:

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Editor's note— Ord. No. 1066, adopted June 5, 2012, set out provisions intended for use as §§ 4-39—4-42. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as §§ 4-61—4-64.

Sec. 4-61. - Purpose.

The purpose of this article is to establish conditions and criteria for the evaluation of liquor license requests submitted pursuant to Public Act 501 of the Public Acts of 2006, being Section 521a(1) of the Michigan Liquor Control Code of 1998, being MCL 436.1521a(1) (the "act"), and establishes necessary

conditions to ensure that the issuance of a license is consistent with adopted goals and plans of the development district established by the city and to ensure the issuance of a license will enhance the viability of the downtown and the quality of life for residents and visitors.

(Ord. No. 1066, 6-5-2012)

Sec. 4-62. - Requirements.

Businesses licensed under the article must abide by the following:

(1) Be engaged in dining, entertainment or recreation;

(2) Be open to the general public;

(3) Have a seating capacity of a least 25 people;

(4) Demonstrate to the satisfaction of the liquor control commission that they attempted to purchase an available on-premise escrowed license or quota license within the city, and that one was not readily available as defined in the act; and

(5) Either have expended at least $75,000.00 for the rehabilitation or restoration of the building of a period of the preceding five years or commit capital investment of at least $75,000.00 that will be expended for the building before the license is issued.

(Ord. No. 1066, 6-5-2012)

Sec. 4-63. - Policy.

The city shall use the following procedures in reviewing applications for liquor licenses under this article:

(1) Applicants shall submit a city application to the city clerk and pay the appropriate fee.

(2) Applicants requesting a license must document that they have a real property interest within the downtown development authority district as defined by ordinance by completing an application documenting the property interest to the satisfaction of the city manager. Demonstration may include deed, lease, contingent sale, contingent lease, or other similar documentation. If the applicant is not the owner, the applicant shall include written concurrence from the owner. Each application must be accompanied by an application fee in the amount established by the city council.

(3) The applicant shall include, as a part of the application, documentation showing that at least $75,000.00 has been expended for the rehabilitation or restoration of the building that would house the licensed premises, or shall make a commitment for capital investment of at least $75,000.00 which shall be expended prior to the issuance of the license.

(4) The applicant shall document how the issuance of the license will benefit the downtown development authority district and the city as a whole. Such documentation may include a business plan, architectural plans, and other information necessary to review the proposal.

(5) In evaluating the proposals, the city council may consider how the issuance of the license would promote economic growth in a manner consistent with adopted goals, plans and policies of the downtown development authority district, including but not limited to, the city's downtown development authority design framework plan. In addition, the city council shall also give consideration to:

a. The recommendation of the downtown development authority, who shall have 30 days from the date of submission to the city, to review and make a recommendation on a license application unless granted a longer timeframe from the city.

b. Existing restaurant business within the downtown development authority district that meet the criteria used for the issuance of a license as of January 1, 2011.

c. New restaurant business occupying space where the capital investment greatly exceeds the requirements of the act.

d. New restaurant, recreation or entertainment business which will contribute to a new or unique choice to the mix of establishments within the DDA area.

e. The quality and detail of the business documentation as outlined in subsection (3) of this section.

(6) New qualifying businesses making exterior façade improvements shall conform to the city's B-2 Business District (Downtown District) Ordinance as well as the principals established in the city's downtown development authority design framework plan.

(7) The applicant and subject property owner shall not have any current or outstanding code violations, tax delinquencies, other outstanding fees or in any way be in default to the city.

(Ord. No. 1066, 6-5-2012)

Sec. 4-64. - Penalties.

(a) Any person, firm or corporation violating any of the provisions of this article is responsible for a municipal civil infraction and shall be fined not more than $100.00, plus costs for a first offense, and not more than $200.00, plus costs, for any subsequent offense.

(b) Any person who is found to be responsible for a civil infraction as stated herein, and who fails to pay any civil infraction judgment, may have any license or permit that is to be issued to such person by the city, withheld by the city, or any recommendation for the issuance of a license or permit, may be withheld by the city, in cases where the city has the authority to so recommend. Any civil infraction judgment may be collected in the same manner as provided for under the laws of the state.

(c) Each day on which any violation of this article occurs or continues constitutes a separate offense, subject to separate sanctions. The paying of a fine or sanctions under this article shall not exempt the offender from meeting the requirements of this article.

(d) A violation of this article is deemed to be a nuisance per se. In addition to any remedies available at law, the city may bring an action for an injunction or other process against any person to restrain, prevent or abate any violation of this article.

(Ord. No. 1066, 6-5-2012)

Chapter 6 - AMUSEMENTS AND ENTERTAINMENTS

ARTICLE I. - IN GENERAL

Secs. 6-1—6-18. - Reserved.

ARTICLE II. - POOL AND BILLIARD ROOMS[1]

Footnotes:

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State Law reference— Pinball machines permitted in liquor establishments, MCL 436.2023; authority to restrict minors on premises of billiard halls, MCL 750.141.

Sec. 6-19. - 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:

Billiards means the several games played on a table known as a billiard table, surrounded by an elastic ledge or cushions, with or without pockets, with balls which are impelled by a cue, and includes all forms of the game known as carom billiards, pocket billiards, three cushion billiards and English billiards, and all other games played on a billiard table. The term "billiards" also includes the so-called games of pool which include 15-ball pool, 8-ball pool, bottle pool, pea-pool and all other games played on a pool table and includes all games played on a so-called pigeon hole table.

Pool and billiard room means any public place where the game of pool and billiards is played or permitted to be played.

(Code 1973, § 7.342; Code 1989, § 810.01)

Sec. 6-20. - License—Required.

No person shall open or cause to be opened or conduct, maintain or operate any pool and billiard room in the city without first obtaining a license therefor.

(Code 1973, § 7.341; Code 1989, § 810.02)

Sec. 6-21. - Same—Application.

Each person desiring to open or maintain a pool and billiard room shall first make application to council for a license therefor. Such application shall be filed at least ten days prior to the time of granting such license.

(Code 1973, § 7.343; Code 1989, § 810.03)

Sec. 6-22. - Same—issuance; contents of applications.

The city clerk is hereby authorized to issue a pool and billiard room license, subject to the approval of council, to any person after the application has been filed. Such application shall contain the full name and address, including the street and number, of the applicant, or if more than one person or if an association or firm, the full names and addresses of all parties financially interested. If the applicant is a club, society or corporation, the application shall contain a complete list of the officers of such club, society or corporation, with their names and addresses, including the street and number, and shall also give the state in which such club, society or corporation is organized and the names of one or more persons whom the club, society or corporation desires to designate as its managers or persons in charge, with their addresses. The application shall also state:

(1) The premises where the pool and billiard room is to be conducted, including the street and number;

(2) The age of the applicants in the case of individuals, and the age of the managers and officers in the case of a club, society or corporation;

(3) Whether or not the applicant has ever been engaged in operating a pool and billiard room and when, where and how long in each place within five years last passed; and

(4) The name of the owner of the premises in which the billiard room is located and the complete address of such owner. The application shall be signed by the applicant, or in the case of a club, society, firm or corporation, the application shall be signed by the manager or any of its officers.

(Code 1973, § 7.344; Code 1989, § 810.04)

Sec. 6-23. - Investigations.

(a) The chief of police shall cause an investigation to be made as to the character of the applicant, of the officers of the club, society or corporation and of the person who is to have general management of the business. The application shall be rejected if the chief finds that any of the persons named in the application is not of good moral character, or that such person has previously been connected with any billiard room where the license has been revoked or where provisions with reference to pool and billiard rooms have been violated, or if the pool and billiard room sought to be licensed does not comply in every way with the regulations, provisions of this Code and rules applicable thereto.

(b) No pool or billiard room license shall be granted until the council has referred the application to the chief of police and has secured from the police department a certificate certifying that an investigation has been made by the department and that the applicant and place of business comply with this Code. Each application submitted to the council shall be accompanied with a paid receipt from the director of finance for an amount as adopted by the city council from time to time for the purpose of paying for the investigation.

(Code 1973, § 7.345; Code 1989, § 810.05)

Secs. 6-24—6-49. - Reserved.

ARTICLE III. - DANCE HALLS[2]

Footnotes:

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State Law reference— Minors in dance halls, MCL 750.141.

Sec. 6-50. - 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:

Dance hall means any place or establishment whose primary function is to provide dancing to live and/or recorded music primarily for persons between the ages of 13 years and 23 years.

Employee means any person who renders any service in connection with the operation of a dance hall and who receives compensation from the operator of the dance hall or patrons thereof.

Owner or *operator* means a person who owns or controls the operation of a dance hall. This includes individuals, licensees, managers, lessees, sponsors, partnerships, corporations, societies, organizations, associations or any combination of individuals of whatever form or character.

Patron means any person who attends a dance hall, whether it is expected that he or she will pay money or alternatively be allowed into the hall without any other consideration.

(Code 1989, § 821.02; Ord. No. 845, 10-8-1996)

Sec. 6-51. - License required.

No owner or operator shall engage in or carry on the operation of a dance hall without first obtaining a valid dance hall business license issued by the city pursuant to this article for each separate office or place of business conducted by such owner or operator.

(Code 1989, § 821.03; Ord. No. 845, 10-8-1996)

Sec. 6-52. - License applications.

Any owner or operator desiring a dance hall license shall file a written application with the city clerk, on a form to be furnished by the city clerk. The applicant shall accompany the application with a tender of the correct license fee, which fee shall not be refundable, and shall furnish the following information:

(1) The type of ownership of the business, i.e., whether an individual, partnership, corporation or otherwise;

(2) The name, style and designation under which the business or practice is to be conducted;

(3) A complete list of the names and residence addresses of all employees in the business, and the name and residence address of the manager or person principally in charge of the operation of the business;

(4) The following personal information concerning the applicant, if an individual; concerning each stockholder holding more than ten percent of the stock, each officer and each director, if a corporation; concerning the partners, including limited partners, if a partnership; and concerning the manager or other person principally in charge of the operation of the business:

a. The name, complete residence address and residence telephone number;

b. The two previous addresses immediately prior to the present address of the applicant;

c. Written proof showing date of birth;

d. Height, weight, color of hair and eyes and sex;

e. Two front-face portrait photographs taken within 30 days of the date of the application, at least two inches by two inches in size;

f. The similar business history and experience, including, but not limited to, whether or not such person, in previously operating in this or another city or state under a license or permit, has had such a license or permit denied, revoked or suspended, the reason therefor and the business activities or occupations subsequent to such action of denial, suspension or revocation;

g. All criminal convictions, other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted, the offense for which convicted and the circumstances thereof; and

h. A complete set of fingerprints taken and to be retained on file by the police chief or his or her authorized representative;

(5) Authorization for the city and its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit;

(6) The names and addresses of three adult residents of the county who will serve as character references. These references must be persons other than relatives and business associates;

(7) A written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct. Such declaration shall be duly dated and signed in the city.

(Code 1989, § 821.04; Ord. No. 845, 10-8-1996)

Sec. 6-53. - Investigations by police chief and building official; inspections.

(a) Upon receiving an application for a dance hall license, the city clerk shall refer such application to the police chief, who shall conduct an investigation into the applicant's moral character and personal and criminal history. The police chief may, in his or her discretion, require a personal interview of the applicant and such further information and identification of the person as shall bear on the investigation.

(b) In the case of an application for a dance hall license, the building official shall cause to be conducted an investigation of the premises where the dance hall is to be carried on for the purpose of ensuring that such premises comply with all the sanitation requirements set forth in this chapter and with the ordinances of the city relating to public health, safety and welfare.

(c) An applicant for a dance hall license shall submit to lawful inspections by the building department, the police department, the fire department, the public health department and such other departments as may be necessary to ensure that the proposed business and the applicant comply with all applicable ordinances and regulations of the city. The police chief and the building official may refuse to submit any application for approval to the council until he or she has a report from any department he or she feels necessary to make an inspection to ensure that the applicant or proposed premises comply with all ordinances and regulations.

(d) Before the city clerk shall issue any license under this article, the chief of police and the building official shall first submit to the city clerk, within 45 days of the receipt of an application, a report of his or her investigations and inspections and his or her recommendation.

(Code 1989, § 821.05; Ord. No. 845, 10-8-1996)

Sec. 6-54. - License issuance; conditions for denial.

(a) The city clerk, upon receipt of an application for a license required by this chapter and the reports and recommendations of the police chief and the building official, shall place such application upon the agenda for the next regularly scheduled council meeting, provided that such meeting is not less than six days from the date of receipt of such application by the city clerk. If it is less than six days from such receipt, such application shall be placed upon the agenda for the following meeting of the council.

(b) The council shall determine whether or not such license shall be issued after reviewing the reports of investigations and inspections and the recommendations of the police chief, the building official and other code enforcement officers. The council shall direct the city clerk to issue a dance hall business license within 14 days, unless it finds any one of the following:

(1) The correct license fee has not been tendered to the city, or, in the case of a check or bank draft, such check or draft has not been honored with payment upon presentation.

(2) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the city's building, fire, zoning and health ordinances.

(3) The applicant, if an individual; any of the stockholders holding more than ten percent of the stock, any officer and any director, if a corporation; any partner, including a limited partner, if a partnership; and the manager or other person principally in charge of the operation of the business; has been convicted of any crime involving moral turpitude (including, but not limited to, prostitution and pandering), gambling, extortion, fraud, criminal usury, controlled substances, weapons and assault, unless such conviction occurred at least 15 years prior to the date of the application.

(4) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith.

(5) The applicant has had a dance hall business permit or license, denied, revoked or suspended for any of the causes set forth in subsection (b)(3) of this section by the city or any other state or local agency within 15 years prior to the date of the application.

(6) The applicant, if an individual; any officer or director, if a corporation; any partner, including a limited partner, if a partnership; and the manager or other person principally in charge of the operation of the business, is not over 18 years of age.

(c) If the council denies any application, it shall specify the particular grounds for such denial and shall direct the city attorney to notify the applicant by regular mail addressed to the applicant at the address shown on the application. Such notice shall specify the grounds for which the application is denied.

(Code 1989, § 821.06; Ord. No. 845, 10-8-1996; Ord. No. 951, 4-5-2005)

Sec. 6-55. - Hearings; appeals; variances.

(a) Within 20 days of the date of denial of an application for a dance hall business license, the applicant may request, in the form of a written application to the city clerk, a hearing before the council for reconsideration of his or her license application or for a variance of any of the provisions of this chapter, the violation of which provision constituted grounds for the original denial of the application. Such hearing shall be conducted as follows:

(1) At the hearing, the applicant and his or her attorney may present and submit evidence on the applicant's behalf to show that the grounds for the original denial no longer exist.

(2) After reviewing an applicant's evidence, the council shall determine whether to sustain the denial or grant the application for the license.

(3) At the hearing, the applicant and his or her attorney may present a statement and adequate evidence showing that:

a. There are exceptional or extraordinary circumstances or conditions applying to the proposed dance hall referred to in the appeal application submitted to the city clerk, which circumstances or conditions do not apply generally to any proposed dance hall; or

b. The granting of such dance hall business license will not, under circumstances of the particular case, materially affect adversely the health, safety or welfare of the persons residing or working in the neighborhood, or attending any dance hall, and will not under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to the immediate neighborhood or the city at large.

(b) In all cases where the council grants a variance of any provision of this article, the council shall find that:

(1) The granting of the variance, under such conditions as the council may deem necessary or desirable to apply thereto, will be in harmony with the general purpose and intent of this article; and

(2) It will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(Code 1989, § 821.07; Ord. No. 845, 10-8-1996)

Sec. 6-56. - Inspections; license display; change of information.

(a) Every licensee/applicant under this article shall permit all reasonable inspections of his or her business premises and shall at all times comply with the laws and regulations applicable to such business premises, including after the expiration of the license and during the period the license may be revoked or suspended.

(b) The dance hall business licensee/applicant shall display his or her license in an open and conspicuous place on the premises of the dance hall business.

(c) If, while any application for a dance hall business license is pending, or during the term of any license granted hereunder, there is any change in fact, policy or method which would alter the information provided in such application, the applicant/licensee shall notify the police chief of such change, in writing, within 72 hours after such change.

(Code 1989, § 821.08; Ord. No. 845, 10-8-1996)

Sec. 6-57. - License fees.

The fees for a dance hall business license shall be in an amount as adopted by the city council from time to time.

(Code 1989, § 821.09; Ord. No. 845, 10-8-1996)

Sec. 6-58. - Inspections for sanitation and safety of premises and employees.

All premises used by a licensee under this chapter shall be periodically inspected by the police chief, the building official and the fire chief, or their authorized representatives, for the safety of the structure and the adequacy of the plumbing, ventilation, heating and illumination. The following minimum standards shall be maintained:

(1) Walls shall be clean and painted with washable, mold-resistant paint in all rooms.

(2) Floors shall be free from any accumulation of dust, dirt or refuse.

(3) All equipment used in the dance hall operation shall be maintained in a clean and sanitary condition.

(Code 1989, § 821.10; Ord. No. 845, 10-8-1996)

Sec. 6-59. - Security requirements.

(a) The owner or operator of a dance hall shall have sufficient security at the licensed premises to ensure that the health, safety and welfare of the patrons are protected while the patrons are on the premises. Further, the owner or operator shall have sufficient security on the outside of the premises to ensure that all patrons are parking their vehicles in parking areas controlled by the owner or operator, that all patrons shall not loiter in the parking areas before, during or after the dance hall is operating, and that all patrons are conducting themselves in a manner so as not to interfere with the peace, quiet, health, safety and welfare of property owners in the general vicinity of the dance hall.

(b) All security at the licensed premises shall be provided by a licensed security company with the security personnel being uniformed and properly identified as being a security agent of the dance hall.

(c) The owner or operator shall provide a minimum of five security agents for each 100 patrons attending an event at the licensed premises.

(d) Failure of the owner or operator to provide security as set forth in this section shall be grounds for revocation of its dance hall license.

(Code 1989, § 821.11; Ord. No. 845, 10-8-1996)

Sec. 6-60. - Alcoholic liquors.

No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic liquor on the premises of any dance hall business.

(Code 1989, § 821.13; Ord. No. 845, 10-8-1996)

State Law reference— Alcoholic liquors in dance halls, MCL 750.464a.

Sec. 6-61. - Exceptions.

Any dance given by the members, and/or for the benefit of any church, fraternal organization, political party, candidate or organization, school, nonprofit organization, society or fundraising organization shall be exempt from the provisions of this article.

(Code 1989, § 821.14; Ord. No. 845, 10-8-1996)

Sec. 6-62. - Compliance with permit and fee requirements.

No person, except those persons who are specifically exempted by this article, whether acting as an individual owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employer or operator, or acting as a participant or worker in any way, shall operate or conduct a dance hall establishment without first obtaining a permit therefor and paying a license fee to the city.

(Code 1989, § 821.15; Ord. No. 845, 10-8-1996)

Secs. 6-63—6-82. - Reserved.

ARTICLE IV. - PUBLIC ENTERTAINMENT[3]

Footnotes:

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State Law reference— Public exhibitions and entertainment, MCL 750.463 et seq.; carnival amusement safety act of 1966, MCL 408.651 et seq.

Sec. 6-83. - Definitions.

The terms used in this article shall have the meanings ascribed to them in section 50-10.

(Code 1989, § 860.02; Ord. No. 503, 3-12-1973)

Sec. 6-84. - Licenses required; issuance; fee.

No person shall exhibit or maintain in the city any circus, carnival, menagerie, play or game; operate any motion picture theater, theatrical exhibition, cabaret, sexually oriented business, amusement park or concession; give any concert, vocal or instrumental; exhibit any natural or artificial curiosity; operate or advertise any business which offers as its principal activity the provision of nude human models for artists or photographers; or give a show of any kind either free or for which pay is demanded or received,

without first obtaining a license therefor from the city. Such license shall be issued by the city clerk upon the approval of the council. For every license granted, the licensee shall pay the license fee in an amount as adopted by the city council from time to time.

(Code 1989, § 860.02)

Sec. 6-85. - Liability insurance; hold harmless provisions.

(a) *Insurance requirements.*

(1) An application for a license required by this chapter shall be accompanied by policies of insurance to protect the city, its elected and appointed officials, employees and volunteers and others working on behalf of the city from any liability or damage whatsoever, for injury, including death, to any person or property. Said insurance shall be in amounts as adopted by the city council from time to time. An applicant shall during the duration of its license maintain:

a. Workers compensation and public liability insurance in an amount sufficient to protect itself from any liability or damages for injury, including death, to any of its employees including liability or damage which may arise by virtue of any statute or law in force or which may hereafter be enacted.

b. Public liability insurance in an amount sufficient to protect itself and the city, its elected and appointed officials, employees and volunteers and others working on behalf of the city against all risks of damage or injury, including death, to property or persons wherever located, resulting from any action or operation in connection with the license.

c. Automobile liability insurance, including property damage, covering all owned or rented equipment used in connection with the business.

(2) All insurance policies shall be issued by companies authorized to do business under the laws of the state. Such policies shall contain appropriate endorsements to save and hold the city, and licensee harmless from any liability or damage whatsoever. Certificates of insurance evidencing such insurance and endorsements shall accompany the application for license. The city shall at all times maintain a copy of each certificate of insurance.

(b) *Hold harmless agreement.* The applicant shall sign a hold harmless agreement whereby it agrees to the fullest extent permitted by law to defend, pay on behalf of, indemnify and hold harmless the city, its elected and appointed officials, employees, volunteers and others working on behalf of the city against any and all claims, demands, suits or loss, including all costs connected therewith, and for any damages which may be asserted, claimed or recovered against or from the city, its elected and appointed officials, employees, volunteers and others working on behalf of the city by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof, or any matter which arises out of or is in any way connected or associated with the sale of goods and services for which a license was issued.

(Code 1989, § 860.03; Ord. No. 934, 12-16-2003)

Sec. 6-86. - Exceptions.

(a) Any exhibition presented solely by the pupils of any private or public school shall be exempt from this article. Any musical entertainment given by the members and for the benefit of any resident musical society; any exhibitions of paintings, engraving, sculpture or fine arts executed by a resident of the city; any concert or musical entertainment, fair, festival or lecture for the benefit of any church or benevolent purpose; or any game of baseball, basketball, football, golf or tennis, an exhibition of archery or any other sport or military exhibition given or managed by any resident association, club or company, not exceeding seven days in duration, shall be exempt from payment of the license fee required by this article and shall be exempt from section 6-90 as it pertains to obtaining a petition of

approval as required in such section, but shall not be exempt from the specific inspection requirements set forth in such section.

(b) The council may schedule a public hearing to determine community input and comment on any application for a license made pursuant to this section. Notice of the public hearing shall be published once in a newspaper of general circulation in the city not later than seven days immediately preceding the date of the public hearing.

(c) The council may deny any application for a license made pursuant to this section.

(Code 1989, § 860.05; Ord. No. 722, 4-19-1988)

Sec. 6-87. - Disorderly persons.

No licensee under this article shall permit any disorderly conduct, gambling or game of chance, or the sale, giving away, delivering, drinking or use of beer, wine, malt or intoxicating liquor or beverage of any kind, except that beer and liquor may be sold if otherwise authorized by the council by the granting of a liquor license. No person shall permit any place of amusement or exhibition to be a place of resort of thieves, prostitutes or other disorderly persons.

(Code 1973, § 7.366; Code 1989, § 860.06)

Sec. 6-88. - False advertising.

No picture or other form of advertising shall be permitted which is not true to the theatrical performance or motion picture entertainment so advertised, or which misleads or misinforms the public as to the nature of the picture or entertainment to be exhibited.

(Code 1973, § 7.368; Code 1989, § 860.08)

Sec. 6-89. - Nude models.

No person shall knowingly engage in or advertise any business which offers as its principal activity the provision of nude human models for artists or photographers.

(Code 1973, § 7.369; Code 1989, § 860.09)

Sec. 6-90. - Compliance required prior to establishment; inspection.

The applicant shall have complied with this article, chapter 50, pertaining to zoning, and other applicable provisions of this Code, and there shall have been an inspection of the proposed premises by the building department, the public health department, the fire department and the state fire marshal.

(Code 1973, § 7.370; Code 1989, § 860.10; Ord. No. 503, 3-12-1973)

Sec. 6-91. - Investigations.

No applicant for a license under this chapter shall be granted the same until the police department makes an investigation and completes a criminal record check as to whether or not an offense involving gambling, narcotics or moral turpitude, or a violation of a criminal statute of the state, has been committed by the applicant within the past two years. No such license shall be granted until the chief of police recommends that the applicant is of a sufficient moral character as to warrant the granting of such license.

(Code 1989, § 860.12; Ord. No. 503, 3-12-1973)

Sec. 6-92. - Advertising restrictions; conduct of licensees.

No licensee or his or her agent or employee shall knowingly permit or display in any manner any advertising in connection with his or her business depicting, describing or relating to specified sexual activities or specified anatomical areas, which advertising is visible from a public street or highway. No such licensee or his or her agent or employee shall permit any disorderly conduct or the use of any immoral, profane or indecent language upon his or her premises, or permit his or her ushers, ticket sellers, ticket takers or other employees, in the course of their employment, to carry on their activities in the nude or seminude.

(Code 1989, § 860.13; Ord. No. 503, 3-12-1973; Ord. No. 523, 11-4-1974)

Chapter 8 - ANIMALS[1]

Footnotes:

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State Law reference— Wildlife conservation, MCL 324.40101 et seq.; endangered species protection, MCL 324.36501 et seq.; crimes relating to animals and birds, MCL 750.49 et seq.; local authority to adopt animal control ordinance, MCL 287.290.

ARTICLE I. - IN GENERAL[2]

Footnotes:

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Editor's note— Ord. No. 1179, adopted Dec. 17, 2019, amended Art. I in its entirety to read as herein set out. Former Art. I, §§ 8-1—8-17, pertained to similar subject matter and derived from Code 1973, §§ 9.61—9.66, 9.91—9.94; Ord. No. 612, 11-11-1980; Ord. No. 696, 3-10-1987; Code 1989, §§ 610.01—610.16; Ord. No. 816, 1-18-1994; Ord. No. 894, 10-5-1999; Ord. No. 946, 10-5-2004; Ord. No. 997, §§ 610.01, 610.02, 3-4-2008; Ord. No. 1003, § 610.14, 10-21-2008; Ord. No. 1015, §§ 610.01—610.17, 10-6-2009; Ord. No. 1084, 6-18-2013; Ord. No. 1085, 6-18-2013; Ord. No. 1127, 11-9-2015; Ord. No. 1138, 4-18-2017; Ord. No. 1143, 9-5-2017; Ord. No. 1166, § 1, 5-21-2019.

Sec. 8-1. - Care of animals.

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

Adequate care means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health.

Neglect means to fail to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized.

Sanitary conditions mean space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal's health.

Shelter means adequate protection from the elements and weather conditions suitable for the age, species and physical condition of the animal so as to maintain the animal in a state of good health. Shelter for a dog shall include one or more of the following:

(1) The residence of the dog's owner or other individual.

(2) A doghouse that is an enclosed structure with a roof of appropriate dimensions for the breed and size of the dog and large enough for a dog to stand, turn around, and lie comfortably. The doghouse shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing.

(3) It shall be unlawful to house or leave a dog of any breed or size unattended outdoors between the hours of 11:00 p.m. and 7:00 a.m.

(4) It shall be unlawful to house or leave a dog of any breed or size outdoors when the outdoor temperature is or is predicted to drop below 43 degrees or above 82 degrees.

(5) Housing a dog inside a garage or shed is providing inadequate shelter and further banned within the city.

State of good health means freedom from disease and illness and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

Tethering means the restraint and confinement of a dog by use of a rope or similar device.

Water means potable water that is suitable for the age and species of the animal, made regularly available unless otherwise directed by a licensed veterinarian.

(b) *Regulation*.

(1) Every owner shall provide his or her animal with adequate care.

(2) It shall be unlawful to abandon an animal or cause an animal to be abandoned in any place. An animal that is lost by an owner or custodian shall not be regarded as abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal.

(3) It shall be unlawful to willfully or negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory, to suffer unnecessary neglect, torture, or pain.

(4) It shall be unlawful to tether a dog on a chain at any time. In addition, it shall be unlawful to tether a dog unless:

a. The tether is at least ten feet in length;

b. The tether and collar, harness, or other type of collaring device when taken together, do not weigh more than one-eighth of the dog's body weight and do not, due to weight, inhibit the free movement of the dog;

c. The manner of tethering prevents injury, strangulation, or entanglement on fences, trees, or other manmade or natural obstacles or objects;

d. The collar, harness or any other type of collaring device being used is designed for that purpose and made from material that prevents injury to the dog.

(5) It shall be unlawful to feed any animal unwholesome or unsuitable food or unclean water to drink or to place same in unclean or unsuitable containers which are likely to cause or produce disease in the animal.

(6) It shall be unlawful to overdrive, overload, overwork, torture, torment, cruelly beat, mutilate, cruelly kill, or otherwise abuse an animal or to cause to participate in, or to instigate any such conduct. The cropping of dogs' ears and tails shall be considered mutilation or cruelty unless such cropping is performed by a registered veterinary surgeon while the dog is under an anesthetic.

(7) It shall be unlawful to transport, carry, or cause to be carried any live animal:

a. Upon the hood, fender, running board, or other external part of any moving motor vehicle; or

b. Within the open bed of any moving motor vehicle.

(8) It shall be unlawful to cause, instigate or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.

(9) No person shall willfully and maliciously expose any known poisonous substance, whether mixed with food or not, so that same is liable to be eaten by an animal, except that it shall not be unlawful to expose on one's own premises common rat poisons mixed only with vegetable substances.

(10) No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter, any contest, game, or other competition; or as an inducement to enter a place of amusement, or offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

(11) Any person who, as the operator of a motor vehicle, strikes a domesticated animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society.

(12) The owner of every animal shall be responsible for the removal of any excreta deposited by his or her animal on all public walks, recreation areas, or private property. Any excreta deposited by the animal on the owner's property shall be buried upon his or her premises or confined, covered and cared for in a timely manner to prevent it from being scattered off the premises and to prevent any malodorous or offensive condition to exist.

(13) All animals impounded by the animal control officer are subject to boarding and microchipping fees, upon their release, which shall be paid by their owner.

(Ord. No. 1179, 12-17-2019)

Sec. 8-2. - Animal cruelty.

(a) No person shall willfully and maliciously kill, torture, mutilate, maim, or disfigure an animal or willfully and maliciously administer poison to an animal or expose an animal to any poisonous substance, other than a substance that is used for therapeutic veterinary medical purposes.

(b) *Exceptions*. This section does not prohibit the lawful killing of an animal pursuant to any of the following:

(1) Trapping or other legalized wildlife control; or

(2) Pest or rodent control.

(Ord. No. 1179, 12-17-2019)

Sec. 8-3. - Birds and birds' nests.

(a) No person, except a public officer acting in his or her official capacity, shall molest, injure, kill, or capture any wild bird, or molest or disturb any wild bird's nest or the contents thereof.

(b) *Exception*. A property owner may remove the nest of any wild bird that builds a nest on a private home, dwelling, or structure.

(Ord. No. 1179, 12-17-2019)

Sec. 8-4. - Farm animals.

(a) No person shall keep or maintain in the city sheep, goats, pigs, cows, horses, or llamas.

(b) A person shall be permitted to keep or maintain a maximum of two rabbits per household.

(c) A person shall be permitted to keep or maintain a maximum of two ducks per household.

(Ord. No. 1179, 12-17-2019)

Sec. 8-5. - Horseback riding.

(a) No horseback riding shall be permitted in the city.

(b) *Exception*. Horseback riding may be permitted upon the filing of a proposed route for parades, approved by the chief of police, and subject to reasonable conditions to promote the health, safety, and welfare of the community.

(Ord. No. 1179, 12-17-2019)

Sec. 8-6. - Poultry and game birds.

(a) No person shall raise or keep game cocks within the city.

(b) Live poultry and game birds shall not be owned within the city limits.

(c) No person, firm, or corporation shall sell or offer for sale any baby chicks, ducklings, or other foul or game as pets or novelties.

(d) *Exceptions*. This section does not apply to:

(1) Any person who is transporting such animal through the city provided that such animal is adequately restrained to avoid injury to persons or damage to property;

(2) The keeping of such animals in a bona fide licensed veterinary hospital for treatment; or

(3) The keeping of such animals in a bona fide educational or medical institution or other place where they are kept as live specimens for public view or for the purpose of instruction or study.

(4) *Keeping of domesticated hens*. A single-family residence shall be allowed to keep up to three domesticated hens pursuant to section 50-70(c)(12). A domesticated hen shall mean a female chicken kept as a pet with the added benefit of the possibility of an egg for consumption but not for sale by the resident or owner. Roosters or male chickens are strictly prohibited. A domesticated hen does not include any other type of fowl.

a. *License required*. A person wishing to keep up to three domesticated hens shall obtain a license from the building department and pay the required fee established by the city council in accordance with the requirements of section 50-70(c)(12)(a).

b. *Adequate shelter, care and control required*. Any person licensed to keep hens under this section and section 50-70(c)(12) shall comply with all of the provisions and definitions of the Eastpointe City Code regarding care, shelter, sanitation, health, rodent control, cruelty, neglect, noise, reasonable control and any other requirements pertaining to the adequate care and control of animals in the city. In addition, it shall be unlawful to slaughter a domestic hen for human consumption or other food source.

c. *No ground feeding*. Ground feeding shall be prohibited. A feeding container shall be used for feeding and all unused or unconsumed food shall be adequately secured and stored after every feeding as to prevent access by other animals or rodents. All feeding shall be

conducted in a manner as to prevent unconsumed food to be left open or accessible by other animals or rodents.

(Ord. No. 1179, 12-17-2019)

Sec. 8-7. - Animals at large.

(a) No person who owns, possesses, or harbors an animal shall allow such animal to run free or at large. Remote or underground fencing is not considered a method of physical control.

(b) No owner shall permit a dog to leave the owner's premises unless such animal is wearing a leash and is under the affirmative control of a person of suitable age and discretion. The leash shall not exceed six feet in length and shall be of sufficient strength to restrain the particular animal.

(c) Even while restrained by a leash, no animal shall be permitted to enter upon private property other than the animal owner's without the permission of the private property owner.

(d) A person who owns, possesses, or harbors an animal shall exercise proper care, control, and restraint of his or her animal to prevent it from becoming a public nuisance.

(e) A vicious animal shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

(Ord. No. 1179, 12-17-2019)

Sec. 8-8. - Number of dogs allowed.

(a) *Regulation; three dogs only*. No person shall possess, harbor, shelter, keep, or have custody of more than three dogs that are four months old or older on the same premises in the city except in kennels, veterinary hospitals, clinics, pet shops or similar permitted uses in properly zoned districts or when such kennels, veterinary hospitals, clinics, pet shops, and similar uses validly exist as nonconforming uses pursuant to the zoning code. An application to continue to possess, harbor, shelter, keep, or have custody of more than three dogs shall not issue except as provided in subsection (b) of this section. Any person who allows a dog to habitually remain within or on his or her premises shall be considered as having custody of the dog within the meaning of this section.

(b) *Exceptions*. Any person who has previously been approved by the city to possess, harbor, shelter, keep, or have custody of more dogs than permitted by city ordinance on the same premises and who desires to continue to possess, harbor, shelter, keep, or have custody of more than three dogs on the same premises in contravention of subsection (a) of this section, may file a written application with the clerk's office. Said application shall be on an approved form provided by the clerk's office. The clerk's office will forward the application to the police department. The director of public safety shall have the authority to review the application and grant the applicant's request only after consideration of the following criteria:

(1) A review of a written report from the animal control officer, which report shall include interviewing neighbors surrounding the applicant's premises;

(2) Convictions, pending violations, and complaints pertaining to this section or its predecessor made against the applicant or any resident of the premises where the animals are proposed to be kept;

(3) The applicant agrees to spay or neuter all dogs in his or her possession, custody, or control in such a manner that ensures that no further reproduction occurs. This condition shall not apply to show dogs. The term "show dog" as used in this section means any dog that is pedigreed and has appeared in at least two dog shows in the preceding year;

(4) The reasons for and the circumstances surrounding the request;

(5) The risk of disturbing the peace and quiet of the neighborhood if the request is granted; and

(6) Compliance with chapter 8, article II, in regard to kennels, if applicable.

The director of public safety shall either grant or deny the application. In addition, the director of public safety shall have the authority to impose reasonable conditions upon the granting of an application for additional dogs provided such conditions are designed to encourage compliance with this chapter, particularly the provisions prohibiting an animal from creating or constituting a nuisance.

(c) *Revocation*. The director of public safety shall have the right to revoke any prior approval for more than three dogs on the same premises if he or she determines, after written report from the animal control officer, the licensing official, or any other person, that the person granted the exception has violated the conditions placed upon him or her by issuance of the license. Prior to said revocation, the director of public safety shall give notice to the person granted the exception of the right to respond, orally or in writing, to the charges made against him or her.

(d) *Appeal*. Any person aggrieved by the decision of the director of public safety may appeal such decision to the city manager within 21 days who shall have the authority to review the application and affirm, reverse, or modify the director of public safety's decision after consideration of the criteria contained in subsection (b)(1) through (6) of this section.

(Ord. No. 1179, 12-17-2019)

Sec. 8-9. - Dog licenses; tags; fees.

(a) *License required.* All dogs shall be licensed in accordance with state law, MCL 287.266, except:

(1) A dog under four months of age;

(2) A dog licensed by a municipality in which the dog and owner reside; or

(3) A dog licensed by another state or county in which the dog and owner reside if the owner and dog will be present in Macomb County for 30 days or less.

(b) *Application*. The owner of any dog that is four months old or older shall apply to the city clerk's office for a license for each such dog owned, possessed or harbored by him or her. Upon payment of the license fee in an amount as adopted by the city council from time to time, the city clerk's office shall issue a license to such owner for a term commencing from the date of the license and terminating either the first day of the following March 1 or if a three-year license is issued March 1 three years subsequent. A person who becomes the owner of a dog that is four months old or older and that is not already licensed in the city shall apply to the city clerk's office for a license within 30 days of obtaining the dog. A person who owns a dog that will be four months old and that is not already licensed shall apply to the city clerk's office for a license within 30 days after the dog becomes four months old. The application shall state the breed, sex, age, color, and markings of the dog, and the name and address of the applicant and the last known previous owner.

(c) *Vaccination*.

(1) Such application for a license shall be accompanied by a certificate of a licensed veterinarian showing that the dog has been vaccinated against rabies with a vaccine licensed by the United States Department of Agriculture.

(2) The application for a three-year license shall be accompanied by a certificate of a licensed veterinarian showing that the dog has been vaccinated against rabies with a vaccine licensed by the United States Department of Agriculture for a period of three years that will expire during the third year of the license.

(3) In the event a dog is allergic to the rabies vaccination, the city clerk's office may issue a license for the dog provided the owner complies the following requirements:

a. Applies for a dog license as required;

b. Pays all required fees as set by the city council;

c. Submits a written statement signed by a licensed veterinarian affirming the dog is allergic to the vaccination shot and that the vaccination will have an adverse health impact on the dog;

d. Provides an annual update signed by a licensed veterinarian that the administration of the rabies vaccination was re-evaluated and that the dog is allergic and the vaccination will have an adverse health impact on the dog;

e. Submits a signed affidavit affirming "As the owner of an unvaccinated dog, I am aware of the risk of owning such unvaccinated dog and recognize the potential for court-ordered euthanasia and/or quarantine of the dog should it bite or otherwise expose a human to rabies";

f. Agrees to notify the city clerk's office if the dog is destroyed or moved from the city;

g. Agrees that the unvaccinated dog must be muzzled and restrained by a suitable leash and under control by a responsible person while on the sidewalk or in a public place; and

h. Authorizes the animal control officer to make periodic checks on any unvaccinated dog in his or her custody or control.

(d) *Exceptions*.

(1) A dog which is used as a guide or leader dog for a blind person, a hearing dog for a deaf or audibly impaired person, a service dog for a physically limited person, or governmental police or fire dogs are not subject to any fee for licensing.

(2) In the event a dog's breed and size prohibit the rabies vaccination prior to or at four months of age, the additional fee will not be charged for the license if the owner complies with both requirements as follows:

a. Submits a written statement signed by a licensed veterinarian affirming that the dog could not receive a rabies vaccination due to its breed and size until "date specified"; and

b. Application for license is received within 30 days from the date the dog was able to be vaccinated.

(3) If a dog is licensed before it becomes five months old and cannot be spayed or neutered because of its size or breed, and with submission of a written statement signed by a licensed veterinarian affirming such, a one-year puppy license shall be issued at a fee as adopted by the city council from time to time.

(4) The city supports responsible pet ownership for owners and basic good manners for dogs. In an effort to ensure all dogs become properly integrated with the community, the city may approve a dog ownership program that will educate owners and familiarize them with all applicable ordinances and the enforcement of such in the community. To encourage attendance in this program and in the interest of the public health, safety and welfare, a waiver of the dog license fee shall be granted the first license application received after proof of completion of the city-approved program. One license fee waiver is permitted per dog.

(e) *Tags; license fees*. Upon acceptance of the license application and compliance with all relevant requirements of this chapter by the city clerk's office, the city treasurer shall deliver to the applicant a dog tag duly stamped and engraved as may be determined by the city and shall collect sums in an amount as adopted by the city council from time to time for each spayed/neutered dog, each unaltered intact dog, each show dog and each puppy. Applicants for a show dog license must present proof as required by the city clerk's office that such dog is a show dog, as that term is defined in section 8-8(b). However, in the event the application is filed and the license is issued subsequent to March 1, there shall be an additional fee, in an amount as adopted by the city council from time to time, if such dog was four months old or over on March 1 prior thereto. In the event such dog reaches the age of four months subsequent to March 1, no late fee will be charged for the license if the owner applies for a license within 30 days after the dog becomes four months old. If it is necessary to issue duplicate tags, the fee therefore will be in an amount as adopted by the city council from time to time.

(f) *Tag to be worn*. All dogs shall have and wear at all times a substantial collar of leather, iron, copper, brass, or other durable material to which shall be securely attached the license tag herein required. No person shall remove the collar or tag from any dog without the consent of the owner or the party to whom the license was issued.

(g) *Conflict with vicious dog provisions*. The licensing or registration requirements of a vicious dog shall supersede the requirements of this section insofar as they conflict.

(h) *Violations; penalties.*

(1) A first or second offense shall be a municipal civil infraction. A first offense shall be subject to a fine of $75.00 and a second offense shall be subject to a fine of $150.00.

(2) Third or subsequent offenses shall constitute a misdemeanor punishable by a fine up to $500.00 or up to 90 days in jail or both.

(Ord. No. 1179, 12-17-2019)

Sec. 8-10. - Barking and howling dogs.

No person shall own, possess, or harbor any dog which, by loud or frequent or habitual barking, yelping, or howling, causes serious annoyance to the neighborhood or to the public in general.

(Ord. No. 1179, 12-17-2019)

Sec. 8-11. - Vicious dogs.

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

Vicious dog means any dog which, without provocation, in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or any dog with a known propensity, tendency, or disposition to attack unprovoked, or to cause injury or to otherwise endanger the safety of human beings or domestic animals; or any dog which bites, inflicts injury, assaults, or otherwise attacks a human being or domestic animal without provocation on public or private property, or any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dogfighting. The term "vicious dog" does not include the following:

(1) A dog that causes injury or damage to a person who, at the time the injury or damage was sustained, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog.

(2) A dog that causes injury or damage to a person who was teasing, tormenting, abusing, or assaulting the dog, or was committing or attempting to commit a crime.

(3) A dog that was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault.

(4) A dog that causes injury or damage to a domestic animal that was teasing, tormenting, abusing, or assaulting the dog.

(5) Dogs owned and controlled by local, state, and federal law enforcement agencies which are used in law enforcement or related activities.

(b) *Prohibition*. No person shall keep, maintain, or harbor a vicious dog on any premises in the city.

(c) *Regulation*.

(1) *Declaration of purpose*. The city declares vicious dogs, as defined in this section, have become a serious and widespread threat to the health, safety, and welfare of the members of the general public. In recent years, vicious dogs have attacked without provocation and seriously injured numerous individuals, particularly children, and have also killed people and animals. The number and severity of these attacks are attributable to the failure of owners to register, confine and properly control vicious dogs. It is further declared that the owning, keeping, or harboring of vicious dogs is a nuisance which must be regulated in the interest of the public health, safety, and welfare and/or abated.

(2) *Impoundment of suspected vicious dog.* In the event the animal control officer or any law enforcement officer has probable cause to believe that a particular dog is vicious and may pose a threat of serious harm to human beings or other domestic animals, the animal control officer or law enforcement officer may seize and impound the dog pending a hearing or trial pertaining to prosecution of the dog owner or other owner, for harboring, keeping, or maintaining a vicious dog. The owner and/or other person harboring, keeping, or maintaining the dog shall pay all costs and expenses incurred in conjunction with the impoundment of the dog.

(3) *Upon conviction of harboring a vicious dog*. Upon the conviction of keeping, maintaining, or harboring a vicious dog, the dog shall be destroyed, removed from the city, or subject to the requirements set forth in subsection (c)(4) of this section as the court deems appropriate.

(4) *Requirements for harboring a vicious dog*. Upon conviction of an owner or other person for keeping, maintaining, or harboring a vicious dog which does not result in an order to destroy the dog, and/or upon a determination by a court of appropriate authority that a particular dog is vicious but is not subject to destruction, the following requirements shall apply:

a. *License application*. The owner shall apply to the city clerk's office for a vicious dog license which shall be valid for one year from the date of its approval provided all conditions of this section and any applicable court order have been met. The license shall be renewable provided that the dog is to be kept on the same premises under the same conditions and its owner or keeper or person in custody of the dog has not violated any condition of this section or court order during the previous license year. No such license shall be transferable to a new owner or the dog or to a new location or address where the dog will be kept.

b. *Insurance*. Prior to the receipt of a license, the owner shall present to the city clerk's office proof that the owner has procured liability insurance in the amount of at least $100,000.00 covering any damage or injury which may be caused by such vicious dog during the 12-month period for which licensing is sought, which policy shall contain a provision requiring the city to be named as additional insured for the sole purpose of the city to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy. In addition, the owner shall sign a statement attesting that he or she shall maintain and not voluntarily cancel the liability insurance during the 12-month period for which licensing is sought, unless the owner shall cease to own the vicious dog prior to expiration of such license.

c. *Microchip*. Prior to receipt of a license, the owner shall, at his or her own expense, have a microchip inserted and activated by an accredited veterinarian with the number registered with the city clerk's office. The owner shall also provide the city clerk's office with a current telephone number.

d. *Signs*. Prior to receipt of a license, the owner shall display a sign in a prominent place on his or her premises warning of a vicious dog on the premises. Said sign shall be visible and capable of being read from the public highway.

e. *Confinement outdoors*. Prior to receipt of a license, the owner shall provide for the confinement of the vicious dog. Specifically, when outdoors, the dog shall be confined in a pen or structure with secure sides and top attached to the sides. The structure shall be embedded in the ground no less than two feet and constructed in accordance with standards set forth in the city building code. Such structure shall not exceed six feet in height. It shall, in addition, be constructed of materials and consist of a design suitable to prevent escape of

the dog and entry of young children. Additionally, the size and location of the structure shall comply with provisions of chapter 50, pertaining to zoning, including lot coverage and setback requirements, applicable to accessory structures on the premises. Whenever the dog is inside the structure, the structure shall be locked with a padlock or key lock. Such pens or structures must be adequately lit and kept in a clean and sanitary condition.

f. *Confinement indoors*. No vicious dog shall be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit of its own volition. In addition, no such dog may be kept in a house or structure when the windows are open or when screen windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting.

g. *Identification photographs*. Prior to receipt of a license, the owner shall provide the city clerk's office with two color photographs of the vicious dog which clearly show the color and approximate size of the animal.

h. *License fee*. The owner shall pay a license fee in an amount as adopted by the city council from time to time.

i. *Leash and muzzle requirement*. It shall be unlawful for any owner to allow or cause, by acquiescence or other means, any vicious dog to be outside of the dwelling of the owner or outside the enclosure unless it is necessary for the owner to obtain veterinary care for the vicious dog, to sell or give away the vicious dog, to comply with the commands or directions of the court or animal control officer with respect to the vicious dog, or to comply with the licensing provisions of this section. In such event, the vicious dog shall be securely muzzled and restrained with a choker chain leash having a minimum tensile strength of 300 pounds and not exceeding three feet in length. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal. The dog shall be under direct control and supervision of the owner of the vicious dog or his or her agent, either of whom shall be, in any event, a person 18 years of age or older and physically capable of restraining the animal.

j. *Reporting requirements*. An owner shall notify the police department and animal control officer immediately upon discovery that a vicious dog is on the loose, is unconfined, has attacked an animal or human being, or has been stolen. An owner shall notify the police department and animal control officer in writing within one day of the removal of a vicious dog from the city or the dog's death; the birth or existence of the animal's offspring within the city; the new address of a vicious dog should the owner move within the corporate city limits, and the name, address, and telephone number of a new owner of the dog.

(d) *Penalties*.

(1) In the event any owner fails to comply with any condition set forth in subsection (c)(4) of this section regarding the destruction, removal, or harboring of a vicious dog, the animal control officer or a law enforcement officer shall have the authority to confiscate the dog and impound it pending:

a. A hearing requiring the owner of the dog to show cause why the dog should not be immediately destroyed;

b. A probation violation hearing; or

c. Other hearing as may be permitted by law.

Furthermore, any person found guilty of violating any of the provisions of this section shall pay all expenses, including shelter, food and veterinary expenses, necessitated by the seizure of any dog for the protection of the public, and such other expenses as may be required for the destruction of such dog. Such payment shall be in addition to the penalties provided herein.

(2) Further, the violation of any provision of this section shall constitute a misdemeanor punishable by a fine not to exceed $500.00 or jail not to exceed 93 days or both.

(Ord. No. 1179, 12-17-2019)

Sec. 8-12. - Reporting dog bites.

It shall be the duty of every person owning, possessing, or harboring a dog which has been attacked or bitten by another animal showing symptoms of rabies to immediately notify the police department that he or she has such dog in his or her possession to allow the animal control officer to conduct an investigation. Animal bite cases shall also be reported to the public, hospitals, law enforcement agencies, veterinarians, and public health departments to the extent practical to prevent the spread of rabies.

(Ord. No. 1179, 12-17-2019)

Sec. 8-13. - Impounding of dogs; disposition if unclaimed.

All dogs found on highways, streets, alleys, sidewalks, or public places of the city, and not adequately and suitably restrained by leash, shall be immediately impounded by the animal control officer. The owner of such dog shall be liable for all costs of impoundment incurred by the city pursuant to the fee schedule contained in the city's agreement with Macomb County for animal shelter services. Stray dogs without identification noting the owner's address or without some type of identification that leads to an owner's address shall be held for four days. Dogs with identification noting the owner's address or identification that leads to an owner's address (e.g., collar, microchip, tattoo, dog license), shall be held for seven days from the date the required notice is sent to the owner alerting the owner the dog is at the shelter. "Day" should be interpreted to mean the 24-hour period which is not a state holiday or weekend (Saturday or Sunday), regardless of the days the shelter is actually open. In addition, for purposes of this section "day" does not include the first day of acquisition. Owner-surrendered dogs, or dogs which are ill or injured to the extent that holding the dog would result in undue suffering, are not subject to the holding time. An owner of an impounded dog shall be personally responsible for all costs and fees related to the impoundment. If the costs and fees are not paid by the owner at the time of retrieval of the impounded dog, the owner shall remain responsible for payment of the fees and costs until paid in full. The city may also pursue any remedies available, including, but not limited to, a civil action to obtain a judgment against the owner.

(Ord. No. 1179, 12-17-2019)

Sec. 8-14. - Control of dogs and cats to prevent nuisance.

(a) No owner, keeper, or person having custody or control of any dog or cat shall allow or permit such dog or cat to commit a nuisance on any public property or upon any private property, other than that of the owner, keeper or person who has accepted the custody or control of such dog or cat. The term "nuisance" as used in this section means defecation.

(b) Where the owner or person in charge or control of such dog or cat immediately removes all feces deposited by such dog or cat and disposes of same in a sanitary manner, such nuisance shall be considered abated.

(c) No owner, keeper, or person having custody or control of any dog or cat shall allow or permit such dog or cat to be housed in or occupy a house, dwelling, building, structure or vacant real property not occupied by the owner or tenant thereof having custody or control of said dog or cat.

(d) *Exception*. This section shall not apply to cats that are part of the TNR (trap, neuter, release) program.

(Ord. No. 1179, 12-17-2019)

Sec. 8-15. - Cats; domestic, community, feral.

(a) *Limitation on number*. No person shall own, possess, shelter, keep, or harbor more than three cats over six months of age at any one time. The provisions of this section shall not apply to cats that are being kept by a veterinarian or in a veterinary hospital, or by an established commercial pet shop, or by any other institution in the city that might be conducting experiments with cats in the interest of the public health, or making any other proper use to which live cats might be put for experimental purposes.

(b) *Nuisances*. No person shall possess, shelter, keep, harbor, or maintain any cat under such conditions or in such a manner as to create a nuisance by way of noise, odor, menace to health, or otherwise. The police department may impound, or if unable to apprehend same, may destroy, any sick, diseased, or abandoned cat which is running at large and is creating a nuisance by way of noise, odor, menace to health, or otherwise. This subsection shall not apply to cats that are part of the TNR (trap, neuter, release) program.

(c) *Bites; report to police department*. If any person is bitten by a cat, it shall be the duty of that person, or the owner or custodian of the cat having knowledge of same, to report such fact to the police department within 12 hours thereafter. If the owner or custodian of any cat has any reason to believe or suspect that such cat has become infected with rabies, it shall be the duty of that person to report such fact to the police department immediately. No person shall refuse to show or exhibit, at any reasonable time, any cat which he or she is harboring, sheltering or keeping in his or her possession or custody to any city inspector, police officer, or health official of the city.

(d) *Impounding and disposition*. Cats with identification noting the owner's address or identification that leads to an owner's address (e.g., I.D. tag, microchip), shall be held for seven days from the date the required notice is sent to the owner alerting the owner the cat is at the shelter. A stray cat that is found declawed shall be held for four days. The owner of such cat shall be liable for all costs of impoundment incurred by the city pursuant to the fee schedule contained in the city's agreement with Macomb County for animal shelter services. "Day" should be interpreted to mean the 24-hour period which is not a state holiday or weekend (Saturday or Sunday), regardless of the days the shelter is actually open. In addition, for purposes of this section "day" does not include the first day of acquisition. Owner-surrendered cats, or cats which are ill or injured to the extent that holding the cat would result in undue suffering, are not subject to the holding time. This subsection shall not apply to cats that are part of the TNR (trap, neuter, release) program.

(e) *Vaccination*. Each owner or keeper of a cat within the city shall produce, upon request of a law enforcement officer or animal control officer, a certificate of vaccination for such cat.

(Ord. No. 1179, 12-17-2019)

Sec. 8-16. - Dangerous or exotic animals.

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

Dangerous or exotic animal means and includes any wild mammal, fish, fowl, or reptile which is not naturally tame or gentle, but is of a wild nature or disposition, and which, because of its size, vicious nature, or other characteristics, would constitute a danger to human life or property.

(b) *Prohibition*. No person shall shelter, exhibit, market, raise, harbor, breed, maintain, or have in his or her possession or under his or her control within the city any dangerous or exotic animal.

(c) *Exceptions*. This section does not apply to:

(1) Any person while transporting any wild mammal, fish, fowl, or reptile through the city, provided that such animal is adequately restrained to avoid injury to persons or damage to property;

(2) The keeping of such animals in a bona fide licensed veterinary hospital for treatment;

(3) The keeping of such animals in a bona fide educational or medical institution, or other place where they are kept as live specimens for public view or for the purpose of instruction or study;

(4) Dangerous or poisonous reptiles maintained by bona fide educational or medical institutions for the purpose of instruction or study, provided such reptiles are securely confined; or

(5) Exotic birds. Ownership or harboring of the below-listed birds is prohibited unless purchased from a licensed pet store. The owner, possessor, or harborer of any of the below listed birds must have proof of purchase of said bird. If an exotic bird listed below is obtained from a shelter or rescue league, the owner must have written proof of adoption from the person providing the bird.

a. Conure.

b. Cockatoo.

c. Malucan.

d. Umbrella.

e. Sulphur Crested.

f. Quaker.

g. African Grey.

h. Macaw.

i. Ringneck Parakeet.

j. Hyancinth.

(Ord. No. 1179, 12-17-2019)

Sec. 8-17. - Ferrets.

(a) No person shall own or harbor a ferret over 12 weeks of age unless the ferret has a current vaccination against rabies with an approved rabies vaccine administered by a veterinarian, unless otherwise exempt from this requirement under state law and said person shall produce proof of a valid rabies certificate signed by veterinarian upon the request of a law enforcement officer.

(b) A person who owns or harbors a ferret that has bitten, scratched, caused abrasions, or contaminated with saliva or other infectious material an open wound or mucous membrane of a human being, shall report the incident within 48 hours to the city animal control officer and to the county public health department.

(Ord. No. 1179, 12-17-2019)

Sec. 8-18. - Requirement to spay and neuter.

(a) *Requirement*. No person may own, keep, or harbor more than one nonspayed female dog and one nonneutered male dog. An owner or custodian of two unaltered dogs of the opposite sex shall be required to have at least one of the owned, kept, or harbored dogs spayed or neutered by the age of one year.

(b) *Exceptions*. The provisions of this section shall not apply to:

(1) A dog with a high likelihood of suffering serious bodily harm or death if spayed or neutered due to age or infirmity as verified by a licensed veterinarian.

(2) A dog that can be safely spayed or neutered at a later date as verified by a licensed veterinarian provided said later date is confirmed in writing.

(3) An owner registered by the state of Michigan as a licensed kennel/breeder.

(4) Any dog with a minimum of one year show experience with provided documentation.

(c) *Impounding of dog.* At the discretion of the animal control officer, a nonspayed or nonneutered dog may be impounded but released to the owner or custodian upon their signing of a statement attesting, under penalty of perjury, that the nonspayed dog or nonneutered dog shall be spayed or neutered within ten days of release or is otherwise incapable of breeding. Compliance with the requirements of this subsection shall be verified in writing by a licensed veterinarian.

(d) *Violations; penalty*. Upon violation of this section, the owner or custodian shall be guilty of a misdemeanor which, upon conviction, shall be punished by a fine not to exceed $500.00 or imprisonment for a term not to exceed 93 days in jail, or both, and the court may order a dog to be spayed or neutered in accordance with this section.

(Ord. No. 1179, 12-17-2019)

Secs. 8-19—8-35. - Reserved.

ARTICLE II. - KENNELS[3]

Footnotes:

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State Law reference— Kennels, MCL 287.270 et seq.

Sec. 8-36. - License—Required; kennel defined.

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

Kennel means premises in a properly zoned district where more than two dogs and/or cats over six months of age are habitually kept or harbored primarily for the purpose of grooming, boarding, breeding or other commercial or similar purpose.

(b) No person shall own or operate any kennel in the city without first obtaining a license therefor.

(Code 1989, § 840.01; Ord. No. 696, 3-10-1987)

Sec. 8-37. - Same—Application.

Any person who keeps or operates a kennel shall make application to the city clerk for a kennel license entitling the applicant to keep or operate a kennel. Such application shall set forth the name and residence of the applicant and the number of dogs sought to be kept thereunder. Such application shall also state the purpose for which such kennel is to be maintained and such other information as may be requested by the city clerk.

(Code 1989, § 840.02; Ord. No. 696, 3-10-1987)

Sec. 8-38. - Same—Fee.

A kennel license applicant shall pay to the director of finance a license fee in an amount as adopted by the city council from time to time.

(Code 1989, § 840.03)

Sec. 8-39. - Same—Issuance; tags.

Upon receipt of a kennel license application and the license fee herein provided for, the city clerk shall issue a kennel license, setting forth the maximum number of dogs which may be kept thereunder, and at the same time shall issue to the applicant a number of suitable tags equal to the number of dogs authorized by such license. Such tags shall be the same as those provided in section 8-9. A dog in such kennel shall at all times wear a collar or harness to which such tag shall be affixed, and such tags shall be used for no dogs other than those in such kennel.

(Code 1989, § 840.04; Ord. No. 696, 3-10-1987)

Sec. 8-40. - Same—Renewal.

Any person who keeps more than three dogs, three months old or older, and has a validly issued kennel license to operate a kennel in a district not otherwise zoned therefor, may have such kennel license, upon its expiration, renewed by the director of public safety for an additional year, provided that the animal control officer makes an inspection and recommends approval of the request for renewal.

(Code 1989, § 840.05; Ord. No. 696, 3-10-1987; Ord. No. 1180, 12-17-2019)

Sec. 8-41. - Authority of animal control officer.

(a) *Conditions for removal of dogs.*

(1) The animal control officer is authorized to remove any dog on any property as follows:

a. Impound any dog not under reasonable control;

b. Impound any dog which has bitten a person;

c. Impound any unlicensed dog; and

d. Impound any animal believed to be in imminent danger at the animal control officer's discretion.

(b) The animal officer shall be authorized to:

(1) Impound any dangerous animal.

(2) Humanely euthanize any domestic or wild animal when such action is needed to protect persons or property or to prevent suffering by the animal.

(3) Impound any animal causing a noise nuisance.

(4) Impound any animal causing a sanitation nuisance.

(5) Impound any animal showing symptoms of rabies or which has bitten or been bitten by another animal showing symptoms of rabies.

(6) Remove/impound any animal under an animal rescue organization's care within the city if the animal control officer deems necessary for health or safety reasons.

(c) No person shall willfully interfere with the animal control officer while attempting to perform the duties and responsibilities provided by this chapter.

(Code 1989, § 840.06; Ord. No. 696, 3-10-1987; Ord. No. 1180, 12-17-2019)

ARTICLE III. - DOG PARK

Sec. 8-42. - Establishment.

There is hereby established within the city a dog park for the purpose of allowing the off-leash exercise of dogs, provided that such dog is under the control of an attendant who is competent and knowledgeable relative to the behavior of said dog.

(Ord. No. 1117, 1-6-2015)

Sec. 8-43. - 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.

Attendant means a person 18 years of age or older who brings a dog to the dog park. Such person is expected to be competent and knowledgeable relative to the behavior of, and have control over, said dog at all times while at or inside the facility.

Dog park means an enclosed fence facility designated by the city for the purpose of allowing dogs, under the control of their owner or attendant, to exercise and socialize off-leash.

Vicious dog shall have the meaning as ascribed in section 8-11.

Visual control means the attendant can see the dog and is within 75 feet of the dog at all times.

Voice control means the attendant is within 75 feet of the dog, is able to control and recall the dog at all times, and is not allowing the dog to fight with other dogs. A dog under voice control must immediately come to the attendant when so commanded.

(Ord. No. 1117, 1-6-2015)

Sec. 8-44. - Park operations.

The city manager or designee shall have authority to control the dog park and to make reasonable rules for its operation that are consistent with this article. The dog park will be operated year-round on a daily basis, during posted park hours, unless closed for maintenance or severe weather.

(Ord. No. 1117, 1-6-2015)

Sec. 8-45. - Responsibilities of dog park users.

(a) The attendant must ensure that their dog is legally licensed and have documentation that their dog's vaccinations are current. Current license must be displayed on the dog's collar.

(b) All dogs shall be free of contagious or infectious diseases, be parasite-free both externally and internally, and have no visible wounds or injuries.

(c) No more than two dogs per attendant are allowed in the dog park.

(d) The attendant of the dog must be inside the enclosed dog park and have visual and voice control of their dog at all times. Dogs shall not be left unattended at or inside the facility.

(e) All dogs must be wearing a collar, however spiked and pronged collars are not permitted.

(f) The attendant of any dog using the facility must have in his or her possession a leash that must be attached to said dog when outside the facility area.

(g) The attendant must fill-in any holes dug at the facility by their dog.

(h) The attendant must remove their dog when they become engaged in excessive barking or are fighting with other dogs.

(i) The attendant of dogs using the facility must use a suitable container to promptly remove any feces deposited by their dog and properly dispose of such waste material in designated receptacles.

(j) Attendant must attend and successfully complete a dog etiquette class.

(Ord. No. 1117, 1-6-2015)

Sec. 8-46. - Children regulations.

(a) While inside the facility, children five to 17 years of age shall be accompanied by a parent or guardian who is solely responsible for the child's proper behavior and safety. Such children are not permitted to excite or antagonize any dogs using the facility by any means including, but not limited to, shouting, screaming, waving their arms, throwing objects, running at or chasing dogs.

(b) Children under five years of age are prohibited from entering the dog park.

(Ord. No. 1117, 1-6-2015)

Sec. 8-47. - Prohibited actions.

(a) To ensure the safety of the dogs and attendants the following are not permitted at the dog park:

(1) Animals that are not dogs.

(2) Dogs under the age of five months.

(3) Female dogs when in heat.

(4) Dogs deemed to be vicious, or who have a previous history of aggressive behavior toward other animals or humans.

(5) The use of bicycles, roller blades/skates, skateboards and similar types of exercise equipment.

(6) Motorized vehicles and devices, except for wheelchairs for the disabled.

(7) Glass bottles and similar breakable containers.

(8) Alcoholic beverages.

(9) Smoking.

(10) Food of any type, including dog biscuits/treats.

(b) Professional dog trainers may use the facility in the training of a dog but only if accompanied by the actual dog owner.

(Ord. No. 1117, 1-6-2015)

Sec. 8-48. - Liability.

(a) Users of the dog park shall comply with all rules and regulations governing the use of the facility.

(b) The owner and/or attendant is responsible for and liable for all injuries and damages caused by their dog.

(c) Use of the dog park shall constitute the implied consent of the dog owner and/or attendant to all conditions of this article and shall constitute a waiver of liability to the city. As such, users of the dog

park agree and undertake to protect, indemnify, defend, and hold the city harmless for any injury or damage caused by or to their dog during any time that said dog is unleashed at the facility.

(Ord. No. 1117, 1-6-2015)

Sec. 8-49. - Severability.

If any section, subsection, clause, phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this article, and such holding shall not affect the validity of the remaining portions of this article.

(Ord. No. 1117, 1-6-2015)

Sec. 8-50. - Enforcement.

(a) A person found to be in violation of this article and/or dog park rules and regulations is subject to removal from the facility and may be prohibited from future use of the dog park.

(b) Any violation of this article shall constitute a municipal civil infraction punishable by fines established by city council resolution.

(Ord. No. 1117, 1-6-2015)

Secs. 8-51—8-59. - Reserved.

ARTICLE IV. - HUMANE PET ACQUISITION[4]

Footnotes:

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Editor's note— Ord. No. 1126, adopted Sept. 1, 2015, set out provisions intended for use as §§ 8-50—8-56. To avoid duplication of section numbers, and at the editor's discretion, these provisions have been included as §§ 8-60—8-66.

Sec. 8-60. - Definitions.

Animal control shelter means a facility operated by a municipality for the impoundment and care of animals that are found in the streets or at large, animals that are otherwise held due to violations of a municipal ordinance or state law, or animals that are surrendered to the animal control shelter.

Animal protection shelter means a facility operated by a person, humane society, a society for the prevention of cruelty to animals, or another nonprofit organization for the care of homeless animals.

Cat means an animal of the Felidae family or the order Carnivora.

Certificate of origin means a document declaring the source of the animal sold or transferred by the retail seller. The certificate shall include the name and premise address of the source of the animal.

Dog means an animal of the Canidae family of the order Carnivora.

Existing pet store means any pet store or pet store operator that displayed, sold, delivered, offered for sale, offered for adoption, bartered, auctioned, gave away, or otherwise transferred live animals in the

City of Eastpointe on the effective date of this article and complied with all applicable provision of the Code of Ordinances, City of Eastpointe.

Ferret means a domesticated animal of any age of the species Mustela furo.

Large reptiles mean members of the class reptilian including, but not limited to, monitor lizards, alligators, pythons, boa constrictors, venomous reptiles and constrictor snakes that grow to more than 72 inches long.

Long-lived birds mean any bird whose life expectancy is expected to exceed 25 years, including, but not limited to, cockatoos, macaws and amazons.

Off-site retail sale means the exchange of consideration for an animal, regardless of age of the animal at a location other then where the animal was bred.

Pet store means a place where animals are sold or offered for sale, exchanged, or transferred.

Pet store operator means a person who owns or operates a pet store, or both.

Rabbit means a long-eared short-tailed lagomorph mammal with long hind legs of the Leporidae family.

Retail sale means an offer for sale, offer for adoption, barter, auction, give away, display for commercial purposes of otherwise transfer any animal that is not bred on the premises.

Zoological park means any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of non-domesticated animal operated by a person, partnership, corporation, and other business entity or government agency and certified by the Association of Zoos and Aquariums.

(Ord. No. 1126, 9-1-2015)

Sec. 8-61. - Prohibitions.

(a) No pet store shall offer for sale, offer for adoption trade, barter, auction, give away, or otherwise transfer dogs, cats, ferrets, or rabbits.

(b) No person or business entity shall offer for sale, offer for adoption trade, barter, auction, give away, or otherwise transfer dogs, cats, ferrets, or rabbits on a roadside, public right-of-way, commercial parking lot, outdoor special sale, swap meet, flea market, or other similar event.

(c) No person or business entity shall hold off-site retails sales of animals at a location other than where dogs, cats, ferrets, or rabbits were bred.

(d) A pet store shall not sell or transfer any live animal without providing disclosure through a certificate of origin prior to the sale or transfer.

(Ord. No. 1126, 9-1-2015)

Sec. 8-62. - Exemptions.

This article shall not apply to the following:

(1) A person or business entity that sells, offers for sale, offers for adoption, barters, gives away, delivers or otherwise transfers or disposes of dogs, cats, ferrets, rabbits, long-lived birds, or large reptiles that were bred and reared on the premises of the person or business entity.

(2) A publicly operated animal control shelter, animal protection shelter or zoological park.

(3) A private, charitable, nonprofit humane society or animal rescue organization.

(4) A publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue organization that operates out of or in connection with a pet store.

(Ord. No. 1126, 9-1-2015)

Sec. 8-63. - Existing pet store.

An existing pet store may continue to display, offer for sale, offer for adoption, barter, auction, give away or otherwise transfer dogs, cats, ferrets, rabbits, long-lived birds, or large reptiles until January 1, 2016.

(Ord. No. 1126, 9-1-2015)

Sec. 8-64. - Adoption of shelter and rescue animals.

Nothing in this article shall prevent a pet store or its owner, operator or employees from providing space and appropriate care for animals owned by an animal control shelter, animal protection shelter, nonprofit humane society, or nonprofit animal rescue agency and maintained at the pet store for the purpose of adopting those animals to the public.

(Ord. No. 1126, 9-1-2015)

Sec. 8-65. - Severability.

If any section, subsection, clause, phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this article, and such holding shall not affect the validity of the remaining portions of this article.

(Ord. No. 1126, 9-1-2015)

Sec. 8-66. - Enforcement.

The violation of any provision of this article by any person shall be guilty of a misdemeanor which, upon conviction, shall be punished by a fine not to exceed $500.00 or imprisonment for a term not to exceed 90 days in jail, or both, plus costs and other sanctions for each violation.

(Ord. No. 1126, 9-1-2015)

Chapter 10 - BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. - IN GENERAL

Secs. 10-1—10-10. - Reserved.

ARTICLE II. - STATE CONSTRUCTION CODE[1]

Footnotes:

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State Law reference— Stille-DeRossett-Hale single state construction code act, MCL 125.1501 et seq.

DIVISION 1. - GENERALLY

Sec. 10-11. - Agency designated.

Pursuant to the provisions of the Stille-DeRossett-Hale single state construction code act, in accordance with Public Act No. 230 of 1972 (MCL 125.1501 et seq.), the building official is hereby designated as the enforcing agency to discharge the responsibilities of the city regarding such act. The city hereby assumes responsibility for the administration and enforcement of such act throughout its corporate limits.

(Code 1989, §§ 1420.01, 1422.01, 1424.01, 1426.01; Ord. No. 806, 12-7-1993; Ord. No. 807, 12-7-1993; Ord. No. 808, 12-7-1993; Ord. No. 906, 6-5-2001)

Sec. 10-12. - Construction and installation permit fees; authority of council.

(a) Fees charged for the issuance of construction and installation permits within the city, including, but not limited to, building permits, plumbing permits, electrical permits, fuel oil space heating equipment, flammable liquids, gas-fired space heating equipment, sewer taps, water taps and services and reinspections, shall be in amounts as adopted by the city council from time to time and printed copies of such fees shall be available for public use and inspection at the office of the city clerk.

(b) The council shall, by resolution, have the power to change the fees charged for construction and installation permits at any time costs make such changes advisable.

(Code 1973, § 8.172; Code 1989, § 1432.01; Ord. No. 596, 3-18-1980)

Secs. 10-13—10-20. - Reserved.

DIVISION 2. - CONSTRUCTION BOARD OF APPEALS

Sec. 10-21. - Establishment.

A construction board of appeals is hereby established pursuant to section 14 of Public Act No. 230 of 1972 (MCL 125.1514).

(Ord. No. 1017, § 1430.01, 1-5-2010)

Sec. 10-22. - Membership.

The construction board of appeals shall consist of five members who shall be appointed by the mayor, and confirmed by the city council as follows: one for five years, one for four years, one for three years, one for two years, and one for one year. Thereafter, each new member shall serve for five years or until a successor has been appointed.

(Ord. No. 1017, § 1430.02, 1-5-2010)

Sec. 10-23. - Qualifications.

The construction board of appeals shall consist of five individuals. At least one member shall be a licensed contractor, at least one member shall be a professional architect, and at least one member shall be a professional engineer.

(Ord. No. 1017, § 1430.03, 1-5-2010)

Sec. 10-24. - Alternate members.

The mayor shall appoint and the city council shall confirm two alternate members who shall be called by the chair of the construction board of appeals to hear appeals during the absence or disqualification of a member. Alternate members shall be appointed for five years or until a successor has been appointed.

(Ord. No. 1017, § 1430.04, 1-5-2010)

Sec. 10-25. - Chair.

The construction board of appeals shall annually select one of its members to serve as chair.

(Ord. No. 1017, § 1430.05, 1-5-2010)

Sec. 10-26. - Secretary.

The city manager shall designate a qualified clerk to serve as secretary to the construction board of appeals. The secretary shall file a detailed record of all proceedings in the office of the city manager.

(Ord. No. 1017, § 1430.06, 1-5-2010)

Sec. 10-27. - Disqualification of member.

A member shall not hear an appeal in which that member has any personal, professional or financial interest.

(Ord. No. 1017, § 1430.07, 1-5-2010)

Sec. 10-28. - Compensation.

Compensation of members of the construction board of appeals, if any, shall be determined by resolution of the city council.

(Ord. No. 1017, § 1430.08, 1-5-2010)

Sec. 10-29. - Application for appeal.

When a code official of the city refuses to grant an application for a permit or a modification to the provisions of this code covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure, or otherwise makes a decision pursuant or related to the code, the aggrieved party or his or her representative may appeal in writing to the construction board of appeals. An application for appeal shall be based upon a claim that the true interest of the code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or an equivalent form of construction is to be used. The application for appeal must be filed within 30 days from the date of the decision appealed from by filing with the building official and the board a notice of appeal on an approved form specifying the grounds thereon and paying the filing fee as adopted by the city council from time to time.

(Ord. No. 1017, § 1430.09, 1-5-2010)

Sec. 10-30. - Notice of meeting.

The construction board of appeals shall meet upon notice from the chair, within ten days of the filing of a written notice of appeal, or at stated periodic meetings.

(Ord. No. 1017, § 1430.10, 1-5-2010)

Sec. 10-31. - Open hearing.

All hearings before the construction board of appeals shall be open to the public. The applicant, the applicant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted.

(Ord. No. 1017, § 1430.11, 1-5-2010)

Sec. 10-32. - Postponed hearing.

When five members are not present to hear an appeal, either the applicant or the applicant's representative shall have the right to request a postponement of the hearing.

(Ord. No. 1017, § 1430.12, 1-5-2010)

Sec. 10-33. - Power and duties of the board.

The construction board of appeals shall hear the appeal and render and file its decision with a statement of reasons therefor with the city manager not later than 30 days after submission of the notice of appeal. The board shall modify or reverse the decision of the building inspector and/or grant a variance of a substantive requirement of the code, as set forth below, with a concurring vote of at least three members of the board. All decisions of the board shall be by resolution, certified copies of which shall be furnished to the appellant and the building inspector from whom the appeal was taken. The building inspector shall take immediate action in accordance with the decision of the board. Failure by the board to hear an appeal and file a decision within the time limit set forth in this section is deemed a denial of the appeal for the purpose of authorizing the institution of further appeals to the appropriate court. A record of decisions made by the board shall be kept by the building inspector and be open to the public for inspection during business hours.

(1) *Granting variances.* After a public hearing, the board may grant a specific variance to a substantive requirement of the code if the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:

   a. The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the code of that particular item or part for the health, safety and welfare of the people of the city; and

   b. The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the code with respect to the condition reasonably practical or desirable.

(2) *Conditions of variance.* The board may attach in writing any conditions in connection with the granting of a variance that, in its judgment, is necessary to protect the heath, safety, and welfare of the people of the city.

(3) *Minimum variance.* In no case shall more than the minimum variance from the code be granted than is necessary to alleviate the exceptional, practical difficulty.

(4) *Invalidation of variance.* The breach of a condition of any variance granted by the board shall automatically invalidate the variance and any permit, license and certificate granted on the basis of it.

(Ord. No. 1017, § 1430.13, 1-5-2010)

Sec. 10-34. - Appeal from the board's decision.

Any person, whether or not a previous party of the appeal, shall have the right to appeal the board's decision as is authorized by Public Act No. 230 of 1972 (MCL 125.1501 et seq.). An appeal shall be made in the manner and time required by law following the filing of the board's decision in the office of the city manager.

(Ord. No. 1017, § 1430.14, 1-5-2010)

Secs. 10-35—10-43. - Reserved.

ARTICLE III. - RENTAL HOUSING

Sec. 10-44. - Purpose.

The city recognizes the need for an organized inspection and licensing program for residential rental units within the city in order to upgrade rental units to meet city and state safety, health, fire and zoning codes and to provide a more efficient system for compelling both absentee and local landlords to correct violations and to maintain, in proper condition, rental property within the city. The city recognizes that the most efficient system to provide for rental inspections is the creation of a program requiring the registration and licensing and inspection of all premises within the city as defined in this article, so that orderly inspection schedules can be made by city officials.

(Code 1989, § 1494.02; Ord. No. 879, 7-7-1998)

Sec. 10-45. - 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:

Disruptive conduct means any form of conduct, action, incident or behavior perpetrated, caused or permitted, by any occupant or visitor of a residential rental unit that is a violation of existing ordinances of the city or state law. In order for such disruptive conduct to constitute an offense under this article, a citation or criminal complaint must be issued by the police and successfully prosecuted or a guilty plea, or no contest plea, entered in court.

Dwelling, single-family dwelling, two-family dwelling, multiple-family dwelling, boardinghouse, hotel, and rooming unit means as ascribed in section 50-3.

Permanent resident means any person who occupies or has the right to occupy any room in a hotel or motel for at least 30 consecutive days.

Person means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation or receiver, executor, personal representative, trustee, conservator or other representative appointed by order of any court.

Premises means a lot, plot or parcel of land, including the buildings or structures thereon, which also includes dwelling units, rooming units and dwellings.

Residential rental unit means all single-family dwellings, two-family dwellings, multifamily dwellings, boardinghouses, roominghouses, lodginghouses, tourist houses, and hotels that rent or lease to permanent residents.

(Code 1989, § 1494.03; Ord. No. 879, 7-7-1998; Ord. No. 1116, 11-18-2014)

Sec. 10-46. - Registration and licensing requirements.

No person shall hereafter allow to be occupied, or rented or let to another person for occupancy, any dwelling unit, rooming unit, single-family dwelling, two-family dwelling, multifamily dwelling, boardinghouse, roominghouse, lodginghouse, tourist house or hotel, which premises are intended for occupancy as a residential rental property within the city, for which a registration statement has not been properly made and filed with the building department of the city and for which a license has not been issued by the building department of the city. Registration shall be made upon forms furnished by the building department for such purpose and shall specifically require the following minimum information:

(1) Name, address and telephone number of the property owner;

(2) Name, address and telephone number of the designated local property manager, if any;

(3) The street address of the rental property;

(4) The number and types of units within the rental property;

(5) The maximum number of occupants permitted for each dwelling or rooming unit; and

(6) The name, address and telephone number of the person authorized to make or order repairs or services for the property, if in violation of city or state codes, if the person is other than the owner or local property manager.

(Code 1989, § 1494.04; Ord. No. 879, 7-7-1998)

Sec. 10-47. - Manner of registering.

Registration shall be made by the property owner, lessor, their designated agent, or designated local property manager in the office of the building department of the city prior to the inspection on forms containing the following information:

(1) The names and addresses of the owner and lessor and of their designated agents or property managers upon whom a violation order may lawfully be served.

a. Owners and lessors who reside 50 miles or more from city hall must designate a local agent who shall be authorized to act as the owner's or lessor's agent for any matters related to the owner's or lessor's rental permit(s), including but not limited to authorization to receive and respond to notices from the city and to receive service of process in any action or proceeding brought by the city against the owner or lessor.

b. Any such agent who is designated by an owner or lessor of premises must reside or do business within 50 miles from city hall and must provide the city with a local address and telephone number.

(2) A description of the property, by street and number or otherwise, as will enable the building department to locate the same.

(3) Such other appropriate information as may be requested, including but not limited to number of units, number and type of rooms, together with a typical floor layout of the units and rooms with appropriate designations and identifications.

(Code 1989, § 1494.05; Ord. No. 879, 7-7-1998; Ord. No. 1088, 7-2-2013; Ord. No. 1160, § 1, 12-4-2018)

Sec. 10-48. - Transfer of property.

Every new owner of premises, as defined in section 10-45, which premises are to be let or rented, whether as fee owner or contract purchaser, shall be required to furnish to the building department the new owner's name, address and telephone number and the name, address and telephone number of the owner's designated local property manager before taking possession of the rental premises. No registration fee shall be required of the new owner during the year in which the possession takes place, provided that the previous owner has paid all registration fees and has complied with all the requirements of this article and any notices from the city concerning violations of health, zoning, fire or safety codes of the city. If any change in the type of occupancy as originally registered is contemplated by the new owner, a new registration statement shall be required.

(Code 1989, § 1494.06; Ord. No. 879, 7-7-1998)

Sec. 10-49. - Fees.

The city council shall establish an appropriate fee for registration, licensing and inspections.

(Code 1989, § 1494.07; Ord. No. 879, 7-7-1998)

Sec. 10-50. - Maintenance of records.

All records, files and documents pertaining to the rental registration and licensing and rental unit inspection program shall be maintained by the building department and made available to the public as allowed or required by state law or city ordinance.

(Ord. No. 879, 7-7-1998)

Sec. 10-51. - Inspection—Required.

(a) All single-family dwellings, two-family dwellings, multifamily dwellings, boardinghouses, roominghouses, lodginghouses, tourist houses, and hotels that rent or lease to permanent residents shall be inspected systematically for compliance with this chapter and all other applicable laws of the state and the city. As part of the residential rental unit inspection process, the code enforcement officer shall also conduct an infestation and vermin inspection in each residential rental unit offered for lease or rent. This shall be an inspection of the entire residential rental unit and the surrounding property for possible health hazards resulting from any type of infestation, including, but not limited to, bugs, termites, roaches, ants, etc., and any type of vermin, including, but not limited to rats and mice. The code enforcement officer shall have the right to deny a license certifying inspection if, upon the code enforcement officer's opinion, there is an infestation or vermin hazard. If such hazard is discovered in the course of inspecting the residential rental unit, the owner of the premises shall be responsible for abating the hazard within 45 days of notice of same from the code enforcement officer regardless of whether the residential rental unit is actually rented or leased.

(b) The provisions of this section shall not apply to:

(1) Dwellings, buildings, structures and uses owned and operated by any governmental agency;

(2) Dwellings, buildings, structures and uses licensed and inspected by the state; and

(3) Hotels that do not rent to permanent residents.

(c) Where a nonresidential business or activity, or a state-licensed and inspected use occupies a portion of a building and premises which would otherwise be subject to this article, the provisions of this article shall be applicable to the residential and common or public areas of such building and premises.

(Code 1989, § 1494.08; Ord. No. 879, 7-7-1998; Ord. No. 1116, 11-18-2014)

Sec. 10-52. - Same—Frequency.

(a) All premises for rent or lease as defined in section 10-45 shall be inspected at least once every two years.

(b) Neither the common areas nor the dwelling or rooming units in structures newly constructed shall be further inspected after the completion and issuance of a certificate of occupancy for a period of two years from the date of said certificate, unless a complaint is made thereof. Thereafter, said units shall be inspected in accordance with the requirements of this article.

(c) Nothing in this section shall preclude the inspection of said dwellings more frequently than every two years.

(Code 1989, § 1494.10; Ord. No. 879, 7-7-1998)

Sec. 10-53. - Same—Certificate required; written rental agreement required; crime free lease addendum.

(a) No person shall rent, let or let for occupancy any premises as defined in section 10-45 without having a valid, current license certifying inspection for that premises.

(b) All rental agreements for residential rental units shall be in writing and shall reference applicable city ordinances with a summary of same including, but not limited to the rental housing ordinance, snow removal ordinance, weed control and refuse storage ordinance, and rodent control ordinance.

(c) All written rental agreements for residential rental units shall include the following addendum:

CRIME FREE LEASE ADDENDUM

In consideration of the execution or renewal of a lease of the dwelling unit identified in the lease, Owner and Resident agree as follows:

1. Resident, members of the resident's household, and a guest or other person under the resident's control shall not engage in criminal activity, or any act intended to facilitate criminal activity, including drug-related criminal activity, on or near said premises.
2. Resident and members of resident's household will not permit the dwelling unit to be used for, or facilitate criminal activity, including drug-related criminal activity, regardless of whether the individual engaging in such activity is a member of the household or a guest.
3. VIOLATION OF THE ABOVE PROVISIONS SHALL CONSTITUTE DISRUPTIVE CONDUCT AS DEFINED IN CITY OF EASTPOINTE CODE OF ORDINANCE SECTION 10-45 AND BE A MATERIAL AND IRREPARABLE VIOLATION OF THE LEASE AND GOOD CAUSE FOR IMMEDIATE TERMINATION OF THE LEASE.
4. In case of a conflict between the provisions of this addendum and any other provisions of the lease, the provisions of this addendum shall govern.
5. This LEASE ADDENDUM is incorporated into the lease executed or renewed this day between Owner and Resident.
6. This LEASE ADDENDUM is not intended to diminish Resident's or broaden Owner's rights with regard to Michigan's laws pertaining to the recovery of possession of property.

(Code 1989, § 1494.11; Ord. No. 879, 7-7-1998; Ord. No. 1116, 11-18-2014; Ord. No. 1123, 6-16-2015)

Sec. 10-54. - Same—Procedure; repairs by city; notice to the building department.

(a) If, upon completion of the biennial inspection, the premises are found to be in compliance with all applicable city and state codes and ordinances and the appropriate fee has been paid, the city shall issue a license certifying inspection of the premises.

(b) If, upon completion of the inspection, the premises are found to be in violation of one or more provisions of applicable city codes and ordinances, the city shall provide written notice of such violations and shall set a reinspection date before which such violation shall be corrected. If such violation has been corrected within that period, the city shall issue a license certifying inspection of the premises. If such violations have not been corrected within that period, the city shall not issue the license and may take any action necessary to enforce compliance with applicable city and state codes and ordinances which may include the city correcting the violation. In the event the city corrects the violation there shall be imposed upon the owner a charge of the actual costs involved, plus ten percent of said costs for each time the city shall correct the violation; and the owner shall be billed after same has been completed. Any such bill which remains unpaid and outstanding after the time specified therein for payment shall be grounds for the imposition of a municipal lien upon the premises as provided by law. Such lien may be reduced to a judgment and enforced and collected as provided by law, together with interest and court costs.

(c) After the license has been issued, and within 30 days of the execution of any rental agreement, or upon transfer of possession of the residential rental unit(s) to any occupant(s) and/or tenant(s), whichever is earlier, the owner or agent shall file a renter's report with the building department, which shall list the following:

(1) Name, address and contact number of the owner/landlord and property manager;

(2) Name of the occupants and tenants;

(3) Location, including the street address and apartment number, of the residential rental unit(s);

(4) Terms of rental agreement; and

(5) Date term shall commence.

(Code 1989, § 1494.12; Ord. No. 879, 7-7-1998; Ord. No. 1116, 11-18-2014)

Sec. 10-55. - Same—Request for.

The owner of any premises subject to this article may request inspections of said premises at any time.

(Code 1989, § 1494.13; Ord. No. 879, 7-7-1998)

Sec. 10-56. - License—Expiration date.

(a) The licenses certifying inspection issued pursuant to this article shall expire two years from the date of the biennial inspection.

(b) The license shall have the expiration date prominently displayed on its face.

(Ord. No. 879, 7-7-1998)

Sec. 10-57. - Same—Transferability.

A license issued pursuant to this chapter shall be transferable to succeeding owners; provided, however, that within seven days of the transfer, the transferor shall provide written notice of said transfer to the building department of the city. Such notice shall contain the name and address of the succeeding owners. The failure to provide such notice shall result in the revocation of the license. Further, upon receipt of written notice of transfer of ownership, the city, at its option, reserves the right to conduct an inspection of the premises to determine whether the premises are in compliance with all applicable city and state codes and ordinances before approving a license transfer.

(Code 1989, § 1494.15; Ord. No. 879, 7-7-1998)

Sec. 10-58. - Same—Availability.

Upon the request of an existing or prospective tenant, the owner or the owner's agent or property manager shall produce the license certifying inspection.

(Code 1989, § 1494.16; Ord. No. 879, 7-7-1998)

Sec. 10-59. - Suspension or revocation of license.

If the building official determines that any person has failed to comply with this chapter or any applicable city or state code or ordinance, the building official may suspend or revoke the license held by that person. A person aggrieved by such a suspension or revocation or by any action taken by the city in regard to this article or city and state codes and ordinances, may make an appeal to the building board of appeals of the city. Upon receipt of the request or appeal, the building board of appeals shall hear and consider the matter. An appeal must be taken within ten days from the city's action and shall be addressed, in writing, to the building board of appeals of the city. The property owner and/or property manager or property owner's agent shall have the right to appear and be represented by counsel. The building board of appeals, after proper hearing, shall issue its order of decision and said decision may be appealed to the county circuit court. There shall be no appeal to the city council.

(Code 1989, § 1494.17; Ord. No. 879, 7-7-1998)

Sec. 10-60. - Violations; equitable remedies; declaration of nuisance; disruptive conduct.

(a) Nothing in this article shall prevent the city from taking action under any of its fire, housing, zoning, health or safety codes, property maintenance codes or blight prevention codes for violations thereof to seek injunctive relief or criminal prosecution for such violations in accordance with the terms and conditions of the particular ordinance under which the city would proceed against the property owner, designated property manager or occupant of any residential rental dwelling unit covered by this article.

(b) Further, any violation of this article is hereby declared to be a nuisance. In addition to any other relief provided by this article, the city may apply to a court of competent jurisdiction for an injunction to prevent the continuation of any violation of this article.

(c) Occupants of residential rental units shall not engage in, nor tolerate nor permit others on the premises to engage in disruptive conduct or other violations of city ordinances or state law. When police investigate an alleged incident of disruptive conduct, he or she may complete a disruptive conduct report upon a finding that the reported incident did, in his or her judgment, constitute a disruptive conduct as defined herein and shall provide same to the building department. The information in said report shall include, if possible, the identity or identities of the alleged perpetrator(s) of the disruptive conduct and all other obtainable information including the factual basis for the disruptive conduct requested on the prescribed form. Where the police make such investigation, said police officer shall

then submit the completed disruptive conduct report to the code enforcement officer. The code enforcement officer or agent shall mail a copy of the disruptive conduct report to the owner or property manager within five working days of the occurrence of the alleged disruptive conduct. The owner shall take appropriate corrective measures to prevent further disruptive conduct by tenants or occupants. In the event a tenant, or occupant, is convicted of a third disruptive conduct violation within a license year, the owner shall evict the tenant and not allow the tenant to re-let or otherwise occupy the premises. The failure by the owner to evict the tenant shall result in license revocation.

(Code 1989, § 1494.18; Ord. No. 879, 7-7-1998; Ord. No. 1116, 11-18-2014)

Secs. 10-61—10-78. - Reserved.

ARTICLE IV. - PROPERTY MAINTENANCE CODE[2]

Footnotes:

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Editor's note— Ord. No. 1145, adopted Nov. 13, 2017, amended Art. IV in its entirety to read as herein set out. Former Art. IV, §§ 10-79—10-84, pertained to similar subject matter and derived from Code 1989, §§ 1490.01—1490.06; Ord. No. 742, 11-13-1989; Ord. No. 788, 8-25-1992; Ord. No. 880, 7-7-1998; Ord. No. 1002, §§ 1490.01—1490.06, 9-9-2008; Ord. No. 1005, § 1490.04, 11-18-2008; Ord. No. 1008, §§ 1490.05, 1490.06, 9-9-2008; Ord. No. 1108, 6-17-2014.

Sec. 10-79. - 2018 Edition of the International Property Maintenance Code adopted.

The International Property Maintenance Code, 2018 Edition, as established by the International Code Council, is hereby adopted as the property maintenance code of the city for the regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees thereof and each and all other regulations, provisions, penalties, conditions and terms of said property maintenance code on file in the city are hereby referred to, adopted and made part hereof as if fully set out in this article, with the amendments, additions, insertions, deletions and changes, if any.

(Ord. No. 1145, 11-13-2017)

Sec. 10-80. - File and distribution copies.

Printed copies of the IPMC International Property Maintenance Code, as adopted in section 10-79, shall be kept in the office of the city clerk, available for inspection by and distribution to the public at all times.

(Ord. No. 1145, 11-13-2017)

Sec. 10-81. - References in code.

References in the IPMC International Property Maintenance Code, as adopted in section 10-79, to "name of jurisdiction" shall mean the City of Eastpointe, Michigan.

(Ord. No. 1145, 11-13-2017)

Sec. 10-82. - Amendments.

The IPMC International Property Maintenance Code, as adopted in section 10-79, is hereby amended as follows:

Section PM-106.0 Violations.

PM-106.4 Violation penalties: (Amended). Any person, firm or corporation who shall violate any provision of this Code shall be subject to the penalty provided in section 1-15. A separate offense shall be deemed committed each day during or on which a violation continues after due notice has been served in accordance with the provisions of this Code.

Section PM-108.0 Unsafe structures and equipment.

PM-108.3 Notice of dangerous and unsafe condition: (Amended).

1. Notwithstanding any other provision of this Code, when the whole or any part of any building or structure is found to be in a dangerous or unsafe condition, the city shall issue a notice of the dangerous or unsafe condition.
2. Such notice shall be directed to the owner, agent or lessee registered with the city. If no owner, agent or lessee has been registered, then the notice shall be directed to each owner of or party in interest in the building in whose name the property appears on the last local tax assessment records.
3. The notice shall specify the time and place of a hearing on the condition of the building or structure at which time and place the person to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe.
4. A hearing officer shall be appointed by the mayor to serve at the pleasure of the mayor to hear and decide whether a building or structure violates the property maintenance and blight prevention codes. The city's code enforcement division shall file a copy of the notices of a dangerous or unsafe condition with the hearing officer.
5. All notices shall be in writing and shall be served upon the person to whom they are directed personally, or, in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records, at least seven days before the date of the hearing before the hearing officer described in the notice. If any person to whom a notice is directed is not served or has not been mailed a copy of the notice, then a copy of the notice shall be posted upon a conspicuous part of the building or structure.

Section PM-110.0 Demolition.

PM-110.1 General: (Amended). It is unlawful for any owner or agent thereof to keep or maintain any dwelling, structure or part thereof, which is a dangerous building as defined in Section PM-110.2.

PM-110.2 Definition of dangerous building. As used herein, "dangerous building" means any building or structure which has any of the following defects or is in any of the following conditions:

1. Whenever any door, aisle, passageway, stairway or other means of exit does not conform to the fire prevention code of the city;

2. Whenever any portion has been damaged by fire, wind, flood or any other cause in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of this Code or any other provisions of the state construction code or a new building or similar structure, purpose or location;

3. Whenever any portion or member or appurtenance is likely to fall or become detached or dislodged, or to collapse and thereby injure persons or damage property;

4. Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to wind than is required in the case of new construction by this Code or any other provision of the Building and Housing Code of the city;

5. Whenever the building or structure or part thereof, because of dilapidation, deterioration, decay, faulty construction or the removal or movement or some portion of the ground necessary for the purpose of supporting such building, structure or part thereof, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way;

6. Whenever, for any reason whatsoever, the building or structure or any portion thereof is manifestly unsafe for the purpose for which it is used;

7. Whenever the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated, as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harborage for vagrants, criminals or immoral persons or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral acts;

8. Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidation, decay, damage or faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by the health officer, or is likely to work injury to the health, safety or general welfare of those living within;

9. Whenever any building becomes vacant, dilapidated and open at a door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers; or

10. Whenever the building official estimates that the cost of placing the building in a safe and sanitary condition exceeds the state equalized valuation;

11. Whenever a building or structure remains unoccupied for a period of 180 consecutive days or longer. This subsection does not apply to either of the following:

    (a) A building or structure as to which the owner notifies the building official that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given by the owner not more than 30 days after the building or structure becomes unoccupied;

    (b) A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies the building official that the dwelling will remain unoccupied for a period of 180 days or more each year. An owner who has given the notice prescribed by this paragraph shall notify the building official not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subsection "secondary dwelling" means a dwelling that is occupied by the owner or a member of the owner's family during part of a year.

Section PM-111.0 Means of appeal.

PM-111.2 Appeals board: (Amended). The construction board of appeals shall also be the property maintenance code board of appeals and rules. The board shall have the power to interpret the provisions of this Code upon application in writing by the owner or lessee or their

duly authorized agents when there are practical difficulties in the way of carrying out the strict letter of this Code, so that the spirit of this Code shall be observed, public health, safety and welfare secured and substantial justice done. The particulars of such interpretation when granted or allowed and any decision of the board shall be entered upon the records and signed copy shall be furnished to the applicant.

PM-111.8 Testimony; determination; order; compliance; hearing; cost of compliance as lien; collection: (Added).

1. The hearing officer shall take testimony of the code enforcement division, the building department, the owner of the property and any interested party in regard to whether a building or structure violates the property maintenance and blight prevention codes. The hearing officer shall render his or her decision either closing the proceedings or ordering the building to be demolished or otherwise made safe.
2. If it is determined by the hearing officer that the building or structure should be demolished or otherwise made safe, he or she shall so order, fixing a time in the order for the owner, agent or lessee to comply therewith.
3. If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order, the hearing officer shall file a report of his or her findings and a copy of his or her order with the city council and request that the necessary action be taken to demolish or otherwise make safe the building or structure. A copy of the findings and order of the hearing officer shall be served on the owner, agent or lessee in the same manner as the notice.
4. The council shall fix a date for a hearing, reviewing the findings and order of the hearing officer, and shall give notice to the owner, agent or lessee in the manner described above of the time and place of the hearing. At the hearing before the city council, the owner, agent or lessee shall be given the opportunity to show cause why the building should not be demolished or otherwise made safe, and the council shall either approve, disapprove or modify the order for the demolition or making safe of the building or structure. Also, the council may request the owner, agent or lessee to post a cash payment bond to ensure timely compliance of any order, directive or condition given by the council to said owner, agent or lessee.
5. The owner shall be personally liable for all costs of abatement and the cost to demolish the building or to make it safe and said costs shall also be a lien against the real property which shall be reported to the finance director who shall assess the costs against the property on which the building or structure is located. A proceeding may also be filed by the city in a court of competent jurisdiction against any individual who owns or previously owned the property, at the time the costs were incurred, to collect all costs of abatement and the cost to demolish the building or to make it safe.
6. The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If he or she fails to pay the same within three days after mailing by the finance director of the notice of the amount thereof, the finance director shall add the same to the next city tax roll of the city and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by the city.

Section PM-202.0 General definitions: (Amended).

Dwellings: Whenever the words "dwelling unit," "dwelling," "premises," "building," "roominghouse," "rooming unit" or "story" are stated in this Code, they shall be construed as though they were followed by the words "or any part thereof."

Lease or leasehold: Any written or oral agreement that sets forth any and all conditions concerning the use and occupancy of rental dwellings or rental units.

Rental dwelling: Any structure or building rented or leased to a residential tenant or tenants for use as a dwelling unit, rooming unit, single-family dwelling, two-family dwelling, multiple-family dwelling, boardinghouse, roominghouse, lodging house, tourist house, or hotel as defined in section 50-3.

Section PM-602.0 Heating facilities.

PM-602.3.1 Heat supply: (Amended). Every owner and operator of any building who rents, leases or lets one or more dwelling units, rooming units, dormitories or guestrooms on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from September 1 to May 15 to maintain the room temperatures specified in section PM-602.2 during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60 degrees F. (16 degrees C.) during other hours.

PM-602.3.2 Nonresidential structures: (Amended). Every enclosed occupied work space shall be supplied with sufficient heat during the period from September 1 to May 15 to maintain a temperature of not less than 65 degrees F. (18 degrees C.) during all working hours.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

Section PM-604.0 Electrical facilities: (Amended).

PM-604.1 Electrical system inspection. If visual inspection by the authority having jurisdiction reveals that the wiring system of an existing dwelling unit is inadequate, or if code certification for any reason is required or requested, the requirements in this section and section PM-605 shall be complied with.

PM-604.2 Entrances and exits. Where two or more entrances and/or exits exist, at least two shall be illuminated by exterior lights. Exterior lights shall be controlled by interior wall switches, located for convenient and readily accessible use.

PM-604.3 Living room. The living room shall be provided with a conveniently located wall-switch-controlled light or receptacle. The switched receptacle may be one of the required receptacles in the room. Duplex receptacles shall be equally spaced around the walls of the room, one duplex receptacle on each wall, unless the spacing requirements of Section E3801 of the Michigan Residential Code are met.

PM-604.4 Kitchen. The kitchen shall be provided with illumination. The required illumination shall be controlled by a wall switch.

A separate kitchen appliance circuit shall be provided, supplying a minimum of three grounding-type duplex receptacle outlets. The grounding contacts of these receptacles shall be grounded. Two of these receptacles shall be readily accessible and spaced for convenient use of portable appliances. New appliance circuits shall be 20 ampere capacity.

GFCI protection shall not be used as a substitute for grounding with kitchen receptacles.

PM-604.5 Bathroom. Bathrooms shall be provided with illumination, controlled by a conveniently located wall switch. A receptacle separate from a light fixture shall be provided. All bathroom receptacles shall have GFCI protection.

PM-604.6 All other habitable rooms. Habitable rooms shall be provided with a conveniently located wall-switch-controlled light or receptacle. A minimum of two additional duplex receptacles are required, equally spaced around the room.

PM-604.7 Basement. The basement shall have a minimum of one lighting outlet for general illumination. All enclosed areas that may be walked into shall be provided with a lighting outlet.

PM-604.8 Laundry area. Laundry areas shall be provided with illumination. GFCI duplex receptacle shall be provided adjacent to the laundry equipment, on a separate circuit or two single device grounding type outlets. New laundry circuits shall be 20 ampere capacity.

PM-604.9 Space heating system. Heating equipment that requires electricity for operation of any facet shall be provided with an individual circuit. A disconnect switch shall be provided on or adjacent to the equipment. (Exception: Thermo-pile controlled furnaces.)

PM-604.10 Stairwells. Stairwells shall be adequately illuminated. Lighting outlets shall be controlled by wall switches. Switches shall not be located where it is necessary to use darkened stair sections for their operation. Stairwells connecting finished portions of dwellings shall be provided multiple-switch control: one at the head, the other at the foot of the stairwell.

PM-604.11 Service and/or feeder. The service or feeder to an existing dwelling unit shall be a minimum of three-wire, 100 ampere capacity. Service equipment shall be dead front, having no live parts exposed whereby accidental contact could be made. All plug type fuses shall be Type S.

> Exception: An existing properly installed 55 ampere capacity, three-wire service and feeders of 30 ampere, two-wire are acceptable if adequate for the load being served.

PM-604.12 Existing wiring and equipment. Existing wiring and equipment shall be in good repair. Circuit extensions made with flexible cord wiring in lieu of permanent wiring shall be eliminated.

PM-604.13 New wiring. All new work shall conform to the Michigan Residential Code as amended.

PM-604.14 Evidence of inadequacy. Any of the following shall be considered evidence of inadequacy:

1. Use of cords in lieu of permanent wiring.
2. Oversizing of overcurrent protection for circuits, feeders and service.
3. Unapproved extensions to the wiring system in order to provide light, heat or power.
4. Electrical overload.
5. Misuse of electrical equipment.
6. Lack of lighting fixtures in bathrooms, laundry rooms, furnace room, stairway or basement.

(Ord. No. 1145, 11-13-2017)

Sec. 10-83. - Violations; nuisance; abatement.

(a) No person shall use, occupy or maintain any building, structure or premises in violation of any of the provisions of the IPMC International Property Maintenance Code, as adopted in section 10-79, or cause, permit or suffer any such violation to be committed.

(b) Any building, structure or premises used, occupied or maintained in violation of the IPMC International Property Maintenance Code, as adopted in section 10-79, is hereby declared to be a nuisance per se. Upon application to any court of competent jurisdiction, the court may order the nuisance abated and/or

the violation or threatened violation restrained and enjoined. Such remedies shall be in addition to the penalty provided in section 1-15.

(Ord. No. 1145, 11-13-2017)

Sec. 10-84. - Conflict of laws.

(a) In the event of a conflict between any of the provisions of the IPMC International Property Maintenance Code, as adopted in section 10-79, and a provision of any local ordinance, resolution, rule or regulation, the local ordinance, resolution, rule or regulation shall control.

(b) In the event of a conflict between any of the provisions of such code and a provision of any state law, rule or regulation, the state law, rule or regulation shall control.

(c) In the event of a conflict between any of the provisions of such code and a provision of any other technical code adopted by reference by the city, the stricter or higher standard shall control.

(Ord. No. 1145, 11-13-2017)

Sec. 10-85. - Repealer.

All ordinances and parts thereof in conflict herewith are repealed only to the extent necessary to give this article full force and effect.

(Ord. No. 1145, 11-13-2017)

Sec. 10-86. - Severability.

If any article, section, subsection, sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of remaining portions of the ordinance, it being the intent of the city that this ordinance shall be fully severable.

(Ord. No. 1145, 11-13-2017)

Sec. 10-87. - Effective date.

This article shall take effect ten days after the final passage thereof.

(Ord. No. 1145, 11-13-2017)

Secs. 10-88—10-111. - Reserved.

ARTICLE V. - BLIGHT PREVENTION

Sec. 10-112. - Purpose; intent; application of article.

(a) The purpose of this article is to enhance the quality of life for all residents and owners of property, to protect property values and to promote public welfare by prohibiting blighting influences and establishing minimum standards for the exterior maintenance of buildings and premises.

(b) The provisions of this article shall apply to all properties in the city. It is the intent of this article to set minimum standards for exterior building maintenance and yard maintenance.

(Code 1989, § 1492.01; Ord. No. 831, 6-6-1995)

Sec. 10-113. - 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:

Accessory building means any garage, shed or storage structure accessory to the principal building or dwelling.

Defect means any condition of a principal or accessory building set forth in section 10-114.

Dwelling shall have the meaning ascribed to it in section 50-3.

Eyesore means a principal and/or accessory building containing one or more defects.

Principal building means any structure or building housing the primary use existing on the premises, including commercial, industrial or residential. The term "principal building" includes a dwelling.

(Code 1989, § 1492.02; Ord. No. 831, 6-6-1995)

Sec. 10-114. - Defective conditions prohibited.

It shall be unlawful for any person or other entity with an ownership interest in property, whether legal or equitable, including land contract vendees' interests, or for a tenant obligated by lease to maintain the premises, to permit any principal or accessory building to lapse into a defective state so as to become an eyesore or nuisance or a threat to the health and safety of the occupants or others. The existence of any of the following prohibited conditions shall constitute a defect and shall be, per se, a violation of this article:

(1) Exterior walls, including foundation walls, shall be free of holes, breaks, loose or rotting boards or other timbers and any other conditions which might admit rain, dampness or rodents. All exterior surface materials, including wood, brick, block asbestos, slate, aluminum, vinyl or other siding, shall be maintained weatherproof. All surface materials, including trim, shall be kept in good condition or be replaced or repaired as needed. All exterior wood surfaces shall be reasonably protected by paint or other protective gloss, except for surfaces otherwise treated against decay or which are naturally resistant to decay, and used primarily for decorative purposes. No dwelling shall be painted with unusual designs, including, but not limited to, stripes, polka dots, pictures, words or advertisements of any product.

(2) Every window, exterior door or basement hatchway shall be reasonably watertight and rodentproof, and shall be kept in sound working condition and good repair. Any window or door used for natural ventilation shall have screening or other similar guards against rodents and insects. Broken doors and windows shall be replaced only with another door or window. The boarding of windows and doorways is prohibited unless approved in writing by the building official and unless the building is unoccupied and the boarding material is neatly affixed to the structure and painted to match or blend with the exterior walls. Visqueen or other clear synthetic window covering may be used for winter window insulation, but it must be framed or securely fastened to the building and maintained free of tears and in good condition. Visqueen or other similar covering and material may be used as a temporary wall covering where required for protection due to construction, fire, accident, remodeling or act of God and shall be maintained in good condition, free from tears and securely fastened to the building.

(3) Every porch, deck, stair, handrail, fence or other appurtenance to a principal or accessory building shall be erected in compliance with all applicable city codes, kept in good repair and constructed so as to be safe and capable of supporting a reasonable load that normal use may cause to be exerted thereon.

(4) Every roof shall be structurally sound, watertight and kept in sound repair and good condition. Gutters and downspouts shall be kept in good repair or be replaced as needed.

(5) Graffiti must be removed from any principal or accessory building or appurtenance thereto as soon as practicable, but in every instance within 30 days after discovery by the owner, tenant or vendee or notice from the city, whichever is sooner.

(6) The premises shall be kept clear of debris, trash, litter or construction waste materials.

(7) Bushes, trees and other landscaping shall be trimmed in accordance with reasonable landscaping practices. Landscaping shall not interfere with pedestrian traffic and shall be maintained to allow clear vision for pedestrians and motorists at driveways, intersections and alleys. Front yards shall be maintained with cultivated ground cover or similar decorative material and maintained in good condition.

(Code 1989, § 1492.03; Ord. No. 831, 6-6-1995)

Sec. 10-115. - Vacant buildings.

(a) *Securing of building.* After any principal building or accessory building or portion thereof has been vacated, except as provided for in section 10-82 (PM-110.2(11)) regarding dangerous buildings, the building official shall require that any such building, structure or portion thereof, and any and all windows without glass or with broken glass, be replaced or boarded up with boarding material that is neatly affixed to the structure and painted to match or blend in with the exterior walls and that all doors or other openings be securely fastened to prevent unauthorized entrance into said building or structure.

(b) *Rehabilitation or demolition.* The owner or agent of, or any person responsible for, any vacant principal building or accessory building or portion thereof that is not in compliance with section 10-82 (PM-110.2(11)), shall, within 60 days after a written notice from the building official, rehabilitate the building or structure and make it fit for human habitation, or for commercial or other authorized uses, or, in the alternative, demolish and remove the same. Said 60-day period may be extended for good cause upon written application to the building official where the public health, safety and welfare are not endangered.

(Code 1989, § 1492.04; Ord. No. 831, 6-6-1995)

Sec. 10-116. - Maintenance after casualty damage.

(a) Within a period of 60 days after casualty damage to any principal building, accessory building or portion thereof, or premises, the owner, occupant or agent shall take the following steps:

(1) Contract for repair and restoration of damaged areas and removal of debris;

(2) Contract for demolition and removal of any part of the premises not to be repaired and restored and for the removal of debris in connection therewith; and

(3) Replace all windows without glass or with broken glass or, with written approval from the building official, board up the windows with boarding material that is neatly affixed to the structure and painted to match or blend in with the exterior walls, and securely fasten all doors or other openings to prevent unauthorized entrance.

(b) Said 60-day period may be extended for good cause upon written application to the building official where the public health, safety and welfare are not endangered.

(Code 1989, § 1492.05; Ord. No. 831, 6-6-1995)

Sec. 10-117. - Enforcement.

This article shall be enforced under the direction of the building official, as follows:

(1) The owner and/or occupant of any principal building or accessory building determined to have one or more defective conditions, as defined in this chapter, shall be notified in writing in accordance with the procedure set forth in the BOCA National Property Maintenance Code to correct the defective conditions within a time certain after the service of the notice.

(2) Failure of the owner or occupant to comply with the notice within the time allowed shall constitute a violation of this article.

(3) Any violation of this article is a nuisance per se. The city may seek enforcement of this chapter through its hearing officer or upon application to any court of competent jurisdiction. Said court may order the nuisance abated or the violation restrained and enjoined, or both. This remedy is cumulative and does not preclude the enforcement of this article by other lawful means or through a criminal action as set forth in this Code.

(Code 1989, § 1492.06; Ord. No. 831, 6-6-1995)

Sec. 10-118. - Removal of personal property from dwelling unit or principal building.

(a) When an owner of a rental dwelling unit as defined in section 10-45 obtains an order of eviction of a tenant or the tenant voluntarily moves from or abandons the dwelling unit, or when the owner of a principal building as defined in section 10-113 abandons the building or obtains title to the building through foreclosure, the owner or owner's representative must obtain a large movable or roll-off container prior to the removal of any or all of the tenant's or owner's or previous owner's personal property and place said container on a private portion of the property that contains the dwelling unit or principal building. The roll-off container must be of sufficient size to hold all of the tenant's or owner's or previous owner's personal property including, but not limited to furniture, appliances, clothing, refuse and the like. The roll-off container must be accessible from the side as opposed to the top of the container. The roll-off container shall not remain on the private portion of the property that contains the dwelling unit or principal building for more than seven days from its arrival on said private property.

(b) Once all of the tenant's or owner's or previous owner's personal property is placed in the roll-off container, the owner or owner's representative must immediately remove the container from the private portion of the property on which the dwelling unit or principal building is located.

(c) If the roll-off container and the personal property are not removed within the time limits set forth in subsections (a) and (b) of this section, the owner or owner's representative will be in violation of this article and subject to all penalties provided herein.

(d) If the owner or owner's representative fails to obtain a container to dispose of the personal property, the owner or owner's representative shall be in violation of this article and subject to all penalties provided herein.

(e) If the owner or owner's representative fails to remove the personal property and refuse from the exterior of the property, the city shall declare a public nuisance pursuant to section 18-85 and the city shall have all remedies as set forth in sections 18-82 through 18-86.

(Code 1989, § 1492.07; Ord. No. 983, 3-20-2007)

Secs. 10-119—10-149. - Reserved.

ARTICLE VI. - MOVING OF BUILDINGS[3]

Footnotes:

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State Law reference— Removal of obstructions and encroachments from highways and roads, MCL 247.171 et seq.; abatement of street and highway obstructions, MCL 600.2937; indemnity agreements, MCL 691.991.

Sec. 10-150. - Permit required; deposit.

No person shall move, transport or convey any building, machinery, truck or trailer, more than eight feet, eight inches wide or higher than 13 feet, six inches, above the surface of the roadway, into, across or along any street or other public place in the city, without first obtaining a permit therefor from the city clerk. The applicant shall file written clearances from the light, telephone, gas and water utilities, stating that all connections have been properly cut off and, where necessary, that all obstructions along the proposed route of moving will be removed without delaying moving operations. In addition, clearance shall be obtained from the police department, approving the proposed route through the city streets and the time of moving, together with an estimated cost to the police department due to the moving operations. The applicant shall deposit with the city the total estimated cost to the police department and the department of public works, plus a cash deposit, and shall file an insurance policy as required by section 38-21. Where applicable, the provisions of section 10-11 shall be complied with.

(Code 1973, § 4.35; Code 1989, § 1450.01)

Sec. 10-151. - Additional regulations.

The building official may make additional regulations pertaining to house moving. Such regulations shall be subject to the approval of the council. No person shall fail to comply with any such regulation.

(Code 1989, § 1450.02)

Secs. 10-152—10-170. - Reserved.

ARTICLE VII. - NUMBERING OF BUILDINGS[4]

Footnotes:

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Charter reference— Official map, ch. XIII, § 6.

Sec. 10-171. - Numbering required.

All premises shall bear a distinctive street number at or near the front entrance of such premises in accordance with and as designated upon the street map on file in the office of the building official.

(Code 1973, § 1.21; Code 1989, § 1454.01)

Sec. 10-172. - Compliance with street map; size and location of numbers.

The owners and occupants of all buildings in the city shall cause the correct numbers to be placed thereon in accordance with the street map as provided in section 10-171. Such numbers shall be not less

than five inches high, shall be facing the street and adjacent to the principal entrance and shall be in such position as to be plainly visible from the street.

(Code 1989, § 1454.02)

Sec. 10-173. - Numbering on back of buildings.

The owners of all commercial establishments and multiple dwellings which have access from the rear shall post in an appropriate place on the rear of the building, identifying street numbers, similar to those numbers on the front of the building, such numbers to be not less than three inches high.

(Code 1989, § 1454.03; Ord. No. 555, 4-18-1977)

Secs. 10-174—10-210. - Reserved.

ARTICLE VIII. - VACANT PROPERTY REGISTRATION AND MAINTENANCE

Sec. 10-211. - Purpose.

The purpose of this article is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and to ensure the safe and sanitary maintenance of dwellings, commercial and industrial buildings. It is the intent of this article to address homes and buildings that have become vacant, abandoned, or otherwise unsupervised thereby having a negative impact on surrounding properties and neighborhoods. Vacant and abandoned homes create an increased instance of unsecured or open doors and windows, broken water pipes, flooded basements, theft of metals and other materials, overgrowth of grass, weeds, shrubs, and bushes, illegal dumping, and rodent and vermin activity at vacant structures. Such neglect devalues properties and causes deterioration in neighborhoods and industrial and commercial areas. It is important for the city to be able to contact owners of vacant properties for property maintenance, utility shutoff, fire safety, and police reasons.

(Ord. No. 1031, § 1470.01, 9-7-2010)

Sec. 10-212. - Scope.

The provisions of this article shall apply to all existing residential, commercial, and industrial structures. This article does not relieve an owner from compliance with all other city ordinances, codes, rules, regulations, and state law.

(Ord. No. 1031, § 1470.02, 9-7-2010)

Sec. 10-213. - 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:

Abandoned vacant property means a vacant property that has been vacant for 30 days or more and meets any of the following criteria:

(1) Provides a location for loitering, vagrancy, unauthorized entry, or other criminal activity;

(2) Has one or more broken or boarded windows;

(3) Has taxes in arrears for a period of time exceeding 365 days;

(4) Has utilities disconnected or not in use;

(5) Is not maintained in compliance with city ordinances, codes or state law;

(6) Is only partially completed and is not fit for human occupancy.

Building means a structure with a roof supported by columns or walls to serve as a shelter or enclosure.

Evidence of vacant property means any condition that on its own or combined with other conditions would lead a reasonable person to believe the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices, disconnected utilities, accumulation of trash, junk and/or debris, broken or boarded windows, abandoned vehicles, auto parts or materials, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with habitation, or occupation, statements by neighbors, passerby, delivery agents or governmental employees that the property is vacant.

Foreclosure means the process by which a mortgage is enforced against a parcel of real property through sale or offering for sale to satisfy the debt of the mortgagee.

Mortgage means a recorded lien or interest in real property to secure payment of a loan.

Mortgagee means a person, firm, corporation or other legal entity holding a mortgage on a property.

Mortgagor means a borrower under a mortgage who grants a lien or interest in property to a mortgagee as security for the payment of a debt.

Owner means an individual, co-partnership, association, corporation, company, fiduciary, or any other person or legal entity having a legal or equitable title or interest in real property.

Structure means anything constructed or erected, the use of which requires location on or attachment to the ground, and includes buildings.

Vacant property means an improved lot or parcel of real property with at least one building or structure that is not currently used or occupied for a period in excess of 30 days. A building or structure which remains furnished, has utilities connected or in use, and on property that is maintained while the owner is absent, shall not be considered vacant.

(Ord. No. 1031, § 1470.03, 9-7-2010)

Sec. 10-214. - Registration of vacant and abandoned vacant property.

An owner of a vacant property or an abandoned vacant property located in the city shall be responsible for registering that property with the building department by complying with the affidavit and registration and inspection fee requirements in this article within the following time frames:

(1) Vacant property shall be registered within 45 days of the vacancy.

(2) Abandoned vacant property shall be registered within 30 days of the vacancy.

(Ord. No. 1031, § 1470.04, 9-7-2010)

Sec. 10-215. - Owner registration form; content.

(a) Owners who are required to register their properties pursuant to this article shall do so by submitting a copy of a valid driver's license and owner registration form containing the information specified in this section. The form may be signed by an agent for an owner provided the agent's written authorization from the owner is also provided. The form shall include the following:

(1) The name of the owner of the property.

(2) A current mailing address where mail may be sent that will be acknowledged as received by the owner. If certified/return receipt requested is sent to the address provided by the owner pursuant hereto and the mail is returned marked "refused" or "unclaimed" or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie evidence that the owner has failed to properly comply with this article constituting a violation hereof.

(3) The name of an individual or legal entity responsible for the care and control of the property. Such individual may be the owner, if the owner is an individual, or may be someone other than the owner provided that the owner has contracted with such person or entity to act as his or her agent for purposes of this article.

(4) A current address, telephone number, and facsimile number, or email address where communications may be sent that will be acknowledged as received by the individual responsible for the care and control of the property. If certified/return receipt requested mail is sent to the address provided pursuant to subsection (b) of this section, and the mail is returned marked "refused" or "unclaimed," or if ordinary mail sent to the address provided pursuant to subsection (b) of this section is returned for whatever reason, then such occurrence shall be prima facie evidence that the owner has failed to properly comply with the requirements of subsection (b) of this section.

(5) The owner's promise that the city's building official or designee will be permitted to inspect the property, including any building or structure situated thereon, in accordance with this article, and at such other reasonable times, upon reasonable notice, as determined necessary by the building official.

(6) An explanation as to the reason for the vacancy of the property.

(b) Once a vacant or abandoned vacant property has been properly registered by the owner, such registration shall be valid and effective for a period not to exceed 365 days, and shall be renewed annually thereafter until the property has become occupied and a certificate of compliance has been issued pursuant to section 10-221, pertaining to reoccupancy.

(Ord. No. 1031, § 1470.05, 9-7-2010)

Sec. 10-216. - Registration.

All fees applicable to this article shall be in amounts as adopted by the city council from time to time, which fees shall include a registration fee, an inspection fee, a reinspection fee, and such other related fees established by resolution of the city council. There shall also be a fee for the filing of a new owner's application. For properties that are not registered within the required time, an additional fee for the added cost of the city's expenses in having to determine ownership, which may include, but is not limited to, title searches, shall be assessed and immediately payable. The payment of all fees required under this article shall be secured by a lien against the property and if not paid within 30 days after the bill for such fees is rendered, such fees shall be collected as provided in section 10-223.

(Ord. No. 1031, § 1470.06, 9-7-2010)

Sec. 10-217. - Requirement to keep information current.

If at any time the information contained in the owner registration form required pursuant to section 10-215 is no longer valid, the owner has ten days to file a new form containing valid, current information. There shall be no fee to update an existing registered owner's current information.

(Ord. No. 1031, § 1470.07, 9-7-2010)

Sec. 10-218. - Inspections.

(a) Vacant or unoccupied buildings or structures, including the surrounding real property, required to be registered in accordance with this article shall be subject to an initial safety and maintenance inspection by the building official, or designee, upon registration. The owner shall pay the inspection fee pursuant to section 10-213. The owner shall demonstrate, within the course of such inspection, that all building or structure water, sewer, electrical, HVAC, plumbing systems, exterior finishes and walls, concrete surfaces, accessory buildings, roofing, structural systems, foundation, drainage systems, gutters, doors, windows, parking areas, signage, driveway aprons, service walks, sidewalks, and other public areas on the property, are sound, operational, or properly disconnected. The owner shall also demonstrate compliance with the city's property maintenance code. In the event such inspection reveals any violations, the owner shall, within ten days, apply for any necessary permits, and shall, within 30 days, or such additional period as permitted by the building official not to exceed six months, complete all repairs required resulting from such inspection. Following the initial inspection, in order to ensure that vacant buildings and structures are safe, secured, and well-maintained, all vacant or unoccupied buildings and structures, including the surrounding real property, shall be subject to annual inspections by the building official, or designee, until the building or structure is lawfully occupied in accordance with section 10-221. Any violations of the city's codes or this article which are detected during any inspections by the building official, or designee, shall be fully repaired and remedied within 30 days of notice to the owner, or such additional time as permitted by the building official but not to exceed six months.

(b) Any mortgagee who holds a mortgage interest on a property located within the city shall perform an inspection to the extent permitted by law or under the mortgage, of the property that is the security for the mortgage, upon default by the mortgagor, within five days after either the filing of a complaint for foreclosure (if foreclosure is by judicial action) or publishing a notice of foreclosure (if foreclosure by advertisement). Upon such inspection by the mortgagee, if the property is found to be vacant or shows evidence of vacant property, it is, by this article, deemed vacant and the mortgagee shall register the property in accordance with this article and be subject to all provision of this article.

(Ord. No. 1031, § 1470.08, 9-7-2010)

Sec. 10-219. - Maintenance and security requirements.

An owner of a vacant property shall, on a daily basis, comply with all of the following maintenance and security requirements.

(1) Property shall be kept free from weeds, grass more than six inches high, dry brush, dead vegetation, trash, junk, debris, building material, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, discarded items, including, but not limited to, furniture, clothing, large and small appliances, printed material, signage, containers, equipment, construction materials, or any other items that give the appearance that the property is abandoned.

(2) Property shall be maintained free of graffiti or similar markings.

(3) All visible front and side yards shall be landscaped and properly maintained. Landscaping includes, but is not limited to, grass, ground covers, bushes, trees, shrubs, hedges, or similar plantings. Maintenance includes, but is not limited to, cutting, pruning, and mowing of required landscaping and removal of all trimmings.

(4) Pools, spas, and other water features shall be covered with an industry approved safety cover and shall also comply with the minimum security fencing and barrier requirements of all applicable building and existing structures/property maintenance codes and ordinances.

(5) Property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors, gates, and any other opening of such size that may allow a child or other person to access the interior of the property and/or buildings or structures. Broken windows must be repaired or

replaced with like glazing materials within 14 days. Boarding up of open or broken windows is prohibited except as a temporary measure not to exceed 14 days.

(6) Electrical power and natural gas shall be provided to all vacant or unoccupied buildings or structures to power all mechanical equipment to maintain a minimum ambient interior temperature of not less than 45 degrees Fahrenheit during the months of September through April of each calendar year and to power a sump pump. A minimum of a seven-watt night light shall be placed in the interior of any vacant residential building or structure on a timer, set so as to turn on at dusk and off at dawn, on both the first and second levels, so as to be visible from the exterior of the residential building or structure. All vacant or unoccupied residential buildings or structures shall have the water shut off at the street and shall have the building properly winterized so as to prevent the bursting of water pipes, unless the building or structure is served by a heating system which requires the use of water.

(7) Property shall be maintained in compliance with all other applicable code requirements.

(Ord. No. 1031, § 1470.09, 9-7-2010)

Sec. 10-220. - Open property; securing fee.

Property that is subject to this article that is left open and/or accessible shall be subject to entry by the city in order to ensure that the property has not become an attractive nuisance and to ensure that the property is locked and/or secured and in compliance with the city's codes and ordinances. The owner of property subject to this article which is found open or unsecured shall be responsible for paying a securing fee as set by the city council to offset the cost incurred by the city in contacting the owner or management company to secure the property, or if the owner and/or management company cannot be contacted or does not secure the property within a reasonable time, not to exceed 24 hours, the cost incurred by the city in securing the property.

(Ord. No. 1031, § 1470.10, 9-7-2010)

Sec. 10-221. - Reoccupancy.

A vacant or unoccupied building or structure on vacant property shall not be occupied until a certificate of compliance has been issued by the building official within 30 days immediately prior to occupancy, and all violations have been corrected in accordance with the city's codes and ordinances and state law. All mechanical, electrical, plumbing, and structural systems shall be certified by a licensed contractor as being in good operation and repair. In addition, a certificate of compliance shall not be issued until all outstanding costs, assessments, and/or liens owed to the city have been paid in full.

(Ord. No. 1031, § 1470.11, 9-7-2010)

Sec. 10-222. - Fire-damaged property.

If an occupied building or structure is damaged by fire, the owner has 90 days from the date of the fire to apply for a permit to start construction or demolition. Failure to do so will result in the property being deemed vacant and subject to the requirements of this article.

(Ord. No. 1031, § 1470.12, 9-7-2010)

Sec. 10-223. - Unpaid fees; assessment.

All fees under this article that remain unpaid after 14 days' written notice to the owner and/or management company shall be assessed against the property as a lien and placed on the tax roll or the city may seek civil judgment in the court of jurisdiction.

(Ord. No. 1031, § 1470.13, 9-7-2010)

Sec. 10-224. - Penalties; municipal civil infraction.

A violation of this article shall be a municipal civil infraction and shall not be punishable by imprisonment. A first offense shall be subject to a minimum $200.00 fine and any other penalties authorized under state law. Second or subsequent offenses shall be subject to a minimum fine of $400.00 and any other penalties authorized under state law. The requirements of this article are in addition to, and not in lieu of, all other city ordinances, codes, rules, regulations, or state law.

(Ord. No. 1031, § 1470.14, 9-7-2010)

Secs. 10-225—10-240. - Reserved.

ARTICLE IX. - ADMINISTRATIVE SEARCH WARRANTS[5]

Footnotes:

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Editor's note— Ord. No. 1103, adopted May 20, 2014, set out provisions intended for use as §§ 10-225—10-229. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as §§ 10-241—10-245.

Sec. 10-241. - Right of entry for purpose of inspection.

The building official, fire chief, and/or health officer of the city, or anyone duly authorized by them, shall enter upon any land or into any building or structure for the purpose of and to inspect, and shall inspect the same, whenever he or she shall have probable cause to believe or fear that said building, structure, shed, fence or other manmade structure is a dangerous and unsafe building or structure as defined in section 10-82.

(Ord. No. 1103, 5-20-2014)

Sec. 10-242. - Authorizing district judge or magistrate.

The district court judge or magistrate is hereby authorized to issue an administrative search warrant upon the application by the city attorney, building official, code enforcement officer, or fire chief, or their duly authorized representatives, acting in the course of their official duties, whenever an inspection or investigation of any place is required or authorized by any municipal ordinance or regulation. The warrant is an order authorizing the inspection or investigation at a designated location.

(Ord. No. 1103, 5-20-2014)

Sec. 10-243. - Grounds for issuance.

(a) An administrative search warrant shall be issued only upon probable cause, supported by affidavit on oath, particularly describing the applicant's status in applying for the warrant hereunder, the ordinance or regulation requiring or authorizing the inspection or investigation, the location to be inspected or investigated, and the purpose for which the inspection or investigation is to be made, including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without a warrant.

(b) Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to the location or there is probable cause to believe that a condition of nonconformity with a health, public protection or safety ordinance, regulation, rule, standard or order exists with respect to the particular location, or an investigation is reasonably believed to be necessary in order to determine or verify the condition of the location.

(Ord. No. 1103, 5-20-2014)

Sec. 10-244. - Procedure for issuing administrative search warrant.

(a) Before issuing any search warrant, the district court judge shall examine under oath the applicant and any other witness and shall be satisfied of the existence of grounds for granting such application.

(b) If the district court judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the warrant are satisfied, he or she may issue the warrant, particularly describing the name and title of the person or persons authorized to execute the warrant, the place to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the district court judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.

(Ord. No. 1103, 5-20-2014)

Sec. 10-245. - Execution of administrative search warrant.

(a) Except as provided in subsection (b) of this section, in executing a search warrant, the person authorized to execute the warrant shall, before entry, make a reasonable effort to present credentials, authority and purpose to an occupant or person in possession of the location designated in the warrant and show him or her the warrant or a copy thereof upon request.

(b) In executing a search warrant, the person authorized to execute the warrant need not inform anyone of his or her authority and purpose, as prescribed in subsection (a) of this section, but may promptly enter the designated location if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition, but shall orally announce their credentials and authority to execute the warrant prior to entry.

(c) A peace officer may be requested to assist in the execution of the warrant and they may break any outer or inner door or window of a house or building, or anything therein, in order to execute the warrant, if, after notice of his or her authority and purpose, he or she is refused admittance, or when necessary to liberate himself or herself or any person assisting him or her in execution of the warrant.

(d) A warrant must be executed and returned to the district court judge by whom it was issued within ten days from its date, unless the district court judge before the expiration of such time, by endorsement thereon, extends the time for five days. After the expiration of the time prescribed by this subsection, the warrant unless executed is null and void.

(Ord. No. 1103, 5-20-2014)

Chapter 12 - BUSINESSES

ARTICLE I. - IN GENERAL

Secs. 12-1—12-18. - Reserved.

ARTICLE II. - LICENSING

Sec. 12-19. - 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:

Bond means, where the provisions of this article require that the applicant for any license or permit furnish a bond, a bond furnished in an amount deemed adequate by the proper city officer or in an amount determined by resolution of the council. The form of such bond shall be acceptable to the city attorney. In lieu of a bond, an applicant for a license or permit may furnish one or more policies of insurance in the same amount and providing the same protection as called for in such bond. Such policy of insurance shall be approved as to substance by the city official issuing such license or permit and as to form by the city attorney.

Business means and includes all vocations, occupations, professions, enterprises, establishments and other business activities, together with all devices, machines, vehicles and appurtenances used therein, which activities are conducted for private profit or benefit, directly or indirectly, on any premises in the city or within the jurisdiction of the city.

City license officer, license officer or*licensing officer* means the license officer of the city, who, until otherwise provided, shall be the city clerk or his or her designate.

Insignia means any tag, plate, badge, emblem, sticker or device which may be required for use in connection with any license issued under this article.

License or *licensee* means and includes, respectively, the term "permit" or "permittee" or the holder, for any use or period of time, of any similar privilege, wherever relevant to this chapter.

Person means and includes any natural person, partnership, joint venture, society, association, club, trustee, trust or corporation, or any officer, agent, employee, factor or other kind of personal representative of any of the same, in any capacity, acting either for himself or herself or for any other person, under either personal appointment or pursuant to law.

Premises means all lands, structures and places; the equipment and appurtenances connected or used therewith in any business; and any personal property which is either affixed to or otherwise used in connection with any such business conducted on such premises.

(Code 1973, § 7.3; Code 1989, § 802.03; Ord. No. 620, 6-9-1981)

Sec. 12-20. - Application of article.

(a) *Permits or licenses required.* No person, either directly or indirectly, shall conduct any business or nonprofit enterprise, or use in connection therewith any vehicle, premises, machine or device, wholly or partially, for which a license or permit is required by any city ordinance, without first obtaining a license or permit therefor. Such license or permit shall be in effect at all times as required by this article.

(b) *Determination of business.* For the purpose of this article, a person shall be deemed to be in business or engaging in a nonprofit enterprise and subject to this section when goods or services are sold, when business is solicited, when goods are offered for sale, when services are extended for sale or hire or when any vehicle or premises in the city are used for business purposes.

(c) *Compliance required.* The agents or representatives of nonresidents who are doing business in the city shall be personally responsible for compliance with this article by their principals and by the enterprises they represent.

(d) *Branch establishments.* A license shall be obtained as prescribed in this article for each branch establishment or location of the business licensed as if such branch establishment or location was a separate business. However, warehouses and distributing plants used in connection with and incidental to a business licensed under this article shall not be deemed to be separate places of business or branch establishments. Each unit of rental real property shall be deemed a branch establishment or a separate place of business under this article when there is a representative of the owner or the owner's agent on the premises who is authorized to transact business for the owner, or where there is a regular employee of the owner or the owner's agent working on or about the premises.

(e) *Combinations of businesses.* A person engaged in two or more businesses at the same location shall not be required to obtain separate licenses for the conduct of each business, but when eligible, shall be issued one license which shall specify on its face all such businesses. His or her license fee will be the highest of the combination of businesses.

(f) *Delivery of merchandise.* A license shall not be required of any person for the mere delivery in the city of any property purchased or acquired in good faith from such person at a regular place of business outside of the city where there is no intent shown to evade this article.

(g) *Special sales and permits.* This article shall apply to all business in the nature of special sales for which a license is required by any ordinance of the city. No person, directly or indirectly, shall conduct any such sale except in conformity with this article. The city license officer shall issue special permits without the payment of any license fee or other charge therefor to any person or organization for the conduct or operation of a nonprofit enterprise, either regularly or temporarily, when he or she finds that the applicant operates without private profit for a public, charitable, educational, literary, fraternal or religious purpose.

(1) *Application.* An applicant for a special permit shall submit an application to the license officer, upon forms prescribed by such officer, and shall furnish such additional information and make such affidavits as the license officer requires in order to make a determination as to the applicant's qualification for such special permit.

(2) *Compliance.* A person or organization operating under a special permit shall conduct the nonprofit enterprise in compliance with this article and all other applicable rules and regulations, except as herein specifically provided.

(Code 1973, § 7.4; Code 1989, § 802.04; Ord. No. 620, 6-9-1981)

Sec. 12-21. - Duties of license officer.

(a) *Issuing licenses.* The city license officer shall issue licenses in the name of the city to all persons qualified under this article and shall see that all fees due under this article are paid to the director of finance.

(b) *Additional duties.* In addition, the city license officer shall:

(1) *Administrative procedures.* Establish reasonable administrative procedures necessary to the operation and enforcement of this article;

(2) *Adopt forms.* Adopt all forms and prescribe the information to be supplied therein as to the character of the applicant, as well as establish all other necessary relevant forms for the administration of this article;

(3) *Require affidavits.* Require applicants to submit all affidavits and oaths necessary to the administration of this article;

(4) *Obtain endorsement.* Submit all applications, in proper cases, to interested city officials for their endorsements thereon as to compliance by the applicant with all city regulations which they have the duty of enforcing;

(5) *Investigate.* Investigate and determine the eligibility of any applicant for a license as prescribed herein; and

(6) *Give notice.* Within 30 days after the application is made, notify any applicant of the acceptance or rejection of his or her application and, upon his or her refusal of any license or permit, at the applicant's request, state, in writing, the reasons therefor and deliver them to the applicant.

(Code 1973, § 7.5; Code 1989, § 802.05; Ord. No. 620, 6-9-1981)

Sec. 12-22. - Qualifications of applicants; inspections.

(a) *General standards.* The general standards set forth in this section relative to the qualifications of an applicant for a city license shall be considered and applied by the city license officer. The city license officer shall determine that:

(1) *Moral character.* The applicant is of good moral character. In making such determination, the license officer shall consider:

a. *Penal history.* All convictions of the applicant, together with the reasons therefor, and the demeanor of the applicant subsequent to his or her release;

b. *License history.* The license history of the applicant; whether such person, in previously operating in this or another state under a license, has had such license revoked or suspended and the reasons therefor; and the demeanor of the applicant subsequent to such action; and

c. *General personal history.* Such other facts relevant to the general personal history of the applicant as would bear upon the character or business reputation of the applicant.

(2) *Defaulters to city.* The applicant is not in default under this article or in default on payment of personal property tax to the city, except for current taxes.

(b) *Inspections.* The applicant shall submit to lawful inspections by the building department, police department, fire department, public health department and such other departments as may be necessary to ensure that the proposed business and applicant comply with all applicable ordinances and regulations of the city. The city license officer may refuse to issue a permit to any applicant until he or she has a report from any department he or she deems necessary to make an inspection that the applicant or the proposed premises is in compliance with all ordinances and regulations.

(Code 1973, § 7.6; Code 1989, § 802.06; Ord. No. 620, 6-9-1981)

Sec. 12-23. - License—Issuance.

Every person required to procure a license under any ordinance of the city shall submit an application for such license to the city license officer, as follows:

(1) *Form of application.* The application shall be a written statement upon forms provided by the city license officer and shall include an affidavit as to the truth of the facts stated therein. Such application shall be sworn to before a notary public or other officer authorized to take acknowledgements.

(2) *Contents.* The application shall require the disclosure of all information necessary for compliance with section 12-22 and any other information which the city license officer finds to be reasonably necessary to the fair administration of this article.

(3) *Fees.* The application shall be accompanied by the payment in full of the applicable fee, plus any penalty due thereon.

(4) *Issuance of receipts.* Whenever the city license officer finds that a license cannot be issued at the time application for the same is made, there shall be issued a receipt to the applicant for the money paid in advance. However, such receipt shall not be construed as the approval of the city license officer for the issuance of a license, nor shall it entitle or authorize the applicant to open or maintain any business contrary to this article.

(5) *Renewal licenses.* An applicant for the renewal of a license shall submit an application for such license to the city license officer not later than July 1 of each year to conduct business the following year. The application shall be substantially the same as that provided for in this section and, further, shall require the disclosure of such information concerning the applicant and the operation of the applicant's business during the preceding licensing period as is reasonably necessary for the city license officer to determine the applicant's eligibility for a renewal license and a possible adjustment of the license fee.

(6) *Duplicate licenses.* A duplicate license or special permit shall be issued by the city license officer to replace any license previously issued, which license has been lost, stolen, defaced or destroyed, without any willful conduct on the part of the licensee, upon the filing of an affidavit sworn to before a notary public or other officer authorized to take acknowledgements attesting to such fact and upon paying to the city license officer a fee in an amount as adopted by the city council from time to time.

(7) *Supplemental licenses.* When a licensee places himself or herself in a new status, as provided in this article, the city license officer shall issue a supplemental license and such additional insignia as may be required.

(8) *Nonapproval of license.* The city license officer shall, upon disapproving any application submitted pursuant to this article, refund all fees paid in advance to the applicant, provided the applicant is not otherwise indebted to the city as set forth in section 12-22(a)(2). However, when the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless such license is issued pursuant to a judgment ordering the same.

(Code 1973, § 7.7; Code 1989, § 802.07; Ord. No. 620, 6-9-1981)

Sec. 12-24. - Same—Fees.

License fees shall be in the amounts as adopted by the city council from time to time. If there is another licensing ordinance covering a business or endeavor not covered by this article, then the fee set forth in that specific ordinance shall govern.

(Code 1989, § 802.08)

Sec. 12-25. - Same—Expiration; refunds.

(a) All licenses issued for a full year, or any portion thereof, shall expire at 12:00 midnight of June 30 of the license year.

(b) No rebate or refund of any license fee or part thereof shall be made by reason of the nonuse of such license or by reason of a change of the location of the business rendering the use of such license ineffective. However, the city license officer may refund a license fee or prorated portion thereof where such fee was collected in error.

(Code 1973, § 7.9; Code 1989, § 802.09; Ord. No. 620, 6-9-1981)

Sec. 12-26. - Same—Contents.

Each license issued under this article shall state upon its face the name of the licensee and any other name under which the business is to be conducted; the kind and address of each business so licensed; the amount of the license fee therefor; the dates of issuance and expiration thereof; and such other information as the city license officer shall determine necessary.

(Code 1973, § 7.10; Code 1989, § 802.10; Ord. No. 620, 6-9-1981)

Sec. 12-27. - Duties of licensee.

Every licensee under this article shall permit all reasonable inspections of his or her business premises; shall, at all times, comply with the laws and regulations applicable to such business premises; and shall refrain from operating the licensed business on the premises after the expiration of such license and during the period the license may be revoked or suspended.

(Code 1973, § 7.11; Code 1989, § 802.11; Ord. No. 620, 6-9-1981)

Sec. 12-28. - Display of licenses and insignia.

(a) *Premises.* Guidelines for the display of licenses and insignia upon premises are as follows:

(1) *Licenses.* Every licensee under this article shall post and maintain the license upon the licensed premises in a place where it may be seen at all times.

(2) *Insignia.*

a. Every licensee shall affix any insignia delivered for use in connection with the business premises on the inside glass part of the window of such premises facing the public way or on the inside glass part of the door opening on the public way. Such insignia shall be placed and maintained so as to be plainly visible from the public way.

b. Where the licensed premises do not have a window facing a public way at street level, or a glass door opening upon the public way, such insignia shall be affixed to the glass in the door, window or other prominent place in the nearest proximity to the principal public entrance to such premises. Such insignia shall be placed and maintained so as to be plainly visible from such public entrance.

(b) *Vehicles.* Guidelines for the display of licenses and insignia in connection with vehicles are as follows:

(1) *Effect of article.* Any general or special license fees required for any kind of vehicle, for the privilege of being operated upon the public highways, by any statute or ordinance, shall not abrogate, limit or affect any requirements of this article or other ordinances or laws for additional and separate licenses, permits, insignia and fees for such vehicles or other uses for and relating to the privilege of using the same in the business so licensed.

(2) *Motor vehicle insignia.* The licensee shall affix any insignia delivered for use in connection with a licensed motor vehicle on the inside of the windshield of the vehicle or as otherwise prescribed by the city license officer or by law.

(3) *Motorless vehicle insignia.* The licensee shall affix any metal or other durable type of insignia delivered for use in connection with a wagon or other vehicle not operated by motor power securely on the outside of such vehicle.

(c) *Carrying license.* No licensee shall fail to carry his or her license on his or her person when he or she has no licensed business premises.

(d) *Machines.* The licensee shall affix any insignia delivered for use in connection therewith upon the outside of any coin, vending or other business machine or device so that it may be seen at all times.

(e) *Inoperative licenses, special permits and insignia.* No licensee shall allow any license, special permit or insignia to remain posted or displayed or to be used after the period for which it was issued has expired, or when it has been suspended or revoked or for any other reason becomes ineffective. The licensee shall promptly return such inoperative license, special permit or insignia to the city license officer.

(f) *Unlawful possession.* No licensee shall loan, sell, give or assign to any person, or allow any other person to use, display, destroy, damage, remove or have in his or her possession, except as authorized by the city license officer or by law, any license or insignia which has been issued to the licensee.

(Code 1973, § 7.12; Code 1989, § 802.12; Ord. No. 620, 6-9-1981)

Sec. 12-29. - Change of location.

A licensee may change the location of the licensed business, provided he or she obtains written permission from the city license officer for such change of location.

(Code 1973, § 7.13; Code 1989, § 802.13; Ord. No. 620, 6-9-1981)

Sec. 12-30. - Transfer of licenses.

A licensee under this article may transfer his or her license to another person, provided such transfer is approved by the city license officer and, if required, by the building official. The city license officer shall collect a transfer fee from the transferee, in an amount as adopted by the city council from time to time, prior to the issuance of the new license.

(Code 1989, § 802.14)

Sec. 12-31. - Enforcement.

(a) *Inspections.* A licensee under this article shall submit to lawful inspections by the building department, police department, fire department, public health department and such other departments as may be necessary to ensure that the business and applicant comply with all applicable ordinances and regulations of the city. The city license officer may refuse to issue a permit to any applicant until he or she has a report from any department he or she deems necessary to make an inspection that the applicant or premises are in compliance with all ordinances and regulations. Persons making such inspections shall report all violations of this article to the city license officer and shall submit such other reports as the city license officer shall order.

(b) *Notices of violations.* When an inspector has reported such a violation, the city license officer shall issue to the affected person a provisional order to comply, as follows:

(1) *Nature of notice.* The provisional order, and all other notices issued in compliance with this article, shall be in writing, shall apprise the person affected of his or her specific violations and shall be considered served by forwarding the same, by certified mail, to the address on the license.

(2) *Period for compliance.* The provisional order shall require compliance within ten days of service on the affected person unless a hearing is requested as herein provided.

(3) *Hearing.* Upon written application by the person affected before the expiration of the ten-day period for compliance, the city license officer shall order a hearing. Notice of such hearing shall be given to the affected person in the manner prescribed herein.

(4) *Modifications by license officer.* Upon written application, or on his or her own motion, the city license officer may, in a proper case, extend the time for compliance, grant a new hearing date and change, modify or rescind any order or recommendation.

(5) *Final orders.* Upon the failure or refusal of the violator to comply with the provisional order or with any order made after a hearing, the city license officer shall then declare and make the provisional order final. The city license officer may suspend licenses upon making and declaring a provisional order final. Upon suspension, no refund on any portion of the license fee shall be made to the licensee, and he or she shall immediately cease all business at all places under such license unless an appeal is filed as herein provided.

(c) *Summary action.* When the conduct of any licensee, or his or her agent or employee is so inimical to the public health, safety and morals as to constitute a nuisance and thus give rise to an emergency, the city license officer may summarily order the cessation of business and the closing of the premises, or may suspend or revoke the license. Unless waived in writing within five days after he or she has acted summarily, the city license officer shall conduct a special hearing for such action in respect to the summary order as may be therein determined. Notice of such hearing shall be given to the affected person in the manner prescribed herein.

(d) *Right of appeal.*

(1) *Appeal board.* Any person aggrieved by any decision of the city license officer after the hearing may appeal to an appeal board consisting of three persons, one of whom shall be the city manager. The other two members of the board shall be appointed by the mayor, subject to confirmation of the council. Such appeal shall be in writing and filed with the city manager within ten days following the effective date of the action or decision complained of.

(2) *Contents of appeal.* Such appeal shall set out a copy of the order or decision appealed from and shall include a statement of facts relied upon to avoid such order.

(3) *Notification of license officer.* At the time of filing any such appeal, a copy thereof shall be filed by the appellant with the city license officer.

(4) *Hearing.* The city manager shall fix a time and place for hearing the appeal and shall cause a written notice of such hearing time and place to be served upon the appellant. He or she shall also give notice to the city license officer, and such officer shall be entitled to appear and defend such order.

(5) *Appeals to council.* If the licensee does not agree with the finding of the board, then he or she may file an appeal to the council within five days of being notified of the board's action. Upon the licensee failing to make such an appeal, the city license officer shall revoke the license. If an appeal is made and the council determines that the license should be revoked or that the order of the board should be reversed, the council may confirm, reverse or modify the order of the board. The findings of the council shall be final and conclusive and shall be considered served upon the applicant by sending a copy of the decision, by certified mail, to the address on the license.

(e) *Recovery of unpaid fees.* The amount of any unpaid fee, the payment of which is required hereunder, shall constitute a debt due the city. The city attorney may, at the direction of the city license officer, institute a civil suit in the name of the city to recover any such unpaid fee. However, no civil judgment or any act by the city attorney, the license officer or the violator shall bar or prevent a criminal prosecution for a violation of this article.

(Code 1973, § 7.15; Code 1989, § 802.15; Ord. No. 620, 6-9-1981; Ord. No. 699, 4-21-1987)

Sec. 12-32. - Businesses licensed by state.

The fact that a license or permit has been granted to any person by the state to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall not except such

person from the necessity of securing a license or permit from the city if such license or permit is required by this article.

(Code 1973, § 7.16; Code 1989, § 802.16; Ord. No. 620, 6-9-1981)

Sec. 12-33. - Conditions for license and permit issuance.

No license or permit required by this article shall be issued to any person who is required to have a license or permit from the state until such person submits evidence of such state license or permit and proof that all fees pertaining thereto have been paid. No license or permit shall be granted to any applicant therefor until such applicant has complied with all of the provisions of this article applicable to the trade, profession, business or privilege for which application for a license is made. In addition, no such license or permit shall be granted unless the applicant agrees, in writing, to permit the inspection of the licensed premises at reasonable hours by authorized officers of the city.

(Code 1973, § 7.17; Code 1989, § 802.17; Ord. No. 620, 6-9-1981)

Sec. 12-34. - Exemptions from license fee.

No license fee shall be required from any person exempt from such fee by state or federal law. However, such person shall comply with all other provisions of this article.

(Code 1973, §§ 7.18, 7.19; Code 1989, § 802.18; Ord. No. 620, 6-9-1981)

Sec. 12-35. - Weights and measures.

(a) No licensee shall use any weighing or measuring device in the conduct of his or her business, or have in his or her possession any weighing or measuring device, unless such device has been examined and approved by the state.

(b) No licensee shall sell or offer for sale any article or commodity purporting to be in quantities of standard weight or measure, unless the same is actually of the weight or measure purported.

(Code 1973, § 7.21; Code 1989, § 802.19; Ord. No. 620, 6-9-1981)

State Law reference— Weights and measures act, MCL 290.1 et seq.

Sec. 12-36. - Sale of defective merchandise.

No licensee shall sell or offer for sale any defective, deteriorated, faulty or incomplete articles or merchandise unless the goods are so represented to prospective customers.

(Code 1973, § 7.22; Code 1989, § 802.20; Ord. No. 620, 6-9-1981)

State Law reference— Similar provisions, MCL 445.356.

Sec. 12-37. - Failure to renew licenses.

In addition to the penalty provided in section 1-15, any licensee who fails to secure a license or permit as required by this article by July 1, as provided herein, shall pay an additional penalty equal to 50

percent of the license fee for each month or fraction thereof that he or she fails to secure such license or permit.

(Code 1973, § 7.23; Code 1989, § 802.21; Ord. No. 620, 6-9-1981)

Sec. 12-38. - Enforcement.

The city clerk shall establish reasonable administrative procedures necessary for the operation and enforcement of this article.

Sec. 12-39. - Compliance with permit and fee requirements.

No person, except those persons who are specifically exempted, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employee or operator, or acting as a participant or worker in any way, shall conduct a business establishment without first obtaining a license therefor and paying a license fee to the city.

Secs. 12-40—12-66. - Reserved.

ARTICLE III. - CAR WASHES

Sec. 12-67. - 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:

Wash rack or *motor vehicle laundry* means and includes all operations on the premises:

(1) Where two or more motor vehicles may be washed simultaneously; or

(2) Where facilities are provided for coin-operated or self-service washing of motor vehicles.

(Code 1973, § 7.251; Code 1989, § 816.01)

Sec. 12-68. - Plans and specifications; site requirements.

At the time of making an application for a permit required by this chapter, there shall be submitted to the building official a plot plan and specifications, which plan and specifications shall comply with the following requirements:

(1) An attendant must be on duty and on the premises at all times that an auto wash is in operation. At all other times, the building must be locked and safely secured.

(2) The time of operation shall be limited to between 7:00 a.m. and 10:00 p.m.

(3) In the case of coin-operated auto washes, all auto stacking lanes must be channeled with curbs to each wash stall so as to prevent cross traffic. Such stacking lane shall accommodate not less than six cars per stall.

(4) Buildings must be constructed so as to be enclosed on two sides, and there shall be doors on the front and rear of each stall capable of being locked.

(5) All lights used in connection with auto washes shall be shaded so as not to project upon or become a nuisance to adjacent properties.

(6) All land used in connection with auto washes shall be paved and drainage shall be provided in accordance with this Code.

(7) No steam hose for public use shall be located upon the premises in connection with any auto wash.

(Code 1973, § 7.253; Code 1989, § 816.03)

Sec. 12-69. - Nuisances.

No person, while operating an auto wash, shall permit or cause to be permitted, upon the premises in which the business is located, a nuisance, by allowing the health, safety or welfare of the community to be impaired.

(Code 1973, § 7.254; Code 1989, § 816.04)

Sec. 12-70. - Rubbish and litter.

The permittee, manager or person in charge of a car wash shall keep the premises whereon the car wash is located, together with the parking area and any adjacent area, free from rubbish, waste products and debris.

(Code 1973, § 7.255; Code 1989, § 816.05)

Sec. 12-71. - Peace disturbances.

No patron of a car wash, and no other person while parking on or adjacent to the premises, shall race the motor of any vehicle, suddenly start or stop or create any unseemly noise, nuisance or disturbance which impairs the peace, health or safety of the community.

(Code 1973, § 7.256; Code 1989, § 816.06)

Sec. 12-72. - Location of buildings; restrictions on operations; access drives.

(a) All operations must be carried on within the building, including, but not limited to, vacuuming, washing and drying, except that a steam hose, not for public use, may be located outside the building.

(b) In the case of coin-operated auto washes, access points shall be limited to not more than two 20-foot drives. Such drives shall be a minimum of 50 feet apart, ten feet from the exterior lot lines and 35 feet from any intersecting right-of-way lines, and shall not be constructed so that ingress and egress are through residentially zoned areas. Such access points must have the approval of the police department to the effect that they will not interfere with vehicular traffic or create a safety hazard.

(Code 1973, § 7.257; Code 1989, § 816.07)

Secs. 12-73—12-102. - Reserved.

ARTICLE IV. - HOTELS AND LODGING HOUSES[1]

Footnotes:

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State Law reference— Hotels, boarding and lodging houses, MCL 427.1 et seq.

Sec. 12-103. - Definitions.

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

Hotel, motel, roominghouse, tourist home and *transient,* mean as ascribed in section 50-10.

(Code 1973, § 6.142; Code 1989, § 832.01)

Sec. 12-104. - License—Required.

No person shall operate a hotel, motel, or boardinghouse in the city without first obtaining a license therefor.

(Code 1973, § 6.141; Code 1989, § 832.02)

Sec. 12-105. - Same—Application; inspections; issuance; expiration.

An application for a license required by this article shall be made in writing to the city clerk, on forms furnished by the city clerk, and shall give such information as may be deemed necessary for the proper enforcement of this article. Such application shall be referred to the health officer and the fire chief who shall cause a thorough inspection of the premises to be made. If it is found that all pertinent provisions of state law and this Code have been complied with, the inspectors shall endorse such findings upon the application. Upon payment of the fees as adopted by the city council from time to time, the city clerk shall then issue the license. All licenses shall expire, unless sooner revoked as herein provided, on June 30 of each year.

(Code 1989, § 832.03)

Sec. 12-106. - Same—Posting of.

All licenses issued under this article shall be posted conspicuously near the entrance of the licensed building, provided that in the case of motels, licenses may be posted in the manager's office.

(Code 1973, § 6.144; Code 1989, § 832.04)

Sec. 12-107. - Same—Fees.

The yearly fees for licenses issued under this article shall be in amounts as adopted by the city council from time to time.

(Code 1989, § 832.05)

Sec. 12-108. - Smoking in bed.

No transient guest shall smoke while in bed, and no licensee shall permit smoking in bed. A notice to this effect shall be posted in each sleeping room.

(Code 1973, § 6.147; Code 1989, § 832.07)

Sec. 12-109. - Reporting fires.

Each licensee under this article shall cause the fire department to be immediately notified when a fire occurs in his or her establishment. Any person therein who discovers such a fire shall immediately notify the person in charge of the place of registration.

(Code 1973, § 6.148; Code 1989, § 832.08)

Sec. 12-110. - Suspension or revocation of licenses.

Licenses issued under this article may be suspended or revoked in the manner specified in article II of this chapter, pertaining to licenses.

(Code 1973, § 6.149; Code 1989, § 832.09)

Secs. 12-111—12-133. - Reserved.

ARTICLE V. - SALE OF MARTIAL ARTS WEAPONS[2]

Footnotes:

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State Law reference— Jui jitsu training school for peace officers, MCL 28.221 et seq.

Sec. 12-134. - 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:

Martial arts weapon means any contrivance, device, article or instrument which is possessed for bodily assault or defense and designed for the purpose of killing a person or rendering a person either temporarily or permanently disabled.

(Code 1989, § 844.01; Ord. No. 678, 9-24-1985)

Sec. 12-135. - License required; sales to minors.

(a) No person shall sell or offer for sale any martial arts weapon without first obtaining a license therefor as provided in this article. Further, no person shall sell or offer for sale any martial arts weapon to a person under 18 years of age.

(b) Licensed martial arts schools are exempted from the licensing provisions of this section and may sell martial arts weapons to its students including those under 18 years of age upon receiving a signed consent to purchase said martial arts weapons from the student's parent or guardian.

(Code 1989, § 844.02; Ord. No. 678, 9-24-1985; Ord. No. 931, 12-16-2003)

Secs. 12-136—12-153. - Reserved.

ARTICLE VI. - MASSAGE THERAPY

Sec. 12-154. - 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:

Employee means any person over 18 years of age, other than a masseur, who renders any service in connection with the operation of a massage parlor and who receives compensation from the operator of the parlor or patrons.

Massage means any method of treating the superficial parts of a patron for medical, hygienic, exercise or relaxation purposes by rubbing, stroking, kneading, tapping, pounding, vibrating or stimulating with the hands or any instrument, or by the application of air, liquid or vapor baths of any kind whatever.

Massage therapy business means any place or establishment where a massage is made available.

Masseur means any person who engages in the practice of massage.

Owner or *operator* means a person who owns or controls or who has the duty to control the operation of a massage therapy business. This includes individuals, licensees, managers, lessees, sponsors, partnerships, corporations, societies, organizations, associations or any combination of individuals of whatever form or character.

Patron means any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

Recognized school means any school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a resident course of study of not less than 70 hours before the student shall be furnished with a diploma or certificate of graduation from such school following the successful completion of such course of study.

(Code 1989, § 846.02; Ord. No. 559, 10-17-1977; Ord. No. 965, 11-10-2005)

Sec. 12-155. - License—Required.

(a) *Business license.* No owner-operator shall engage in or carry on the operation of a massage therapy business without first obtaining a valid massage business license issued by the city pursuant to this article for each separate office or place of business conducted by such owner-operator.

(b) *Masseur's license.* No person shall practice massage as a masseur, employee, instructor or otherwise without first obtaining a valid and subsisting masseur's license pursuant to state law.

(Code 1989, § 846.03; Ord. No. 559, 10-17-1977; Ord. No. 965, 11-10-2005)

Sec. 12-156. - Same—Applications.

(a) *Business license.* Any owner or operator desiring a massage business license shall file a written application with the city clerk, on a form to be furnished by the city clerk. The applicant shall accompany the application with a tender of the correct license fee, which fee shall not be refundable, and shall furnish the following information:

(1) The type of ownership of the business, i.e., whether an individual, partnership, corporation or otherwise;

(2) The exact nature of the massage to be administered and the facilities therefor;

(3) The name, style and designation under which the business or practice is to be conducted;

(4) A complete list annually of the names and residence addresses of all state-licensed masseurs and employees in the business, and the name and residence of the manager or other person principally in charge of the operation of the business;

(5) The following personal information concerning the applicant, if an individual; concerning each stockholder holding more than ten percent of the stock, each officer and each director, if a corporation; concerning the partners, including limited partners; if a partnership; and concerning the manager or other person principally in charge of the operation of the business:

a. The name, complete residence address and residence telephone number;

b. The two previous addresses immediately prior to the present address of the applicant;

c. Written proof showing date of birth;

d. Height, weight, color of hair and eyes and sex;

e. Two front-face portrait photographs taken within 30 days of the date of the application, at least two inches by two inches in size;

f. The massage or similar business history and experience, including, but not limited to, whether or not such person, in previously operating in this or another city or state under a license or permit, has had such a license or permit denied, revoked or suspended, the reason therefor and the business activities or occupations subsequent to such action of denial, suspension or revocation;

g. All criminal convictions, other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted, the offense for which convicted and the circumstances thereof; and

h. A complete set of fingerprints taken and to be retained on file by the police chief or his or her authorized representative;

(6) Authorization for the city and its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit;

(7) The names and addresses of three adult residents of the county who will serve as character references. These references must be persons other than relatives and business associates;

(8) A written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct. Such declaration shall be duly dated and signed in the city.

(Code 1989, § 846.04; Ord. No. 559, 10-17-1977; Ord. No. 932, 12-16-2003; Ord. No. 1101, 3-18-2014)

Sec. 12-157. - Same—Investigations by police chief.

(a) Upon receiving an application for a massage business license, the city clerk shall refer such application to the police chief who shall conduct an investigation into the applicant's moral character and personal and criminal history. The police chief may, at his or her discretion, require a personal interview of the applicant and such further information, identification and physical examination of the person as shall bear on the investigation.

(b) The police chief shall cause to be conducted an investigation of the premises where the massage business is to be carried on for the purpose of ensuring that such premises comply with all the sanitation requirements set forth in this article and with the ordinances of the city relating to public health, safety and welfare.

(c) An applicant for a massage business license shall submit to lawful inspections by the building department, police department, fire department, public health department and such other departments as may be necessary to ensure that the proposed business and applicant comply with all applicable

ordinances and regulations of the city. The police chief may refuse to submit any application for approval to the council until he or she has a report from any department he or she feels necessary to make an inspection that the applicant or proposed premises comply with all ordinances and regulations.

(d) Before the city clerk shall issue any license under this chapter, the chief of police shall first submit to the city clerk, within 45 days of the receipt of an application, a report of his or her investigations and inspections and his or her recommendation.

(Code 1989, § 846.05; Ord. No. 559, 10-17-1977; Ord. No. 1101, 3-18-2014)

Sec. 12-158. - Same—Issuance; conditions for denial.

(a) The city clerk, upon receipt of an application for a license required by this article, and the reports and recommendations of the police chief, shall place such application upon the agenda for the next regularly scheduled council meeting, provided that such meeting is not less than six days from the date of receipt of such application by the city clerk. If it is less than six days from such receipt, such application shall be placed upon the agenda for the following meeting of the council.

(b) The council shall determine whether or not such license shall be issued after reviewing the reports of investigations and inspections and the recommendations of the police chief and other code enforcement officers. The council shall direct the city clerk to issue a massage business license within 14 days, unless it finds that:

(1) The correct license fee has not been tendered to the city, or, in the case of a check or bank draft, such check or draft has not been honored with payment upon presentation.

(2) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the city's building, fire, zoning and health ordinances.

(3) The applicant, if an individual; any of the stockholders holding more than ten percent of the stock, any officer and any director, if a corporation; any partner, including a limited partner, if a partnership; and the manager or other person principally in charge of the operation of the business, has been convicted of any crime involving moral turpitude (including, but not limited to, prostitution and pandering), gambling, extortion, fraud, criminal usury, controlled substances, weapons and assault, unless such conviction occurred at least 15 years prior to the date of the application.

(4) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith.

(5) The applicant has had a massage business, masseur or other similar permit or license denied, revoked or suspended for any of the causes set forth in subsection (b)(3) of this section by the city or any other state or local agency within 15 years prior to the date of the application.

(6) The applicant, if an individual; any officer or director, if a corporation; any partner, including a limited partner, if a partnership; and the manager or other person principally in charge of the operation of the business, is not over 18 years of age.

(7) The manager or other person principally in charge of the operation of the business has not successfully completed a resident course of study of not less than 70 hours from a recognized school where the theory, method, profession or work of massage is taught.

If the council denies any application, it shall specify the particular grounds for such denial and shall direct the city attorney to notify the applicant by regular mail addressed to the applicant at the address shown on the application. Such notice shall specify the grounds for which the application is denied.

(Code 1989, § 846.06; Ord. No. 559, 10-17-1977; Ord. No. 932, 12-16-2003; Ord. No. 952, 4-5-2005; Ord. No. 1101, 3-18-2014)

Sec. 12-159. - Hearings; appeals; variances.

(a) Within 20 days of the date of denial of an application for a massage business license, the applicant may request, in the form of a written application to the city clerk, a hearing before the council for reconsideration of his or her license application or for a variance of any of the provisions of this article, the violation of which provision constituted grounds for the original denial of the application. Such hearing shall be conducted as follows:

(1) At the hearing, the applicant and his or her attorney may present and submit evidence on the applicant's behalf to show that the grounds for the original denial no longer exist.

(2) After reviewing an applicant's evidence, the council shall determine whether to sustain the denial or grant the application for the license.

(3) At the hearing, the applicant and his or her attorney may present a statement and adequate evidence showing that:

a. There are exceptional or extraordinary circumstances or conditions applying to the proposed massage therapy business referred to in the appeal application submitted to the city clerk, which circumstances or conditions do not apply generally to any proposed massage therapy business; or

b. The granting of such massage business license will not, under the circumstances of the particular case, materially affect adversely the health, safety or welfare of the persons residing or working in the neighborhood, or attending any massage therapy business, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to the immediate neighborhood or the city at large.

(b) In all cases where the council grants a variance of any provision of this article, the council shall find that:

(1) The granting of the variance, under such conditions as the council may deem necessary or desirable to apply thereto, will be in harmony with the general purpose and intent of this article; and

(2) It will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(Code 1989, § 846.07; Ord. No. 559, 10-17-1977; Ord. No. 965, 11-10-2005; Ord. No. 1101, 3-18-2014)

Sec. 12-160. - Inspections; license display; change of information.

(a) Every licensee/applicant under this article shall permit all reasonable inspections of his or her business premises and shall at all times comply with the laws and regulations applicable to such business premises, including after the expiration of the license and during the period the license may be revoked or suspended.

(b) The massage business licensee/applicant shall display his or her license in an open and conspicuous place on the premises of the massage business.

(c) Each and every masseur employed in the establishment and required to be licensed by the State of Michigan shall display his or her license in an open and conspicuous place on the premises of the massage business.

(d) If, while any application for a massage business license is pending, or during the term of any license granted hereunder, there is any change in fact, policy or method which would alter the information provided in such application, the applicant/licensee shall notify the police chief of such change, in writing, within 72 hours after such change.

(Code 1989, § 846.08; Ord. No. 559, 10-17-1977; Ord. No. 1101, 3-18-2014)

Sec. 12-161. - License fees.

The fees for a massage business license shall be in an amount as adopted by the city council from time to time.

(Code 1989, § 846.09; Ord. No. 1101, 3-18-2014)

Sec. 12-162. - License expiration.

All licenses granted under this article shall expire on June 30 of each year.

(Code 1989, § 846.10; Ord. No. 559, 10-17-1977)

Sec. 12-163. - Records.

Every person who operates a massage business or practices or provides a massage shall at all times keep an appointment book in which the name, age and address of each patron shall be entered, together with the time, date and place of service and the service provided. Such appointment book shall be available at all times for inspection by the police chief or his or her authorized representatives, and such appointment book shall be kept on file for one year from the date of the last entry therein.

(Code 1989, § 846.11; Ord. No. 559, 10-17-1977)

Sec. 12-164. - License transferability.

No massage business license is transferable, separable or divisible, and such authority as a license confers shall be conferred only on the licensee named therein.

(Code 1989, § 846.12; Ord. No. 559, 10-17-1977; Ord. No. 1101, 3-18-2014)

Sec. 12-165. - Sanitation and safety requirements.

(a) All premises used by a person who operates a massage business or practices or provides a massage shall be periodically inspected by the police chief, the building official and the fire chief, or their authorized representatives, for the safety of the structure and the adequacy of the plumbing, ventilation, heating and illumination. The following minimum standards shall be maintained:

    (1) Walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given.

    (2) Floors shall be free from any accumulation of dust, dirt or refuse.

    (3) All equipment used in the massage operation shall be maintained in a clean and sanitary condition.

    (4) Towels, linen and items for the personal use of masseurs and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets, provided that such paper is changed for every patron.

(b) Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on

the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(c) Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

(d) Separate dressing room and/or locker room facilities shall be provided for the employees and patrons of different sexes. The dressing room and/or locker room facilities shall be designated as to the sex accommodated therein.

(e) All massage services enumerated in this chapter must be carried on in one cubicle, room, booth or area within the massage establishment. No such massage service may be carried on in any other cubicle, room, booth or area, except where such cubicle, room, booth or area has transparent doors or walls such that all activity within the cubicle, room, booth or area is visible from outside the same.

(f) Advertising that there is a nurse in attendance is prohibited unless there is a registered graduate nurse constantly in attendance during the business hours of the massage parlor.

(g) Advertising that there is a doctor in attendance is prohibited unless there is a registered physician constantly in attendance during the business hours of the massage parlor.

(h) No massage therapy business shall place, publish or distribute, or cause to be placed, published or distributed, any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in section 12-154, or that employees, masseurs or masseuse are dressed in any manner other than as described in subsection (j) of this section. No massage therapy business shall indicate in the text of such advertising that any service is available, other than those services described in section 12-154.

(i) Licensees shall exercise every precaution for the safety of patrons. They shall watch for early signs of fatigue or weakness and shall immediately discontinue whatever form of service is being given upon the appearance of such signs.

(j) Uniforms or garments covering the torso shall be worn by masseurs or employees while attending or massaging patrons, which uniforms or garments shall be of washable material and kept in a clean condition. The sleeves shall not reach below the elbow. Diaphanous, flimsy or transparent clothing is prohibited.

(k) The skin or the hands of persons attending patrons shall be clean and in a healthy condition and the nails shall be kept short. The hands shall be washed thoroughly before giving the patron any attention.

(l) The private parts of patrons must be covered when in the presence of any masseur or employee. Any contact with the patron's genital area is prohibited.

(Code 1989, § 846.13; Ord. No. 559, 10-17-1977; Ord. No. 965, 11-10-2005; Ord. No. 1101, 3-18-2014)

Sec. 12-166. - Supervision.

A business licensee shall have the premises supervised at all times when open for business. Any business rendering massage services shall have one person qualified as a masseur on the premises at all times while the establishment is open. The licensee shall personally supervise the business and shall not violate or permit others to violate any applicable provisions of this chapter. Any such violation by any agent or employee of the licensee shall constitute a violation by the licensee.

(Code 1989, § 846.14; Ord. No. 559, 10-17-1977)

Sec. 12-167. - Hours of operation.

No person shall open or operate, or cause to be opened or operated, in the city, any massage therapy business between 9:00 p.m. and 7:00 a.m.

(Code 1989, § 846.17; Ord. No. 559, 10-17-1977; Ord. No. 965, 11-10-2005)

Sec. 12-168. - Alcoholic liquors.

No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic liquor on the premises of any massage business.

(Code 1989, § 846.18; Ord. No. 559, 10-17-1977)

Sec. 12-169. - Exceptions to chapter.

This article shall not apply to hospitals, nursing homes, medical clinics or sanitariums, medical doctors, doctors of osteopathic medicine, doctors of chiropractic medicine, physical therapists, psychiatrists, psychologists, clinical social workers and family counselors who are licensed to practice their respective professions in the state, or who are permitted to practice temporarily under the auspices of an associate or establishment duly licensed in the state, nurses who are registered under the laws of the state and who administer a massage in the normal course of nursing duties, and a trainer of any duly constituted athletic team who administers a massage in the normal course of training duties.

(Code 1989, § 846.19; Ord. No. 749, 5-1-1990)

Sec. 12-170. - Administrative procedures.

The city clerk shall establish reasonable administrative procedures necessary to the operation and enforcement of this article.

(Code 1989, § 846.20; Ord. No. 559, 10-17-1977)

Sec. 12-171. - Violations.

No person, except those persons who are specifically exempted by this chapter, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employee or operator, or acting as a participant or worker in any way, shall give a massage or conduct a massage establishment without first obtaining a permit therefor and paying a license fee to the city or as otherwise required by state law.

(Code 1989, § 846.21; Ord. No. 559, 10-17-1977; Ord. No. 1101, 3-18-2014)

Secs. 12-172—12-195. - Reserved.

ARTICLE VII. - TATTOO PARLORS[3]

Footnotes:

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State Law reference— Body art facilities, MCL 333.13101 et seq.

Sec. 12-196. - 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:

Body piercing means the perforation of human tissue other than an ear for a nonmedical purpose.

Employee means any person over 18 years of age who renders any service in connection with the operation of a tattoo parlor and who receives compensation from the operator of the parlor or patrons thereof.

Owner and *operator* mean a person who owns or controls the operation of a tattoo parlor. This includes individuals, licensees, managers, lessees, sponsors, partnerships, corporations, societies, organizations, associations or any combination of individuals of whatever form or character.

Patron means any person over 18 years of age who receives a tattoo or body piercing under circumstances where it is reasonably expected that he or she will pay money or give any other consideration therefor. However, a patron who receives body piercing and is less 18 years of age must have written parental consent before said service can be performed.

Tattoo parlor means any place or establishment where tattooing or body piercing is made available.

Tattooing means the creation of an indelible mark or figure upon the human body by insertion of pigment into or under the skin or by the production of scars.

Tattooist means any person who engages in the practice of tattooing or body piercing.

(Code 1989, § 871.02; Ord. No. 787, 8-25-1992; Ord. No. 935, 12-16-2003)

Sec. 12-197. - License—Required.

(a) *Business license*. No owner-operator shall engage in or carry on the operation of a tattoo parlor without first obtaining an annual valid tattoo business license issued by the city pursuant to this article for each separate office or place of business conducted by such owner-operator.

(b) *Tattooist license*. No person shall practice tattooing or body piercing as a tattooist, without first obtaining an annual valid and subsisting tattooist's license pursuant to this article.

(Code 1989, § 871.03; Ord. No. 787, 8-25-1992; Ord. No. 935, 12-16-2003; Ord. No. 1083, 6-18-2013)

Sec. 12-198. - Same—Applications.

(a) *Business license.* Any owner or operator desiring a tattoo business license shall file a written application with the city clerk, on a form to be furnished by the city clerk. The applicant shall accompany the application with a tender of the correct license fee, which fee shall not be refundable and shall furnish the following information:

(1) The type of ownership of the business, i.e., whether an individual, partnership, corporation or otherwise;

(2) The name, style and designation under which the business or practice is to be conducted;

(3) A complete list annually of the names and residence addresses of all tattooists and employees in the business, and the name and residence of the manager or other person principally in charge of the operation of the business;

(4) The following personal information concerning the applicant, if an individual; concerning each stockholder holding more than ten percent of the stock, each officer and each director, if a corporation; concerning the partners, including limited partners, if a partnership; and concerning the manager or other person principally in charge of the operation of the business:

a. The name, complete residence address and residence telephone number;

b. The two previous addresses immediately prior to the present address of the applicant;

c. Written proof showing date of birth;

d. Height, weight, color of hair and eyes and sex;

e. Two front-face portrait photographs taken within 30 days of the date of the application, at least two inches by two inches in size;

f. The similar business history and experience, including, but not limited to, whether or not such person, in previously operating in this or another city or state under a license or permit, has had such a license or permit denied, revoked or suspended, the reason therefor and the business activities or occupations subsequent to such action of denial, suspension or revocation;

g. All criminal convictions, other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted, the offense for which convicted and the circumstances thereof; and

h. A complete set of fingerprints taken and to be retained on file by the police chief or his or her authorized representative;

(5) Authorization for the city and its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit;

(6) A written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct. Such declaration shall be duly dated and signed in the city;

(7) A certificate of membership from the Alliance of Professional Tattooists, Inc.

(b) *Application for tattooist's license.* Any person desiring a tattooist's license shall file a written application with the city clerk, on a form to be furnished by the city clerk. The applicant shall tender with the application a non-refundable license fee and shall furnish the following information:

(1) The business address and telephone number where the tattoo business is to be practiced;

(2) The following personal information concerning the applicant:

a. The name, complete residence address and residence telephone number;

b. The two previous addresses immediately prior to the present address of the applicant;

c. Written proof showing date of birth;

d. Height, weight, color of hair and eyes, and sex;

e. Two front-face portrait photographs taken within 30 days of the date of the application, at least two inches by two inches in size;

f. The tattoo or similar business history and experience, including, but not limited to, whether or not such person, in previously operating in this or another city or state under a license or permit, has had such a license or permit denied, revoked or suspended, the reason therefor and the business activities or occupations subsequent to such action of denial, suspension or revocation;

g. All criminal convictions, other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted, the offense for which convicted and the circumstances thereof; and

h. A complete set of fingerprints taken and to be retained on file by the police chief or his or her authorized representative;

(3) Authorization for the city and its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit;

(4) A written declaration by the applicant, under penalty of perjury, that the information contained in the applications is true and correct. Such declaration shall be duly dated and signed in the city;

(5) A certificate of membership from the Alliance of Professional Tattooists, Inc.;

(6) An annual health certificate. The health certificate shall be issued by a legally licensed physician. Such certificate shall attest to the fact that the bearer has been actually and thoroughly examined by such physician and was free from any transmittable, infectious, or contagious disease. The examination shall specifically include a chest x-ray and blood test for syphilis, gonorrhea, herpes, AIDS, hepatitis and any other infectious or contagious diseases. All of the information and test results thereof and the dates and other information required to be shown on the health certificate, except the employee's signature, shall be placed thereon by the physician issuing the certificate or under the direction of such physician. No such health certificate shall be valid unless it contains all of the information shown to be required thereon. A health certificate required by this chapter shall bear the signature of the individual named thereon, the signature of the physician executing the examination, tests upon which such certificate is based, and shall be in the following form which shall be furnished to the physician by the city clerk upon request:

_____

CITY OF EASTPOINTE
HEALTH CERTIFICATE
Issued _____, 20___
This certificate is valid for One Year Only - Post Conspicuously for Inspection
This certifies that _____
Address _____
Occupation _____
Employed at _____
Address _____

Was actually and thoroughly examined for Skin, Eyes, Ears, Nose, Throat, Mouth, Lungs and Genital problems or abnormalities.
Further, a serological test was made on (date) _____
and a Chest X-Ray was administered on (date) _____
with results as follows: _____
Other tests: _____
The bearer of this certificate was found free from any infectious or contagious diseases in a transmittable condition, including syphilis, gonorrhea, herpes, AIDS and hepatitis.
A description of the bearer of this certificate is as follows:

Color of Eyes: _____	
Color of Hair: _____	
Height: _____	
Weight: _____	
Race: _____	
Sex: _____	
Age: _____	

Doctor: _____
Address: _____
Doctor's signature: _____
License No. _____

Employee's signature: _____

(Code 1989, § 871.04; Ord. No. 787, 8-25-1992; Ord. No. 935, 12-16-2003)

_____

Sec. 12-199. - Investigations by police chief; inspections.

(a) Upon receiving an application for a tattoo business license, the city clerk shall refer such application to the police chief, who shall conduct an investigation into the applicant's moral character and personal and criminal history. The police chief may, in his or her discretion, require a personal interview of the applicant and such further information, identification and physical examination of the person as shall bear on the investigation.

(b) In the case of an application for a tattoo business license, the police chief shall cause to be conducted an investigation of the premises where the tattoo business is to be carried on for the purpose of ensuring that such premises comply with all the sanitation requirements set forth in this article and with the ordinances of the city relating to public health, safety and welfare.

(c) An applicant for a tattoo business license shall submit to lawful inspections by the building department, police department, fire department, public health department and such other departments as may be necessary to ensure that the proposed business and applicant comply with all applicable ordinances and regulations of the city. The police chief may refuse to submit any application for approval to the council until he or she has a report from any department that he or she feels is necessary to make an inspection that the applicant or proposed premises comply with all ordinances and regulations.

(d) Before the city clerk shall issue any license under this article, the police chief shall first submit to the city clerk, within 45 days of the receipt of an application, a report of his or her investigations and inspections and his or her recommendation.

(Code 1989, § 871.05; Ord. No. 787, 8-25-1992)

Sec. 12-200. - Issuance of licenses; conditions for denial.

(a) The city clerk, upon receipt of an application for a license required by this article, and the reports and recommendations of the police chief, shall place such application upon the agenda for the next regularly scheduled council meeting, provided that such meeting is not less than six days from the date of receipt of such application by the city clerk. If it is less than six days from such receipt, such application shall be placed upon the agenda for the following meeting of council.

(b) The council shall determine whether or not such license shall be issued after reviewing the reports of investigations and inspections and the recommendations of the police chief and other code enforcement officers. The council shall direct the city clerk to issue a tattoo parlor license or a tattooist's license within 14 days, unless it finds that:

(1) The correct license fee has not been tendered to the city, or, in the case of a check or bank draft, such check or draft has not been honored with payment upon presentation.

(2) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the city's building, fire, zoning and health ordinances.

(3) The applicant, if an individual; any of the stockholders holding more than ten percent of the stock, any officer and any director, if a corporation; any partner, including a limited partner, if a

partnership; and the manager or other person principally in charge of the operation of the business, has been convicted of any crime involving moral turpitude (including, but not limited to, prostitution and pandering), gambling, extortion, fraud, criminal usury, controlled substances, weapons and assault, unless such conviction occurred at least 15 years prior to the date of the application.

(4) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith.

(5) The applicant has had a tattoo business, tattooist or other similar permit or license denied, revoked or suspended for any of the causes set forth in subsection (b)(3) of this section by the city or any other state of local agency within 15 years prior to the date of the application.

(6) The applicant, if an individual; any officer or director, if a corporation; any partner, including a limited partner, if a partnership; and the manager or other person principally in charge of the operation of the business, is not over 18 years of age.

(7) The applicant, manager, employee or any person in charge of the operation has not successfully obtained a certificate of membership from the Alliance of Professional Tattooists, Inc. A certificate of membership from the Alliance of Professional Tattooists, Inc. shall be provided annually to the city by each manager, employee, owner and all persons in charge of the operation.

If the council denies any application, it shall specify the particular grounds for such denial and shall direct the city attorney to notify the applicant by regular mail, addressed to the applicant at the address shown on the application. Such notice shall specify the grounds for which the application is denied.

(Code 1989, § 871.06; Ord. No. 787, 8-25-1992; Ord. No. 935, 12-16-2003; Ord. No. 950, 4-5-2005)

Sec. 12-201. - Hearings on appeals or variances.

(a) Within 20 days of the date of denial of an application for a tattoo business license, the applicant may request, in the form of a written application to the city clerk, a hearing before the council for reconsideration of his or her license application or for a variance of any of the provisions of this article, the violation of which provision constituted grounds for the original denial of the application. Such hearing shall be conducted as follows:

(1) At the hearing, the applicant and his or her attorney may present and submit evidence on the applicant's behalf to show that the grounds for the original denial no longer exist.

(2) After reviewing an applicant's evidence, the council shall determine whether to sustain the denial or grant the application for the license.

(3) At the hearing, the applicant and his or her attorney may present a statement and adequate evidence showing that:

a. There are exceptional or extraordinary circumstances or conditions applying to the proposed tattoo parlor referred to in the appeal application submitted to the city clerk, which circumstances or conditions do not apply generally to any proposed tattoo parlor; or

b. The granting of such tattoo business license will not, under the circumstances of the particular case, materially affect adversely the health, safety or welfare of the persons residing or working in the neighborhood or attending any tattoo parlor, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to the immediate neighborhood or the city at large.

(b) In all cases where the council grants a variance of any provision of this article, the council shall find that:

(1) The granting of the variance, under such conditions as the council may deem necessary or desirable to apply thereto, will be in harmony with the general purpose and intent of this article; and

(2) It will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(Code 1989, § 871.07; Ord. No. 787, 8-25-1992)

Sec. 12-202. - Inspections of business premises; compliance with article; display of license; changes of information.

(a) Every licensee/applicant under this article shall permit all reasonable inspections of his or her business premises and shall at all times comply with the laws and regulations applicable to such business premises, including after the expiration of the license and during the period the license may be revoked or suspended.

(b) A tattoo business licensee/applicant shall display his or her license in an open and conspicuous place on the premises of the tattoo business.

(c) If, while any application for a tattoo business license is pending, or during the term of any license granted hereunder, there is any change in fact, policy or method which would alter the information provided in such application, the applicant/licensee shall notify the police chief of such change, in writing, within 72 hours after such change.

(Code 1989, § 871.08; Ord. No. 787, 8-25-1992)

Sec. 12-203. - License fees; expiration; transfers.

(a) The fees for a tattoo business license shall be in an amount as adopted by the city council from time to time.

(b) All licenses granted under this article shall expire on June 30 of each year.

(c) No tattoo business license is transferable, separable or divisible, and the authority that a license confers shall be conferred only on the licensee named therein.

(Code 1989, § 871.09; Ord. No. 787, 8-25-1992)

Sec. 12-204. - Records of appointments.

Every person who operates a tattoo business, practices tattooing or provides a tattoo shall at all times keep an appointment book in which the name, age and address of each patron shall be entered, together with the time, date and place of service and the service provided. Such appointment book shall be available at all times for inspection by the police chief or his or her authorized representatives, and such appointment book shall be kept on file for one year from the date of the last entry therein.

(Code 1989, § 871.10; Ord. No. 787, 8-25-1992)

Sec. 12-205. - Sanitation and safety of premises and employees.

(a) All premises used by a licensee under this article shall be periodically inspected by the police chief, the building official and the fire chief, or their authorized representatives, for the safety of the structure and the adequacy of the plumbing, ventilation, heating and illumination. The following minimum standards shall be maintained:

(1) Walls shall be clean and painted with washable, mold-resistant paint in all rooms.

(2) Floors shall be free from any accumulation of dust, dirt or refuse.

(3) All equipment used in the tattoo operation shall be maintained in a clean and sanitary condition.

(4) Towels, linen and items for the personal use of tattoo operators and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets, provided that such paper is changed for every patron.

(b) Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(c) Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

(d) The skin or hands of a person attending patrons shall be clean and in a healthy condition, and such person's nails shall be kept short. The hands shall be washed thoroughly before giving the patron any attention.

(Code 1989, § 871.11; Ord. No. 787, 8-25-1992)

Sec. 12-206. - Compliance with medical waste regulatory act.

Each owner-operator of a tattoo parlor must comply with all terms of the state medical waste regulatory act as set forth in MCL 333.13801 through 333.13831.

(Code 1989, § 871.12; Ord. No. 787, 8-25-1992)

Sec. 12-207. - Presence of minors upon premises.

No person shall permit any person under 18 years of age to come or remain on the premises of any tattoo parlor business establishment as a tattoo operator, employee or patron, unless such person is on the premises on lawful business.

(Code 1989, § 871.13; Ord. No. 787, 8-25-1992)

Sec. 12-208. - Hours of operation.

No person shall open or operate, or cause to be opened or operated, in the city, any tattoo parlor between 12:00 midnight and 7:00 a.m. of the following day.

(Code 1989, § 871.14; Ord. No. 787, 8-25-1992)

Sec. 12-209. - Alcoholic liquors.

No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic liquor on the premises of any tattoo business.

(Code 1989, § 871.15; Ord. No. 787, 8-25-1992)

Sec. 12-210. - Enforcement.

The city clerk shall establish reasonable administrative procedures necessary for the operation and enforcement of this article.

(Code 1989, § 871.16; Ord. No. 787, 8-25-1992)

Sec. 12-211. - Compliance with permit and fee requirements.

No person, except those persons who are specifically exempted by this chapter, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employee or operator, or acting as a participant or worker in any way, shall give a tattoo or conduct a tattoo establishment without first obtaining a permit therefor and paying a license fee to the city.

(Code 1989, § 871.17; Ord. No. 787, 8-25-1992)

Secs. 12-212—12-230. - Reserved.

ARTICLE VIII. - USED CAR LOTS[4]

Footnotes:

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State Law reference— Used vehicles defined, MCL 257.78; secondhand dealers, MCL 445.401 et seq.; used car lots, MCL 445.501 et seq.

Sec. 12-231. - Definitions.

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

Used car lot means any place where used motor vehicles are displayed and offered for sale in the open.

(Code 1973, § 7.231; Code 1989, § 878.01)

Sec. 12-232. - License—Required.

No person shall engage in the business of operating or maintaining a used car lot without first obtaining a license therefor. No such license shall be issued except on certification by the chief of police.

(Code 1973, § 7.232; Code 1989, § 878.02)

Sec. 12-233. - Same—Application; investigations.

An application for a license required by this chapter shall be made in writing to the city clerk and shall set forth the full name, age and residence of the applicant; the site upon which the business is to be conducted; the type of building to be erected or used; and any other information deemed necessary for

the proper enforcement of this chapter. Upon approval by the city clerk, the chief of police shall check as to whether or not the applicant was ever convicted of a felony or has a police record, and shall check the license from the secretary of state authorizing the conduct of a business in used automobiles. The city clerk shall then, within his or her discretion, issue the license.

(Code 1973, § 7.233; Code 1989, § 878.03)

Sec. 12-234. - Multiple locations.

No person licensed under this article shall, by virtue of one license, keep in the city more than one used car lot.

(Code 1973, § 7.234; Code 1989, § 878.04)

Sec. 12-235. - Records.

Every licensee under this article shall, at the place of business named in the license, keep a book in which shall be written in ink, in English, at the time of purchase or at the time of selling of any secondhand or used automobile a description thereof; the name, age, address and personal description of the person from whom such purchase was made or to whom such sale is made; the day and hour of such purchase or sale; and the purchase or sale price of each automobile. Such book shall, at all times, be open to the inspection of any city official. Such book shall be substantially bound and of a size not less than six inches in length and breadth. No entry in such book shall be erased, obliterated or defaced.

(Code 1973, § 7.235; Code 1989, § 878.05)

Sec. 12-236. - Retention period.

No person licensed under this chapter shall sell or remove from his or her place of business any secondhand or used automobile in his or her possession for sale, or which has been sold to him or her, until the same has been in his or her possession at least 48 hours.

(Code 1973, § 7.236; Code 1989, § 878.06)

Sec. 12-237. - Display setback.

No person licensed under this article shall display or offer for sale any motor-driven vehicle within five feet of the lot line facing on any highway or street.

(Code 1989, § 878.08; Ord. No. 686, 10-21-1986)

Secs. 12-238—12-267. - Reserved.

ARTICLE IX. - AMUSEMENT DEVICES AND COIN-OPERATED DEVICES[5]

Footnotes:

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State Law reference— Opening or attempting to open coin-operated devices, MCL 750.113, 752.811; slugs, MCL 752.801 et seq.

Sec. 12-268. - 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:

Arcade means as ascribed in section 50-3.

Children's amusement device means any coin-operated pleasure or amusement machine designed exclusively for use by children under ten years of age, such as coin-operated riding machines and other related coin-operated machines.

Coin-operated device means an instrument, machine or contrivance which may be operated or set in motion upon the insertion of a coin, token, trade token, slug, plate, disc, key, card or similar object, and which provides amusement, information, entertainment, products or services.

Coin-operated vending device means any machine, instrument or contrivance which may be operated or set in motion upon the insertion of a coin, token, trade token, slug, plate, disc, key, card or similar object, which may be operated by the public generally for the vending, sale or distribution of food, beverages, tobacco products or other products or services.

Distributor means any person who places coin-operated devices in any place or establishment, excluding the owner, for purposes of operation.

Mechanical amusement device means as defined in section 50-3.

(Code 1989, § 848.01; Ord. No. 645, 9-26-1983)

Sec. 12-269. - Licenses—Required.

No person shall maintain or distribute for the purpose of operation any coin-operated or mechanical amusement device without first obtaining a license therefor as provided in this article.

(Code 1989, § 848.02; Ord. No. 645, 9-26-1983)

Sec. 12-270. - Same—Applications.

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

Applicant includes distributor and/or owner of the devices and the operator-manager of the premises involved.

(b) *All licenses.* Guidelines for license applications for all licenses are as follows:

(1) Every person desiring to obtain a license for the distribution, operation or maintenance of any coin-operated or mechanical amusement device shall file a written application with the city clerk, on forms approved by the city clerk, and shall pay a nonrefundable application fee in an amount as adopted by the city council from time to time.

(2) All applications shall include the following information:

a. The applicant's age, correct full name, date of birth, driver's license number, any alias names or assumed names used, post office address and residence, the length of time the applicant has resided in the state and where, and the applicant's place of residence for the past ten years immediately before the time of such application; and

b. A drawing, drawn to scale with dimensions on eight and one-half by eleven inch paper, showing the floor plan of the proposed business, all exits, the location of each coin-operated device, its serial number and/or other identification, and the type of electrical service to be provided for such device. This subsection shall not apply to coin-operated vending devices.

(c) *Distributors and arcades.* Additional guidelines for licenses for distributors and arcades are as follows:

(1) In addition to the requirements of subsection (b) of this section, all applications for a distributor's license and for an arcade shall include the following information:

a. A statement as to whether or not the applicant has ever been convicted of a felony or any crime involving moral turpitude. Fingerprinting of applicants is required for the purpose of enabling the investigating official to conduct his or her investigation;

b. The type of business and the exact location of the premises for which a license is requested.

(2) If the applicant for such license is a corporation licensed to do business in the state, the application shall be made by the agent of such corporation who will have principal charge of the premises established. Such application shall contain all the statements and furnish all the facts and recommendations in respect to such agent as are required in the case of an individual, including all information required in subsection (b)(2)a. of this section, for all officers of the corporation. Such license to a corporation shall be revocable on the occurrence of a change in the agent so managing such premises, and a new license may be required by the city before any new agent shall take charge of such premises for such corporation.

(3) In the case of a partnership, each active partner in such business shall join in the application for such license, and shall furnish all the information and recommendations required of an individual applicant.

(Code 1989, § 848.03; Ord. No. 645, 9-26-1983)

Sec. 12-271. - Same—Fees.

Fees for licenses required by this article shall be in an amount as adopted by the city council from time to time.

(Code 1989, § 848.04)

Sec. 12-272. - Same—Issuance; fee; expiration.

(a) The fire chief, the chief of police, the zoning administrator and the building official shall either approve or disapprove an application for a license required by this article within a reasonable time following the receipt thereof and shall forward such recommendation to the city clerk. If an application is disapproved, the reason therefor shall be endorsed upon the application and the applicant shall be notified thereof by the city clerk. The applicant shall be entitled to request a hearing before the council in the event of a disapproval of an application.

(b) Upon approval and issuance of a license, the applicant shall pay to the city an annual license fee in an amount as adopted by the city council from time to time. Each license shall expire on June 30.

(c) No license shall be issued to any applicant, distributor, operator or owner unless such person is 18 years of age or older.

(d) No license shall be issued until such time as the fire chief has determined that the proposed location will not interfere with egress from the building in case of fire and that all fire regulations have been satisfied.

(e) No license shall be issued until such time as the building department has determined that all electrical, pneumatic and hydraulic connections to each coin-operated device comply with this Code and that all building and zoning regulations have been satisfied.

(f) No license shall be issued to any applicant until such time as the chief of police has approved the same after an investigation of the background of the applicant through the Law Enforcement Information Network (LEIN) and the appropriate local police departments.

(g) No license shall be issued to any distributor, owner and/or arcade until such time as the chief of police has determined that the applicant, or each officer or director, if the applicant is a corporation, has not been convicted within the preceding two years of a violation of any criminal statute of the state, or of any ordinance, except traffic offenses, regulating, controlling or in any way relating to the construction, use or operation of establishments included in this article, which violation evidences a flagrant disregard of the safety or welfare of either patrons, employees or persons residing or doing business nearby.

(h) If, after the issuance of any license, the licensee desires to operate other coin-operated devices in addition to those licensed, the applicant shall submit an amended application, in a form similar to the original application, showing the additions, changes or modifications desired.

(Code 1989, § 848.05; Ord. No. 645, 9-26-1983; Ord. No. 645A, 4-24-1984)

Sec. 12-273. - Exceptions to article.

(a) *Licensing requirement.* Pay telephones, newspaper vending devices, pay television, pay toilets, automatic teller machines, money changers, stamp machines, turnstiles and parking meters are exempt from the licensing provisions of this article.

(b) *Fees.* Duly recognized nonprofit civic, educational and religious organizations shall be exempt from the fee requirements of this article.

(Code 1989, § 848.06; Ord. No. 645, 9-26-1983)

Sec. 12-274. - Inspections; license display; supervision of premises.

(a) Each licensee shall:

(1) At all times open each and every portion of the licensed premises for inspection by the police department and other city departments for the purpose of enforcing this Code;

(2) At all times display the license granted under this chapter in a conspicuous place near the entrance to the licensed establishment; and

(3) Place all devices defined in section 12-268 and conduct the operation of the same in compliance with all applicable codes and regulations of the city.

(b) Each licensee shall have at least two adult operators on the premises at all times when the premises are open to the public, which adult operators shall have not been convicted of a crime involving moral turpitude and shall be certified by and registered with the city clerk.

(Code 1989, § 848.07; Ord. No. 645, 9-26-1983)

Sec. 12-275. - Hours of operation; location of devices; minors; pornography.

(a) No person shall operate or cause to be operated in the city any device defined in section 12-268 between 2:00 a.m. and 7:00 a.m. of any day.

(b) No person shall operate or cause to be operated in the city any device defined in section 12-268, which device is located in a building or structure, which building or structure is located within 500 feet of any public or private elementary or secondary school building, between 2:00 a.m. and 4:00 p.m. of any school day.

(c) All such devices shall be located in an enclosed building.

(d) This section shall not apply to children's amusement devices.

(e) No licensee shall permit any such device to be operated by any minor under 17 years of age, except when such minor is then and there accompanied by his or her parent or guardian.

(f) All arcades shall be in compliance with chapter 50, pertaining to zoning.

(Code 1989, § 848.08; Ord. No. 645, 9-26-1983)

Sec. 12-276. - Display of licenses; license tags and stickers.

A license granted under this article shall be exhibited at all times in some conspicuous place in the place of business. License tags or stickers shall be displayed on each coin-operated device for which the same are issued, as furnished by the city clerk. No person shall display an expired, revoked or fictitious license. Each amusement device shall contain the name, address and telephone number of the distributor of the device.

(Code 1989, § 848.09; Ord. No. 645, 9-26-1983)

Sec. 12-277. - Transferability of licenses.

No person shall transfer any license from the licensee to any other person or establishment. No person shall transfer any license tag or sticker from a device defined in section 12-268 for which issued to any other device without prior notification to and approval by the city clerk and payment of a transfer fee in an amount as adopted by the city council from time to time.

(Code 1989, § 848.10; Ord. No. 645, 9-26-1983)

Sec. 12-278. - Gambling.

Nothing in this article shall be construed as permitting the issuance of a license for any amusement device or as legalizing any coin-operated machine in which is incorporated any gambling feature. All use thereof for gambling of any kind is strictly prohibited.

(Code 1989, § 848.11; Ord. No. 645, 9-26-1983)

Sec. 12-279. - Suspension or revocation of licenses.

Any license granted under this article may be revoked if the licensee permits the operation of any device contrary to this Code or the laws of the state.

(Code 1989, § 848.12; Ord. No. 645, 9-26-1983)

Sec. 12-280. - Declaration of nuisance.

In addition to the penalties provided for in this Code, a violation of this article, or any condition caused or permitted to exist in violation of this article, is hereby declared to be a public nuisance and may be abated by the city as such, and shall be cause for the immediate revocation of a license.

(Code 1989, § 848.13; Ord. No. 645, 9-26-1983)

Secs. 12-281—12-308. - Reserved.

ARTICLE X. - SIGN ERECTORS[6]

Footnotes:

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State Law reference— Highway advertising act of 1972, MCL 252.301 et seq.

Sec. 12-309. - License—Required; application; bond; fee; expiration.

Every person desiring to erect signs for which permits are required under the building and housing code of the city shall apply to the city clerk for a sign erector's license and shall furnish the name and address of the proprietor, president or other senior officers in charge and such other pertinent information as the city clerk may request. The city clerk shall examine the qualifications of each applicant and shall cause licenses to be issued to all those properly qualified after their bonds have been filed and approved by the city attorney and after payment of a license fee in an amount as adopted by the city council from time to time. Licenses so issued shall expire on December 31 following the date of their issuance. Holders of sign erector's licenses shall notify the building department of any change in the management or address of the licensee.

(Code 1973, § 8.134; Code 1989, § 868.01)

Sec. 12-310. - Same—Revocation.

If the holder of a sign erector's license fails to comply with any notice of the city relative to the improper construction or erection of any sign, the building official shall notify the senior officer in charge of such firm or corporation to appear before him or her at a stated time and show cause why his or her firm's license should not be revoked. This notice to appear shall be in writing and shall be forwarded by the city to the address shown upon the records of the city. After such hearing, the building official shall recommend to the city manager that such sign erector's license be revoked if he or she is not satisfied that the defects complained of will be promptly remedied. He or she may also recommend to the city manager that any such license be revoked if the senior officer of the firm or corporation, or his or her authorized agent, does not appear for such hearing or if he or she cannot be found after diligent search at the address shown upon the city's records. This section shall supplement the provisions of article II of this chapter, pertaining to licensing.

(Code 1973, § 8.144; Code 1989, § 868.02)

Secs. 12-311—12-330. - Reserved.

ARTICLE XI. - FORTUNETELLING

Sec. 12-331. - Short title.

This article shall be known and may be cited as the "Fortunetelling Business Ordinance of the City of Eastpointe" and will be referred to herein as "this article."

(Ord. No. 1041, 3-15-2011)

Sec. 12-332. - Definitions.

As used in this article, unless the context requires a different meaning:

Fortunetelling shall mean the telling of fortunes, forecasting of futures, or reading the past, by means of any occult, psychic power, faculty, force, clairvoyance, cartomancy, psychometry, phrenology, spirits, tea leaves, tarot cards, scrying, coins, sticks, dice, sand, coffee grounds, crystal gazing or other such reading, or through mediumship, seership, prophecy, augury, astrology, palmistry, necromancy, mindreading, telepathy or other craft, art, science, talisman, charm, potion, magnetism, magnetized article or substance, or by any such similar thing or act. It shall also include effecting spells, charms, or incantations, or placing, or removing curses or advising the taking or administering of what are commonly called love powders or potions in order for example, to get or recover property, stop bad luck, give good luck, put bad luck on a person or animal, stop or injure the business or health of a person or shorten a person's life, obtain success in business, enterprise, speculation and games of chance, win the affection of a person, make one person marry or divorce another, induce a person to make or alter a will, tell where money or other property is hidden, make a person dispose of property in favor of another, or other such similar activity. Fortunetelling shall also include pretending to perform these actions.

Persons shall mean an individual. Corporations and other legal entities shall not be required to obtain a fortunetelling license but are otherwise subject to the General Licensing Ordinance of the City of Eastpointe.

Temporary shall mean lasting for a limited time.

(Ord. No. 1041, 3-15-2011)

Sec. 12-333. - Exception.

This article shall not apply to persons engaged in the entertainment of the public through temporary demonstrations of mindreading, mental telepathy, thought conveyance, magic, giving of horoscopic readings or other fortunetelling at private residences, offices, halls, taverns, restaurants, or other various venues.

(Ord. No. 1041, 3-15-2011)

Sec. 12-334. - License required.

No person shall practice fortunetelling without first obtaining a license pursuant to this article.

(Ord. No. 1041, 3-15-2011)

Sec. 12-335. - License application.

Any person desiring a fortunetelling license shall file a written application with the city clerk, on a form to be furnished by the city clerk. The applicant shall tender with the application a non-refundable license fee and shall furnish the following information:

(1) The business address and telephone number where the fortunetelling is to be practiced;

(2) The following personal information concerning the applicant:

a. The name, complete residence address and residence telephone number;

b. The two previous addresses immediately prior to the present address of the applicant.

c. Written proof showing date of birth;

d. Height, weight, color of hair and eyes and sex;

e. Two front-face portrait photographs taken within 30 days of the date of the application, at least two inches by two inches in size;

f. The fortunetelling or similar business history and experience, including, but not limited to, whether or not such person, in previously operating in this or another city or state under a license or permit, has had such a license or permit denied, revoked or suspended, the reason therefor and the business activities or occupations subsequent to such action of denial, suspension or revocation;

g. All criminal convictions, other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted, the offense for which convicted and the circumstances thereof; and

h. A complete set of fingerprints taken and to be retained on file by the police chief or his or her authorized representative.

(3) Authorization for the city and its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(4) A written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct. Such declaration shall be duly dated and signed in the city.

(Ord. No. 1041, 3-15-2011)

Sec. 12-336. - Investigation.

(a) Upon receiving an application for a fortuneteller's license, the city clerk shall refer such application to the police chief who shall conduct an investigation into the applicant's moral character and personal and criminal history. The police chief may, in his or her discretion, require a personal interview of the applicant and such further information, identification and physical examination of the person as shall bear on the investigation.

(b) Before the city clerk shall issue any fortuneteller's license under this article, the police chief shall first submit to the city clerk, within 45 days of the receipt of an application, a report of his or her investigation and his or her recommendation.

(Ord. No. 1041, 3-15-2011)

Sec. 12-337. - License issuance; conditions for denial.

The city clerk, upon receipt of an application for a license required by this article, and the reports and recommendations of the police chief and any other department, shall place such application upon the agenda for the next regularly scheduled council meeting, provided that such meeting is not less than six days from the date of receipt of such application by the city clerk. If it is less than six days from such receipt, such application shall be placed upon the agenda for the following meeting of council.

Council shall determine whether or not such license shall be issued after reviewing the report of investigation and the recommendations of the police chief and other code enforcement officers. Council shall direct the city clerk to issue a fortuneteller's license within 14 days, unless it finds that:

(1) The correct license fee has not been tendered to the city, or, in the case of a check or bank draft, such check or draft has not been honored with payment upon presentation.

(2) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the city's building, fire, zoning and health ordinances.

(3) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith.

(4) The applicant has had a fortunetelling business, fortuneteller or other similar permit or license denied, revoked or suspended by the city or any other state or local agency within 15 years prior to the date of the application.

(5) The applicant is not over 18 years of age.

(6) The applicant has ever been convicted of any crime involving moral turpitude including, but not limited to prostitution and pandering, gambling, extortion, fraud, criminal usury, unless such conviction occurred at least 15 years prior to the date of the application.

If council denies any application, it shall specify the particular grounds for such denial and shall direct the city attorney to notify the applicant by regular mail addressed to the applicant at the address shown on the application. Such notice shall specify the grounds for which the application is denied.

(Ord. No. 1041, 3-15-2011)

Sec. 12-338. - Hearings; appeals; variances.

(a) Within 20 days of the date of denial of an application for a fortuneteller's license, the applicant may request, in the form of a written application to the city clerk, a hearing before council for reconsideration of his or her license application or for a variance of any of the provisions of this article, the violation of which provision constituted grounds for the original denial of the application. Such hearing shall be conducted as follows:

(1) At the hearing, the applicant and his or her attorney may present and submit evidence on the applicant's behalf to show that the grounds for the original denial no longer exists.

(2) After reviewing an applicant's evidence, council shall determine whether to sustain the denial or grant the application for the license.

(3) At the hearing, the applicant and his or her attorney may present a statement and adequate evidence showing that:

a. There are exceptional or extraordinary circumstances or conditions applying to the proposed fortuneteller applicant referred to in the appeal application submitted to the city clerk, which circumstances or conditions do not apply generally to any proposed fortuneteller; or

b. The granting of such fortunetelling fortuneteller's license will not, under circumstances of the particular case, materially affect adversely the health, safety or welfare of the persons residing or working in the neighborhood, or attending any fortunetelling business, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to the immediate neighborhood or the city at large.

(b) In all cases where council grants a variance of any provision of this article, council shall find that:

(1) The granting of the variance, under such conditions as council may deem necessary or desirable to apply thereto, will be in harmony with the general purpose and intent of this article; and

(2) It will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(Ord. No. 1041, 3-15-2011)

Sec. 12-339. - Inspections; license display; change of information.

(a) Every licensee under this article shall permit all reasonable inspections of his or her business premises and shall at all times comply with the laws and regulations applicable to such business premises, including after the expiration of the license and during the period the license may be revoked or suspended.

(b) A fortuneteller licensee shall be displayed in an open and conspicuous place on the premises of the fortunetelling business.

(c) If, while any application for a fortuneteller's license is pending, or during the term of any license granted hereunder, there is any change in fact, policy or method which would alter the information provided in such application, the applicant/licensee shall notify the city clerk of such change, in writing, within 72 hours after such change.

(Ord. No. 1041, 3-15-2011)

Sec. 12-340. - License fees.

The fees for a business license and a fortuneteller's license shall be established by resolution of council.

(Ord. No. 1041, 3-15-2011)

Sec. 12-341. - License expiration.

All licenses granted under this article shall expire on June 30 of each year.

(Ord. No. 1041, 3-15-2011)

Sec. 12-342. - License transferability.

No fortuneteller's license is transferable, separable or divisible.

(Ord. No. 1041, 3-15-2011)

Sec. 12-343. - Rate schedule.

(a) The fortuneteller shall post rate information in a conspicuous place accessible by the patrons at the fixed location on a sign at least eight by ten inches in 14-point type.

(b) The rates published shall be the only rates charged.

(Ord. No. 1041, 3-15-2011)

Sec. 12-344. - Hours of operation.

No person shall open or operate, or cause to be opened or operated, in the city, any fortuneteller business between 9:00 p.m. and 7:00 a.m.

(Ord. No. 1041, 3-15-2011)

Sec. 12-345. - Alcoholic beverages.

No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage on the premises of any fortuneteller business.

(Ord. No. 1041, 3-15-2011)

Sec. 12-346. - Effective date.

Any person operating as a fortuneteller within the City of Eastpointe when this arti cle is enacted shall have 90 days from the effective date of this article to obtain a license.

(Ord. No. 1041, 3-15-2011)

Sec. 12-347. - Revocation of license.

Upon the conviction of any licensee for a violation of any provision of this article, the license issued pursuant to this article shall be revoked and upon entry of a conviction, such person shall not be permitted to carry on a fortunetelling business within this city of a period of one year after that conviction.

(Ord. No. 1041, 3-15-2011)

Sec. 12-348. - Administrative procedures.

The city clerk shall establish reasonable administrative procedures necessary to the operation and enforcement of this article.

(Ord. No. 1041, 3-15-2011)

Sec. 12-349. - Violations.

No person, except those persons who are specifically exempted by this article, whether acting as an individual, owner, employee or operator, or acting as a participant or worker in any way, shall give fortunetelling or conduct a fortunetelling establishment without first obtaining a permit therefor and paying a license fee to the city.

(Ord. No. 1041, 3-15-2011)

Sec. 12-350. - Penalty.

For general code penalty, see section 1-15.

(Ord. No. 1041, 3-15-2011)

ARTICLE XII. - PROHIBITION OF RECREATIONAL MARIHUANA BUSINESSES AND ESTABLISHMENTS

Sec. 12-351. - Prohibition of recreational marihuana businesses and establishments.

Pursuant to the Michigan Regulation and Taxation of Marihuana Act, section 6.1, the city elects to prohibit recreational marihuana businesses and establishments within its boundaries. This article shall not apply to medical marihuana businesses and establishments.

(Ord. No. 1169, § 1, 6-18-2019)

Sec. 12-352. - Penalty.

A person violating this article shall be punished in accordance with section 1-15 of the Code of Ordinances of the City of Eastpointe unless a different penalty is expressly provided in this article.

(Ord. No. 1169, § 1, 6-18-2019)

Chapter 14 - COMMUNITY DEVELOPMENT[1]

Footnotes:

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State Law reference— Housing and slums clearance projects, MCL 125.651 et seq.; housing corporation law, MCL 125.601 et seq.; urban redevelopment corporations, MCL 125.901 et seq.; rehabilitation of blighted areas, MCL 125.71 et seq.; principal shopping districts and business improvement districts, MCL 125.981 et seq.; economic expansion, MCL 125.1201 et seq.; regional economic development commission, MCL 125.1231 et seq.; state housing development authority act of 1966, MCL 125.1401 et seq.; downtown development authority, MCL 125.1651 et seq.; economic development corporations, MCL 125.1601 et seq.; tax increment finance authority act, MCL 125.1801 et seq.; Michigan economic and social opportunity act of 1981, MCL 400.1101 et seq.

ARTICLE I. - IN GENERAL

Secs. 14-1—14-18. - Reserved.

ARTICLE II. - ECONOMIC DEVELOPMENT CORPORATION[2]

Footnotes:

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State Law reference— Economic development corporations, MCL 125.1601 et seq.

Sec. 14-19. - Articles of incorporation adopted.

(a) The application under the date of June 22, 1977, filed by Wilfried Mozer, Russell Browne Jr., William Nill, Mildred Rankin and Ledford Gibson, Jr. to incorporate the economic development corporation of the City of East Detroit and the proposed articles of incorporation for said corporation are hereby approved and adopted.

(b) The articles of incorporation shall be executed in duplicate and upon execution the city clerk is hereby directed to file and publish said articles of incorporation in accordance with section 31 of Public Act No. 338 of 1974 (MCL 125.1631).

(Ord. No. 557, §§ 1, 2, 7-25-1977)

Secs. 14-20—14-41. - Reserved.

ARTICLE III. - DOWNTOWN DEVELOPMENT AUTHORITY[3]

Footnotes:

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State Law reference— Downtown development authority, MCL 125.1651 et seq.

Sec. 14-42. - Establishment.

In recognition of the fact that it is in the best interest of the public to halt property value deterioration and increase property tax valuation where possible in the downtown business district in the city, to eliminate the causes of that deterioration and to promote economic growth, there is hereby established in and for the city a downtown development authority, pursuant to Public Act No. 197 of 1975 (MCL 125.1651 et seq.).

(Code 1989, § 288.01; Ord. No. 682, 5-22-1986)

Sec. 14-43. - Board for supervision and control.

The downtown development authority shall be under the supervision and control of a board consisting of the city manager and eight members appointed by the city manager, subject to the approval of the council. Not less than a majority of the members shall be persons having an interest in property located in the downtown district. Not less than one of the members shall be a resident of the downtown district, if the downtown district has 100 or more persons residing within it. Of the members first appointed, two shall be appointed for one year, two for two years, two for three years and two for four years. A member shall hold office until the member's successor is appointed. Thereafter, each member shall serve for a term of four years. An appointment to fill a vacancy shall be made by the city manager for the unexpired term only. Members of the board shall serve without compensation but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board. Pursuant to notice and after having been given an opportunity to be heard, a member of the board may be removed for cause by the council. Removal of a member is subject to review by the circuit court. All persons considered for appointment to the board shall submit resumes and shall have been residents of the city or business owners in the city for at least one year.

(Code 1989, § 288.02; Ord. No. 682, 5-22-1986)

Sec. 14-44. - Meetings; business conducted; rules of procedures; records and reports.

(a) The business which the downtown development authority board may perform shall be conducted at a public hearing of the board held in compliance with Public Act No. 267 of 1976 (MCL 15.261 et seq.). Public notice of the time, date and place of the meeting shall be given in the manner required by such act. The board shall adopt rules consistent with such act governing its procedure and the holding of regular meetings, subject to the approval of the council. Special meetings may be held when called in the manner provided in the rules of the board.

(b) All expense items of the downtown development authority shall be publicized monthly and the financial records shall always be open to the public.

(c) In addition to the expense items and the financial records of the authority, a report prepared, owned, used, in the possession of or retained by the board in the performance of an official function shall be made available to the public in compliance with Public Act No. 442 of 1976 (MCL 15.231 et seq.).

(Code 1989, § 288.03; Ord. No. 682, 5-22-1986)

Sec. 14-45. - Powers of the board.

The downtown development authority board shall have all of the powers and duties set out in Public Act No. 197 of 1975 (MCL 125.1651 et seq.).

(Code 1989, § 288.04; Ord. No. 682, 5-22-1986)

Sec. 14-46. - Authority as instrumentality of city.

The downtown development authority shall be deemed an instrumentality of the city for purposes of Public Act No. 227 of 1972 (MCL 213.321 et seq.).

(Code 1989, § 288.05; Ord. No. 682, 5-22-1986)

Sec. 14-47. - Eminent domain.

The city may take private property under Public Act No. 149 of 1911 (MCL 213.21 et seq.), for the purpose of transfer to the downtown development authority, and may transfer the property to the authority for use in an approved development, on terms and conditions it deems appropriate. The taking, transfer and use of such property shall be considered necessary for public purposes and for the benefit of the public.

(Code 1989, § 288.06; Ord. No. 682, 5-22-1986)

Sec. 14-48. - Sources of revenue for authority.

The activities of the downtown development authority shall be financed, subject to the approval of the council, from one or more of the sources permitted under Public Act No. 197 of 1975 (MCL 125.1651 et seq.).

(Code 1989, § 288.07; Ord. No. 682, 5-22-1986)

Sec. 14-49. - Development plans.

When the downtown development authority board decides to finance a project in the downtown district by the use of revenue bonds, subject to the approval of the council and as authorized in Public Act No. 197 of 1975 (MCL 125.1651 et seq.), and as authorized in sections 13 and 13(a) of such act, or by the use of tax increment financing as authorized in sections 14, 15 and 16 of such act, it shall prepare a development plan. The development plan shall contain all of the provisions required by Public Act No. 197 of 1975 (MCL 125.1651 et seq.).

(Code 1989, § 288.08; Ord. No. 682, 5-22-1986)

Sec. 14-50. - Development area citizens' council.

If a proposed development area has residing within it 100 or more residents, a development area citizens' council shall be established at least 90 days before the public hearing on the development or tax increment financing plan. The citizens' council shall be established by the city council and shall consist of not less than nine members. The members of the citizens' council shall be residents of the development area and shall be appointed by the city council. A member of a citizens' council shall be at least 18 years of age. The citizens' council shall be representative of the development area.

(Code 1989, § 288.09; Ord. No. 682, 5-22-1986)

Sec. 14-51. - Governing procedures.

The downtown development authority shall have all of the powers and duties prescribed by Public Act No. 197 of 1975 (MCL 125.1651 et seq.). Any questions of interpretation of the powers, duties and responsibilities of the authority shall be resolved by reference to Act 197. The authority shall provide the council and the planning commission with all reports and studies regulating the formation and implementation of project development plans. The authority shall submit the proposed development plan to the planning commission for review and recommendation to the council prior to the hearing specified in section 18 of Act 197 (MCL 125.1668). It shall also consult with and advise any development area citizens' council formed pursuant to the state legislation regarding all preparation and implementation of development plans whenever such plans are conceived. Notwithstanding anything to the contrary herein, the city council shall have final approval over any development plans and/or financing plans proposed by the authority.

(Code 1989, § 288.10; Ord. No. 682, 5-22-1986)

Sec. 14-52. - Area of jurisdiction.

The downtown development authority shall exercise its powers within the following described area:

Beginning at a point at the northeasterly corner of Lot 6 of Przybylski's Midway Subdivision (Gratiot Avenue and Couzens Avenue intersection); thence northwesterly along the northerly lot line of such lot across the alley and along the northerly lot lines of Lots 11, 12 and 13 of such subdivision to the northwest corner of such Lot 13; thence in a northeasterly direction across Couzens Avenue to the southwesterly corner of Lot 216 of Assessors Plat ("A.P.") No. 14; thence in a northeasterly direction along the westerly lot lines of Lots 216, 214, 213 and a portion of Lot 209 of A.P. No. 14 to the point of intersection with the south corner of Lot 218 of A.P. No. 14; thence in a northerly direction along the westerly lot line of such Lot 218 (as amended to include a portion of Lot 219 of A.P. No. 14) to its northwesterly corner; thence in a northerly direction across the Nine Mile Road right-of-way to the southwest corner of Lot 201 of A.P. No. 14; thence easterly along the southern lot lines of Lots 201, 202 and 203 of A.P. No. 14 to the southeast corner of Lot 203; thence in a northeasterly direction along the eastern lot line of such Lot 203 to its northeast corner; thence in a southeasterly direction along a portion of the north lot line of Lot 204 of A.P. No. 14 to the southwesterly corner of Lot 68 of Rein's Subdivision; thence in a northerly direction along the west line of such Lot 68 to its northwest corner; thence in a northeasterly direction across South Park Street, Rein Park and North Park Street to a point on the southerly lot line of Lot 10 which is eight feet west of the southwest corner of Lot 9 of Rein's Subdivision; thence northerly on a line eight feet west and parallel to the westerly line of such Lot 9 to the northerly lot line of Lot 10; thence easterly along the south property line of Lots 360, 361 and 362 of Rein's Subdivision No. 1 to the southeasterly corner of Lot 362; thence northeasterly along the east lot line of such Lot 362 to its northeast corner; thence northeasterly across Charles Street to the southwesterly corner of Lot 72 of Rein's Subdivision No. 1; thence northeasterly along the westerly lot lines of Lots 72, 73, 74, 75, 76 and 77 across Camden Street and continuing northeasterly along the western lot lines of Lots 78, 79,

80, 81, 82 and 83 to the northwest corner of Lot 83, all lots in Rein's Subdivision No. 1; thence in a northeasterly direction across Deerfield Street to the southwest corner of Lot 84 of Rein's Subdivision No. 1; thence northeasterly along the westerly lot line of such Lot 84 to its northwest corner; thence southeasterly along the northerly lot line of such Lot 84 a distance of 30 feet; thence northeasterly on a line 30 feet east and parallel to the westerly lot line of Lots 1 and 2 of Evergreen Park Subdivision; thence in a northerly direction, across Evergreen Avenue, to the southwesterly corner of Lot 49 of Evergreen Park Subdivision; thence southeasterly to the southeast corner of such Lot 49; thence southeasterly, across the Gratiot Avenue right-of-way to the southwesterly corner of Lot 7 of Assessors Rice and Lohmann State Subdivision; thence southeasterly along the south lot line of such Lot 7, across the alley and the south lot line of such Lot 45 of the Rice and Lohmann Subdivision to the southeasterly corner of Lot 45; thence southwesterly across the right-of-way of Evergreen Avenue to the northeasterly corner of Lot 10 of the Rice and Lohmann Subdivision; thence southwesterly along the easterly lot line of Lot 10 to the southeast corner of such Lot 10; thence southeasterly along the northerly portion of Lot 4 and all of Lots 5, 6, 7, 8 and 9 (to the northeasterly corner of Lot 9) of Aurora Gardens Subdivision; thence southwesterly along the eastern lot line of such Lot 9 to its southeasterly corner; thence northwesterly along the south lot line of Lot 9 to approximately ten feet on the south lot line of Lot 8 of Aurora Gardens Subdivision; thence southwesterly across Aurora Avenue to the northeast corner of Lot 173 of A.P. No. 13, thence northwesterly along the north lot lines of Lots 173, 174, 175 and 176 to the northwest corner of Lot 176; thence southwesterly along the west line of Lot 176 to the southwest corner of said lot; thence southeasterly along the south lot lines of Lots 176, 175, 174, 173, 172, 171, 170, 169, 168 and 167, to the southeast corner of Lot 167 of A.P. No. 13; thence southwesterly along the easterly lot lines of Lots 177 and 178 of A.P. No. 13 to the northerly corner of Lot 27 of Clark's Subdivision; thence southerly along the easterly lot line of Lot 27 of Clark's Subdivision; thence southerly along the easterly lot line of Lot 13 of Liscomb Subdivision to the southeast corner of said Lot 13; thence westerly along the northerly lot line of Lot 14 of Liscomb Subdivision to the northwesterly corner of said Lot 14; thence southwesterly along the west lot line of Lot 14 and 20 feet of Lot 15; thence northwesterly approximately 11 feet to the west lot line of Lot 15 of Liscomb Subdivision; thence southerly along the westerly lot lines of Lots 15, 16 and 17 of Liscomb Subdivision to the southwest corner of Lot 17 of Liscomb Subdivision; thence easterly along the southerly lot line of Lot 17 of Liscomb Subdivision to the southeast corner of said Lot 17; thence due east across Liscomb Street to the northwest corner of Lot 4 of Liscomb Subdivision; thence southerly along the west lot line of said Lot 4 to the southwest corner; thence due south from the southwest corner of Lot 4 across Nine Mile Road to a point on the north lot line of Lot 2 of E.W. Eyster Subdivision; thence west along the northern lot line of Lot 2 to the northwest corner of such Lot 2; thence south along the westerly lot line of such Lot 2 to a point due east of the southeast corner of Lot 45 of Scheuren and Mok Subdivision; thence due west across Boulder Avenue to the southeast corner of such Lot 45; thence westerly along the southern lot line of such Lot 45 to its southwest corner; thence north along the west lot line of Lots 45 and 46 of Scheuren and Mok Subdivision, to the northwest corner of Lot 46; thence westerly along the south lot line of Lots 49 and 50 to the southwest corner of Lot 50 of such subdivision; thence westerly across Nevada Avenue to the southwest corner of Lot 143 of Scheuren and Mok Subdivision; thence westerly along the south lot lines of Lots 143 and 144 to the southwest corner of Lot 144; thence south along the east line of Lot 147 to the southeast corner of said lot; thence west along the south line of Lot 147 to its southwest corner; thence south along the west line of Lots 148, 149, 150 and 151 to the southwest corner of Lot 151 of Scheuren and Mok Subdivision; thence westerly from the southwest corner of Lot 151, across Virginia Avenue, to the northeast corner of Lot 231 of Scheuren and Mok Subdivision; thence westerly along the north lot line of such Lot 231 to its northwest corner; thence southerly along the west lot lines of Lots 231, 230, 229, 228, 227, 226 and 225 of Scheuren and Mok Subdivision; thence southerly from the southwest corner of Lot 225, across Oak Avenue, to the northeast corner of Lot 45 of Spens Subdivision; thence northwesterly along the northerly lot lines of Lots 45, 44, 43, 42, 41, 40, 39, 38 and 37 of Spens Subdivision to the northwesterly corner of Lot 37; thence southwesterly along the westerly lot line of such Lot 37 to its southwest corner; thence westerly along the northerly lot lines of Lot 35 and 36 of Spens Subdivision; thence southwesterly along the west lot line of such Lot 36 to its southwest corner; thence southwesterly across Molt Avenue to the northwest corner of Lot 12 of Spens Subdivision; thence southeasterly along the westerly lot line of such Lot 12 to its southwest corner;

thence southeasterly along the north lot line of Lot 64 of Assessor's Plat of Bells Subdivision No. 1 to its northeast corner; thence southwesterly along the easterly lot line of such Lot 64 to its southeasterly corner; thence southwesterly across Couzens Avenue to the northeast corner of Lot 8 of Assessors DeBeauclair State Subdivision; thence westerly along the north lot line of such Lot 8, across the alley and along the northerly lot line of Lot 1 of such subdivision to its northwesterly lot corner; thence northwesterly across Gratiot Avenue to the point of beginning.

(Code 1989, § 288.11; Ord. No. 836, 12-19-1995; Ord. No. 902, 4-3-2001; Ord. No. 903, 4-3-2001)

Sec. 14-53. - Land use development plans and tax increment finance plans.

(a) The city having created, according to the laws and statutes provided, a downtown development authority (DDA) pursuant to this article, and said DDA having complied with the requirements of said ordinance, the city hereby adopts the land use development plan and tax increment finance plan for the downtown development authority for the city, dated December 1987, which is hereby incorporated by reference in its entirety.

(b) The city having created, according to the laws and statutes provided, a downtown development authority (DDA) pursuant to this article, and said DDA having complied with the requirements of said ordinance, the city hereby adopts the land use development plan and tax increment finance plan for the downtown development authority for the city, dated February, 1989. A copy of the land use development plan and tax increment finance plan is available for public inspection at the office of the city clerk, 23200 Gratiot Avenue, Eastpointe, Michigan, during normal business hours and said plan is incorporated herein by reference.

(c) Such plans are hereby incorporated as amended by the council on October 15, 1991 and on December 5, 1995.

(Ord. No. 710, 12-15-1987; Ord. No. 737, 5-16-1989; Ord. No. 770, 10-15-1991; Ord. No. 837, 12-5-1995)

Chapter 16 - EMERGENCIES[1]

Footnotes:

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State Law reference— Continuity of government during an emergency, Mich. Const. art. IV, § 39; governor's emergency powers, MCL 10.31 et seq.; emergency management act, MCL 30.401 et seq.

ARTICLE I. - IN GENERAL

Secs. 16-1—16-18. - Reserved.

ARTICLE II. - EMERGENCY MANAGEMENT[2]

Footnotes:

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State Law reference— Emergency management act, MCL 30.401 et seq.

Sec. 16-19. - Intent and purpose.

(a) It is the intent and purpose of this article to establish the position of municipal emergency management liaison to provide liaison between the city and the county and to ensure complete and efficient utilization of all resources during periods of emergency.

(b) The emergency services coordinator of the county, in accordance with Public Act No. 390 of 1976 (MCL 30.401 et seq.), and the county emergency services resolution, is the coordinator of emergency services activities in the political subdivisions within the county.

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

(Code 1989, § 210.01; Ord. No. 592, 5-29-1979; Ord. No. 818, 4-12-1994)

Sec. 16-20. - 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:

Coordinator means the responsible head of the county office of emergency services, as appointed by the chairperson of the county board of commissioners.

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

Emergency proclamation means a proclamation issued by the governor that a state of emergency exists under the provisions of Public Act No. 302 of 1945 (MCL 10.31 et seq.).

Emergency services shall have a broad meaning to include preparations for, and relief from, the effects of natural and humanmade disasters, as defined in this section.

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

Municipal emergency management liaison means the person appointed to provide liaison services between the city and the county office of emergency services.

(Code 1989, § 210.02; Ord. No. 592, 5-29-1979; Ord. No. 646, 10-11-1983; Ord. No. 818, 4-12-1994)

Sec. 16-21. - Organization for emergency services.

(a) The mayor, with the approval of the council, is hereby authorized and directed to prepare for community disasters, utilizing to the fullest extent existing agencies within the municipality. The mayor, as executive head of the municipal government, shall be responsible for the organization, administration and operation of the municipality's emergency services forces, if any, working through the county emergency services coordinator and the municipal emergency management liaison.

(b) The employees, equipment and facilities of all municipal departments, boards, agencies and commissions suitable for or adaptable to emergency service activities may be designated as part of

the total emergency services forces of the county. Such designations shall be made by the chairperson of the county board of commissioners with the approval of the council.

(Code 1989, § 210.03; Ord. No. 592, 5-29-1979; Ord. No. 818, 4-12-1994)

Sec. 16-22. - Municipal emergency management liaison.

The mayor, with the approval of the council, shall appoint an emergency management liaison and two successors to this position to provide liaison services to county officials and to assist the county emergency management coordinator in all matters pertaining to disaster prevention, mitigation, relief and recovery operations within the city. The liaison shall also coordinate the activities of certain designated municipal departments, boards, agencies and commissions to protect the public health, safety and welfare during emergency situations or disasters.

(Code 1989, § 210.04; Ord. No. 818, 4-12-1994)

Sec. 16-23. - Rules and regulations.

(a) *Authority of mayor.* The mayor is hereby declared to be conservator of the peace, pursuant to chapter III, section 7, of the city Charter, and, in addition to the power given to him or her in emergencies, declared by the council, he or she shall have the following powers and may promulgate the following rules and regulations:

(1) During a time of great public crisis, disaster, rioting, civil disorders, catastrophe or similar public emergency within the city, or reasonable apprehension of immediate danger thereof, when public safety is or is threatened to be imperiled, upon his or her own volition the mayor may proclaim a state of emergency and designate the area involved.

(2) Following the proclamation or declaration referenced in subsection (a)(1) of this section, which may be written or oral, the mayor may promulgate such reasonable orders, rules and regulations as he or she deems necessary to protect life and property, or to bring the emergency situation within the affected area under control.

(3) Without limiting the scope of the orders, rules and regulations referenced in subsection (a)(2) of this section, the mayor may provide:

a. For the control of traffic, including public and private transportation, within the area or any section thereof;

b. The designation of specific zones within the area, or the total area, in which occupancy and use of buildings and ingress and egress of persons and vehicles may be prohibited or regulated;

c. The control of places of amusement and assembly, and of persons on public streets and thoroughfares;

d. The establishment of a curfew; control of the sale, transportation and use of alcoholic liquors;

e. The control of the possession, sale, carrying and use of firearms and other dangerous weapons and ammunition; and control of the storage, use and transportation of explosive or inflammable materials or liquids deemed to be dangerous to public safety.

Such orders, rules and regulations shall be effective from the date and in the manner prescribed in such orders, rules and regulations, and shall be made public as provided therein. Such orders, rules and regulations may be amended, modified or rescinded in like manner from time to time by the mayor, during the pendency of the emergency, but shall cease to be in effect upon declaration by the mayor that the emergency no longer exists.

(b) *Intent.* It is hereby declared to be the legislative intent herein to invest the mayor with sufficiently broad power of action in the exercise of the police power of the city, and as a conservator of the peace, to provide adequate control over persons and conditions during such periods of impending or actual public crisis, riot, civil disorder, catastrophe or disaster. The provisions of this chapter shall be broadly construed to effectuate this purpose.

(c) *Confirmation by the council.* Following any proclamation or declaration of a state of emergency by the mayor, he or she shall, within 24 hours, have the same confirmed by the council.

(d) *Violations.* No person shall violate or fail to comply with any order, rule or regulation made in conformity with this article.

(Code 1973, §§ 1.41—1.44; Code 1989, § 20.05)

Secs. 16-24—16-49. - Reserved.

ARTICLE III. - ALARM SYSTEMS[3]

Footnotes:

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State Law reference— Private security business and security alarm act, MCL 338.1051 et seq.; automatic intrusion alarms and alerting devices prohibited, MCL 484.1207.

Sec. 16-50. - 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 an assembly of equipment and devices, or a single device, arranged to signal the presence of a hazard or situation requiring urgent attention, to which the police department or the fire department is expected to respond.

Alarm user means any person on whose premises an alarm system is maintained in the city, except for alarm systems on motor vehicles. However, if an alarm system on a motor vehicle is connected with an alarm system at a premises, the person using such system is an alarm user. Also excluded from this definition of the term "alarm user" and from the coverage of this chapter are persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or other illegal act. However, if such a system employs an audible signal emitted outside the premises, such system shall be within the definition of an alarm system and shall be subject to this chapter.

Automatic telephone alarm system means a device or combination thereof that will, upon activation, either mechanically, electronically or by other means, initiate the automatic calling, dialing or connection to a telephone number assigned to a subscriber by a public phone company for the purpose of delivering a recorded message.

False alarm means an alarm condition which is registered at the police department, fire department or elsewhere through mechanical failure, malfunction, improper installation or the negligence of the owner or user of an alarm system or his or her employee or agent. The term "false alarm" includes any alarm condition registered at the police department, fire department or elsewhere not resulting from criminal activity for which the alarm was intended, or in case of a fire alarm, any alarm condition which is registered at the fire department or elsewhere not resulting from a fire or potential fire condition.

Subscriber means and includes, but is not limited to, any public service utility, fire department or police agency.

(Code 1989, § 804.01; Ord. No. 674, 7-2-1985)

Sec. 16-51. - Sale or installation of systems; state license required.

No person shall engage in the business of providing for the sale, installation, operation and/or maintenance of a burglar or fire alarm system unless such person is properly licensed by the state.

(Code 1989, § 804.02; Ord. No. 674, 7-2-1985)

Sec. 16-52. - Automatic telephone alarm systems prohibited.

No person shall sell, install, operate, adjust, arrange for or contract to furnish an automatic telephone alarm system.

(Code 1989, § 804.03; Ord. No. 674, 7-2-1985)

Sec. 16-53. - Audible or visual alarms.

(a) *Locating information.* No person shall maintain an alarm system which, when activated, causes an audible and/or visual signal, which signal can be heard or seen outside the premises protected by such alarm system, and which signal is disturbing to the peace and quiet of the surrounding area, unless such person has first furnished to the chief of police or the fire chief the name, telephone number and address of the premises where the alarm system is located, and the names and telephone numbers of at least three other persons who can be reached at any time, day or night, and who, within a 30-minute response time, can open the premises in which the alarm system is installed and deactivate the audible and/or visual signal.

(b) *Duration.* No person shall use or install or direct to be installed any audible alarm system which emits a sound and/or visual signal for longer than 15 minutes from the time of the initial signaling of the device.

(Code 1989, § 804.04; Ord. No. 674, 7-2-1985; Ord. No. 803, 12-7-1993)

Sec. 16-54. - Multiple units in buildings; separate systems required.

Separate alarm systems are required whenever a single building contains more than one unit of occupancy and each unit has a separate entrance. If an occupant elects to install an alarm system, such person shall have a separate alarm system for each business located in such building. Whenever a multiple housing residential structure has separate entrances for each occupancy unit, and an occupant elects to have an alarm system, each separate entrance to the occupancy unit shall contain a separate alarm system.

(Code 1989, § 804.05; Ord. No. 674, 7-2-1985)

Sec. 16-55. - False alarms.

(a) *Fees.* Any person operating an alarm system experiencing more than two false alarms in one calendar year shall pay false alarm fees in amounts as adopted by the city council from time to time.

(b) *Inspections.* Whenever there are more than five false alarms in a calendar year emanating from a specific occupancy unit, the alarm system shall be determined defective. Upon written notice by either the chief of police or the fire chief to the owner or lessee, such owner or lessee shall, within ten days from the date of such notice, have the alarm system inspected by a licensed, competent alarm system contractor who shall, within ten days from the date of such inspection, file a written report with either the police department or the fire department of the results of his or her inspection of the system, together with the finding of probable cause of the false alarms and the measures implemented to eliminate the same.

(c) *Defective alarms.* An alarm user shall immediately discontinue use of the alarm system upon being notified by either the chief of police or the fire chief, by regular mail, that the alarm is defective. No alarm user shall use an alarm after receiving notice from said chief that the alarm is defective and before the alarm is repaired.

(d) *Exceptions.* Alarm conditions caused by the following extenuating circumstances shall not constitute a false alarm and no false alarm fee shall be charged by the city:

(1) Alarm system malfunctions, if corrective measures have been instituted within 72 hours, with notification to either the police department or the fire department, provided that the alarm user presents documentation of repair service having been performed by the alarm company to remedy a malfunction;

(2) Alarm conditions activated by persons working on the alarm system with prior notification to either the police department or the fire department; or

(3) Alarms which can be substantiated as being activated by a disruption or disturbance of Michigan Bell Telephone Company facilities, motor vehicle-utility pole accidents or storm conditions.

(e) *Warning notice.* The police department or the fire department shall mail a false alarm notice to the alarm user following each false alarm occurrence indicating therein the appropriate warning or fee as prescribed by this article.

(Code 1989, § 804.06; Ord. No. 803, 12-7-1993)

Secs. 16-56—16-70. - Reserved.

ARTICLE IV. - EMERGENCY COST RECOVERY[4]

Footnotes:

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Editor's note— Ord. No. 1076, adopted Aug. 21, 2012, set out provisions intended for use as §§ 16-56—16-61. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as §§ 16-71—16-76.

Sec. 16-71. - Purpose.

The purpose of this article is to enable the city to require reimbursement from those responsible for (either intentionally, accidentally, or as a result of actions by others) or owning or controlling property affected by, the leaking, spilling, releasing or allowing certain hazardous substances or materials to escape containment, or for damaged and/or downed power lines, electric service lines, gas mains, gas service conduits, water mains, sanitary sewer mains, storm sewer mains, occupancy leads, telephone lines, cable television lines, traffic signals or signs; thereby requiring the city and/or its agents, to provide emergency containment, cleaning, and/or disposal of hazardous substances or materials, or for the

securing and prudent monitoring of the site of an accident or natural disaster, including those involving public or private utilities.

(Ord. No. 1076, 8-21-2012)

Sec. 16-72. - Definitions.

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

Accident, including *natural disaster* means an unforeseen or unexpected happening, occurrence or incident which of itself causes great harm or damage, or which creates the potential for great harm or damage to individuals and/or property, and which requires immediate and prudent securing and monitoring by the city, and/or agents of the city, to reduce the potential for such damage.

Dangerous or hazardous substances or materials means any substance (including gases or vapors) which if spilled, leaked, or otherwise released from its container, is dangerous or harmful to the environment or human or animal life, health, or safety, or otherwise constitutes a danger, threat or nuisance to the public health, safety or welfare. Hazardous materials shall include, but not be limited to, such substances as chemicals and gases, explosives, radioactive materials, petroleum or petroleum based products, poisons, biologic agents, flammable, combustibles, hazardous wastes, or corrosives. The chief of the fire department or the chief's designee, shall have reasonable discretion to determine whether any particular substance constitutes a hazardous material.

Emergency response means the providing, sending and/or utilization of public works, police, fire and/or rescue services by the city at an incident involving the release of a dangerous or hazardous substance or material, or an accident requiring immediate and prudent securing and monitoring by the city and/or agents of the city.

Expense of an emergency response means the direct costs incurred by the city after the first hour in making an appropriate emergency response to an incident or accident, including the costs of providing police, firefighting and rescue services, public works and/or other city personnel, or the services of other agents of the city, at the scene of an incident or accident, and related administrative costs.

Responsible party means any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity responsible for an incident or accident or any owner, tenant, occupant or party in control of real and/or personal property from which there is a public safety or fire emergency incident or accident and their heirs, estates, successors and assigns.

(Ord. No. 1076, 8-21-2012)

Sec. 16-73. - Duty to remove and clean up.

It shall be the duty of any person, firm, corporation, public or private utility, or any other entity directly or indirectly causing, contributing to, or allowing the leakage, spillage or any other release of dangerous or hazardous substances or materials, or owning or controlling property affected thereby or requiring the securing and monitoring of sites or locations of accidents and/or natural disasters, including downed power lines and electric service lines, ruptured gas mains, gas service conduits, water mains, occupancy leads, telephone lines, or cable television lines, to immediately secure, monitor, and clean up the area or location in such manner that the area or location involved is fully restored to the condition existing prior to such occurrence. The city shall have no duty to contain, cleanup or dispose of any release of hazardous substances or materials, or other materials, but in emergency situations the fire chief or chief of police, or their designees, shall have the authority to take whatever action is reasonably necessary to protect the health, safety, and welfare of the general public including securing and monitoring sites of accidents or providing for or arranging for the containment, removal or cleanup of any hazardous substances or materials. The city shall inspect the site to insure that cleanup has been fully completed.

(Ord. No. 1076, 8-21-2012)

Sec. 16-74. - Failure to remove and cleanup.

Any person or entity failing to comply with section 16-73, and/or where an emergency response is provided by the city, shall be liable to the city and shall reimburse the city for all costs and expenses, including the costs incurred by the city or any agents the city engages, for the complete abatement, cleanup, restoration and/or securing of the affected area.

(Ord. No. 1076, 8-21-2012)

Sec. 16-75. - Submittal of bill.

The department of finance shall, within ten days of receiving itemized costs incurred for an emergency response, submit a bill for the same by first class mail or personal delivery to any person or entity liable for these expenses as previously enumerated under this chapter. The bill shall require full payment within 30 days from date of billing.

(Ord. No. 1076, 8-21-2012)

Sec. 16-76. - Enforcement.

If any person or entity fails to reimburse the city as above provided, the city shall have the right to bring an action in the appropriate court to collect such costs. If such person or entity is the owner of real property affected or partially affected by the release of hazardous materials, or requiring emergency securement or monitoring, the city shall have the right to add any and all costs of clean up, restoration and/or of any emergency response as provided in this article, to the tax roll of such property 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.

(Ord. No. 1076, 8-21-2012)

Chapter 18 - ENVIRONMENT[1]

Footnotes:

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State Law reference— Natural resources and environmental protection act, MCL 324.101 et seq.

ARTICLE I. - IN GENERAL

Secs. 18-1—18-18. - Reserved.

ARTICLE II. - SMOKING[2]

Footnotes:

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State Law reference— Smoking in public places, MCL 333.12601 et seq.

Sec. 18-19. - Adoption of state law.

The state clean indoor air act, Public Act No. 198 of 1986 (MCL 333.12601 et seq.), is hereby adopted and incorporated in this article by reference as if fully set out at length herein.

(Code 1989, § 1870.01; Ord. No. 694, § 2-10-1987)

Sec. 18-20. - Enforcement.

In addition to enforcement procedures set forth in the Michigan clean indoor air act, Public Act No. 198 of 1986 (MCL 333.12601 et seq.), whenever voluntary compliance cannot be achieved, this chapter may be enforced by a code enforcement officer in the building department or a police officer with jurisdiction.

(Code 1989, § 1870.02; Ord. No. 694, § 2-10-1987)

Sec. 18-21. - Penalty.

In addition to any penalties set forth in the Michigan clean indoor air act, being Public Act No. 198 of 1986 (MCL 333.12601 et seq.), any person who violates any of the provisions of such act shall be found responsible for a municipal civil infraction and subject to a civil fine of not more than $100.00 for the first violation and not more than $500.00 for a second or subsequent violation.

(Code 1989, § 1870.99; Ord. No. 694, § 2-10-1987)

Secs. 18-22—18-45. - Reserved.

ARTICLE III. - NUISANCES[3]

Footnotes:

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State Law reference— Public health, MCL 750.466 et seq.; nuisance abatement, damages and expenses, MCL 600.2940; nuisances generally, MCL 600.3801 et seq.

Sec. 18-46. - Purpose.

The purpose of this article is to promote the public health, safety and welfare of residents of the city and to provide for the removal and abatement of unhealthy, noxious or dangerous substances, structures and conditions, at private expense.

(Code 1989, § 654.01)

Sec. 18-47. - Application of article.

Various nuisances are defined and prohibited in this and other articles of this Code. It is the intent of the council, in enacting this article, to provide for the abatement of any nuisance described herein and to

supplement other articles in which nuisances are defined and prohibited. The provisions of this article relating to the abatement of nuisances shall be an alternative to other methods and procedures for abatement as provided by statute, ordinance or common law and shall not limit or derogate such other methods and procedures.

(Code 1989, § 654.02)

Sec. 18-48. - 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:

Emergency situation means any situation involving a hazardous condition, nuisance or obstruction wherein there exists a reasonable possibility of imminent or immediate danger or harm to the public health, safety or welfare, or to any individual.

Enforcement official means the officer or employee of the city charged with the responsibility of enforcing any aspect of these codified ordinances with respect to the department, agency or division in which he or she is employed. Enforcement officials include, but are not limited to, the code enforcement officer, the health officer, the building official, the police chief and the fire chief.

Noxious weeds or plants means those weeds or plants defined as such by statute or established as such by resolution of the council.

Nuisance.

(1) The term "nuisance" means any public nuisance, known as such at common law or in equity jurisprudence, and whatever is dangerous to human life or detrimental to health. Further, the term "nuisance" means any condition or activity which is unwholesome, dangerous, offensive or unhealthy, which constitutes a menace to the health and safety of the public, or any structure which, due to a structural defect or dilapidation, has become dangerous to life or property.

(2) The term "nuisance" includes, but is not limited to:

a. Unsanitary disposal of litter, including garbage, waste, peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil of an unsightly or unsanitary nature, or anything else of an unsightly or unsanitary nature;

b. Unburied dead animals;

c. The accumulation of water causing mosquito or other vector breeding or proliferation;

d. Rodent or insect infestation;

e. The accumulation of bird excreta or animal feces creating an insect breeding site and/or attraction site for rats, rodents and insects; creating noxious or offensive odors; creating an annoyance or health hazards and/or harming or destroying the peaceful or healthful use of the property of all persons who can show a harmful effect;

f. The accumulation of bees, fowl, bats, wasps or other venomous pests or animals in such a manner as to create a condition that may be injurious to the public health or safety;

g. Hazards, such as open excavations, open wells, pits, trees or parts thereof in danger of falling on any street, sidewalk or portion of a public right-of-way, discarded refrigerators and freezers with doors attached, unsecured vacant structures or habitation for bats, wasps or other venomous pests, allowing bird infestation within a dwelling or bird roost conditions that are conducive to an unhealthful or disease-causing condition;

h. The growth of noxious weeds or plants which are about to spread or mature seeds;

i. A condition for which a correction order requiring immediate compliance has been issued pursuant to the fire prevention code;

j. Obstructions, as defined in this section;

k. A violation of section 28-112, pertaining to noise;

l. A violation of any of the provisions of article VIII of this chapter, and divisions 2 and 3 of article III of chapter 46, pertaining to sewers;

m. A violation of any of the provisions of article II of chapter 36, pertaining to collection and disposal;

n. A violation of any of the provisions of chapter 50 pertaining to zoning;

o. A violation of any of the provisions of article IV of chapter 10 pertaining to housing;

p. A violation of any of the provisions of article V of this chapter pertaining to littering;

q. A violation of any of the provisions of article VI of this chapter, pertaining to rodent control; and

r. An unreasonable creation of dust, smoke, fly ash or noxious odors, offensive or disturbing to adjacent property owners and residents of the area.

Obstruction means any structure, vessel, vehicle, tree, bush, shrub, hedge, vine or other plant growth or any other object, or any collection of debris, litter or other objects or substances, which endangers the public health or the safety of any person, or which constitutes an interference or hazard to the lawful use of the waters, railroads, streets, sidewalks or other public ways in the city.

Owner means and includes both the owner or part owner of property on which a nuisance is located, and the occupant or lessee of such property if the property is leased, where such occupant or lessee is responsible, in whole or in part, for creating or maintaining the nuisance. The legal owner of such property shall, in all events, be responsible for the cost of removing, repairing, abating or obviating such nuisance, and, where applicable, a lessee or occupant shall share mutual responsibility with the owner for such costs.

(Code 1989, § 654.03; Ord. No. 874, 5-19-1998; Ord. No. 1177, § 1, 10-15-2019)

Sec. 18-49. - Nuisances prohibited.

No person shall cause, harbor, commit or maintain, or suffer to be caused, harbored, committed or maintained, any nuisance, as defined by the statutes or by the common law of the state or as defined in this article or in any ordinance of the city, at any place within the city.

(Code 1989, § 654.04)

Sec. 18-50. - Inspections.

The enforcement official is hereby authorized to inspect occupied or vacant land or premises to ascertain the existence of nuisances on such land or premises. The enforcement official shall inspect the land or premises at reasonable daylight times in a reasonable manner and in compliance with all applicable provisions of law. If the owner or occupant of the land or premises refuses or denies access for such purpose, the enforcement official shall have recourse to every remedy provided by law to secure entry. If the condition that is believed to exist creates an emergency situation in that it imminently endangers human life or health, no search warrant shall be required.

(Code 1989, § 654.05)

Sec. 18-51. - Procedure for abatement of nuisances.

(a) *Commencement of proceedings.* If, at any time, the enforcement official finds that a condition exists or that a practice or activity is occurring in the city, which condition, practice or activity constitutes a nuisance, he or she shall commence proceedings to cause the abatement of such nuisance.

(b) *Notice of violation.*

(1) *Issuance.* The enforcement official shall issue a written notice to the persons responsible for the creation, commission or maintenance of such nuisance.

(2) *Content.* The notice shall describe in detail the location and nature of the nuisance and the corrective action to be taken to abate it. The notice shall specify a time limit for compliance with the order to abate such nuisance, which shall be a reasonable time, but not to exceed 15 days from the time the notice is served.

(3) *Service.* Notice shall be served upon any person entitled to notice by personal service or by first class mail, addressed to such person at his or her last known address, sent in an envelope containing thereon the return address of the enforcement official.

(c) *Failure to comply with notice; hearing by council.* If the person responsible for the creation, commission or maintenance of the nuisance neglects or refuses to take the steps required to abate the nuisance, the enforcement official shall file a copy of his or her findings and a copy of the order previously served to the council, requesting that necessary action be taken to abate the nuisance. The council shall fix a date for a hearing, which date shall not be later than ten days from the date the findings and order are filed with the council, and shall give notice to the person responsible for the creation, commission or maintenance of the nuisance of the time and place of the hearing. At the hearing the person responsible for the creation, commission or maintenance of the nuisance shall be given an opportunity to show cause why the nuisance should not be abated, and the council shall issue an order which either approves, disapproves or modifies the order for abatement of the nuisance.

(Code 1989, § 654.06)

Sec. 18-52. - Noncompliance with order of council; recourse of city.

(a) If the person responsible for the creation, commission or maintenance of the nuisance does not comply with the order for abatement of the nuisance issued by the council, within seven days of its issuance, the council shall forthwith direct the appropriate city officer to remedy the condition which is the subject of such notice.

(b) The expense, including the administration cost to the city, incurred by the city in so doing shall be a lien against the real property and shall be reported to the city assessor and the director of finance who shall assess the same against the property on which the nuisance was located.

(c) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If he or she fails to pay the same within 30 days after mailing by the city assessor and the director of finance of the notice of the amount thereof, the city assessor and the director of finance shall add the same to the next tax roll of the city and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by the city.

(d) Abatement by the city of any condition which constitutes a nuisance and reimbursement to the city of expenses incurred thereby shall not bar prosecution for maintenance of the nuisance.

(Code 1989, § 654.07)

Sec. 18-53. - Abandoned refrigerators and airtight containers.

No person shall leave outside of any building, structure or dwelling, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container of any kind which has an airtight snaplock or other locking device thereon, without first removing the snaplock or other locking device or the doors from such icebox, refrigerator or container.

(Code 1973, § 9.41; Code 1989, § 654.08)

State Law reference— Similar provisions, MCL 750.493d.

Sec. 18-54. - Excavations.

(a) No person owning and/or occupying land in the city shall permit any hole or excavation to remain upon such land without filling the same with sand or other suitable material approved by the city. No such person shall permit such hole or excavation to be filled with water or other substance that may become a health menace to the city or to any inhabitant near such excavation or hole.

(b) The city clerk shall give the owner or occupant of any land containing a hole or excavation notice to fill the same as required by subsection (a) of this section, and unless the nuisance created by such hole or excavation has been abated within 30 days after notice, such refusal to act upon the part of the owner or occupant of the premises shall constitute a violation of this section.

(Code 1973, §§ 5.282, 5.283; Code 1989, § 654.09)

Secs. 18-55—18-81. - Reserved.

ARTICLE IV. - WEED CONTROL AND REFUSE STORAGE[4]

Footnotes:

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State Law reference— Control and eradication of noxious weeds, MCL 247.61 et seq.

Sec. 18-82. - Duty to cut or destroy noxious weeds.

Every owner, possessor, occupant or person having charge of any land in the city shall cut or destroy, or cause to be cut or destroyed, all Canada thistles, milkweed, wild carrots, oxeye daisies, ragweed, goldenrod or other noxious weeds growing thereon, in such a manner as to effectively prevent such weeds from bearing seed or spreading to adjoining property, at least once a month between April 1 and October 31 in each year, and more often as may be necessary.

(Code 1989, § 1890.01)

Sec. 18-83. - Cutting by city.

If any person fails to comply with section 18-82 within the time specified, the city manager shall, through the proper department or agency of the city, cause all noxious weeds to be cut or destroyed upon the lands of the person not complying with such section.

(Code 1973, § 9.47; Code 1989, § 1890.02; Ord. No. 641, 7-5-1983)

Sec. 18-84. - Assessments; administrative fees.

A copy of a sworn statement, including an account of the costs incurred for cutting or destroying noxious weeds growing on lands in the city or for the costs incurred for the removal of refuse or debris lying on lands in the city, shall be transmitted to the director of finance. The director shall add to all such accounts so audited and allowed, over and above the actual charges for cutting, destruction and removal, administrative fees as currently established or as hereafter adopted by the city council from time to time for each cutting performed by the city or for each refuse or debris removal performed by the city. The total charges shall immediately constitute a lien and tax upon the land upon which such weeds were cut or destroyed or upon the land upon which such refuse or debris was removed. Within ten days after receipt of such report, the director of finance shall forward a statement of the total charges assessed on each parcel of property to the owner as shown by the last current assessment or tax roll. The assessment shall be payable within 30 days without additional costs. If the assessment is not paid within 30 days, a penalty of five percent shall be added, and the total amount of the assessment and penalty will be transferred or reassessed upon the next county tax roll. The director of finance shall, on or before October 10 of such year, prepare a report of all parcels of property upon which assessments have not been paid, and such unpaid assessments shall be reassessed upon the next county tax roll in a column headed "Weed and Refuse Ordinance Assessment," together with the penalty of five percent to cover the cost thereof. Such assessments, when reassessed upon the county tax roll, shall be collected and paid in all respects as provided for the collection of county taxes. When these assessments are collected they shall be paid into the city treasury to reimburse the outlay therefrom as hereinbefore provided.

(Code 1989, § 1890.03; Ord. No. 774, 12-3-1991)

Sec. 18-85. - Declaration of nuisance.

All weeds, grass, brush or uncontrolled tree growth, six inches or more in height, growing or lying upon any property in the city, and any rubbish, trash, concrete, junk, logs, old building materials, used appliances, used machinery, or parts thereof, or any other materials, refuse or debris, lying upon any property, either public or private, in the city, are hereby declared to be public nuisances. Every owner, possessor, occupier or person in charge of land in the city upon which such conditions or nuisances exist or are permitted to remain shall cause the same to be cut down, destroyed or removed in the same manner and within the time provided in section 18-82. However, rubbish, trash, concrete, junk, logs, old building materials, used appliances, used machinery, or parts thereof, or any other refuse or debris, must be removed within two days upon receipt of a notice given pursuant to section 18-86. If such owner, possessor, occupier or other person fails to do so, then the city manager, through the proper department or agency of the city, may enter the property and cause the same to be cut down, destroyed or removed in the same manner as provided in section 18-83. The director of finance shall collect such sums of money covering the cost and administrative fees thereof as provided in section 18-86.

(Code 1989, § 1890.04; Ord. No. 984, § 1890.04, 4-3-2007)

Sec. 18-86. - Notice.

The city clerk shall, on or before March 1 of each year, give notice of the requirements of this article by causing notice thereof to be mailed to every owner of vacant property in the city at the address shown on the current assessment roll by first class mail, or in lieu thereof, by publishing a notice thereof once a week for two successive weeks in a newspaper of general circulation in the city on or before March 1. Except in the case of refuse or debris which may be ordered removed at any time during the year, a two day notice of removal shall be sufficient if mailed in accordance with this section. Such notice shall be in substantially the following form:

_____

(letter)

Name and Address

Description

CITY OF EASTPOINTE

NOTICE OF PROVISIONS OF CODIFIED ORDINANCES

CONCERNING NOXIOUS WEEDS AND REFUSE

(publication)

TO ALL OWNERS, OCCUPANTS OR POSSESSORS OF VACANT PROPERTY:

(letter)

According to the assessment records of the City you appear to be the owner of the above described vacant property which is subject to the provisions of article IV of chapter 18 of the Code of Ordinances of Eastpointe.

(both letter and publication)

Notice is hereby given that in accordance with article IV of chapter 18 of the Code of Ordinances of Eastpointe all noxious weeds or other weeds, grass, brush or uncontrolled tree growth which is a height

of six inches or more, growing upon any property in the City, or any refuse or debris lying upon any property, shall be cut down, destroyed or removed, as the case may be, at least once a month between April 1 and October 31 in each year, and more often as may be necessary.	
If any owner, occupant or possessor fails or refuses to comply with such article IV of chapter 18 of the Code of Ordinances of Eastpointe, the City Manager shall, through the property department or agency of the City, cause such weeds, grass, brush, uncontrolled tree growth, rubbish or debris to be cut down, destroyed or removed. The actual expense incurred by the City in the cutting, destruction or removal of the same, plus administrative fees for each cutting performed by the City, will constitute a lien against the above described property and will be enforced as provided by law.	
Failure to comply with this notice may subject you to a fine of not more than $500.00 or imprisonment of not more than 90 days, or both, for each offense.	
	_____
	CITY CLERK

(Code 1989, § 1890.05; Ord. No. 742, 11-13-1989; Ord. No. 788, 8-25-1992; Ord. No. 984, 1890.05, 4-3-2007)

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Secs. 18-87—18-115. - Reserved.

ARTICLE V. - LITTERING[5]

Footnotes:

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State Law reference— Littering, MCL 324.8901 et seq.

Sec. 18-116. - 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:

Ashes means the residue from the burning of wood, coal, coke or other combustible materials.

Garbage means putrescible animal, fish, fowl, fruit and vegetable wastes resulting from the handling, preparation, cooking, storage and consumption of food. The term "garbage" also includes animal excrement.

Litter means any garbage, rubbish, ashes, waste material of any kind or other substance thrown, placed or allowed to remain on the ground, public streets, sidewalks or any public or private property, or in any other manner constituting a nuisance.

Refuse means all putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, street cleanings and commercial and industrial wastes.

Rubbish means nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible waste material resulting from housekeeping, business enterprises and institutions, and includes, among other items, paper, cardboard, packing boxes, cartons, excelsior, tin cans, bottles, glassware, earthenware, rubber, rags, wood, leather, grass, leaves, furniture, household appliances and other similar material.

(Code 1989, § 1840.01)

Sec. 18-117. - Litter control generally; use of receptacles.

(a) *Unlawful deposits; misuse of receptacles.* No person shall deposit or cause to be deposited any litter on any street, sidewalk, alley or other public or private property, except in accordance with subsection (f) of this section. No person shall deposit garbage, rubbish or other refuse in receptacles belonging to other persons or premises or in defective or illegal receptacles. No person shall disturb the contents of any refuse container or bundle of paper, cardboard, tree trimmings, etc., or leave the containers or contents in a condition other than as provided in this article or in article II of chapter 36, pertaining to collection and disposal.

(b) *Scattering newspapers, handbills, etc.* Public receptacles are for the use of pedestrians only and shall not be used by vendors or by occupants of adjacent premises. Newspapers, handbills and waste paper or other litter shall not be scattered or thrown upon public or private property but shall be deposited in private or public receptacles.

(c) *Injurious materials.* No person shall deposit, leave or allow to remain in any public street, alley or public place, or in any private place or premises, any glass, metal, stone, earthenware, tacks, nails, cinders, medicine, poisons or other substance of a nature likely to cause injury to children, travelers, pedestrians or animals or which might damage any vehicle. No person shall dispose of any medicine, drug or remedy containing a drug of any kind whatsoever, whether in a liquid, tablet, capsule, pill or other form, by throwing or placing the same in a trash container or other container, upon any street, highway, alley or public place or on any private property in the city. Medicines or poisons from domestic sources, hospitals, clinics, convalescent homes, nursing homes and similar sources shall be disposed of by flushing the same into a water closet or other fixture or otherwise disposed of in a manner acceptable to the health officer.

(d) *Maintenance of premises.* The owner or person in control of any premises, vacant or occupied, shall keep his or her premises, sidewalks and all adjoining public property between the center of the street and the center of the alley free of litter at all times. All litter removed shall be placed in proper containers or removed to an approved disposal location.

(e) *Removal or dumping of earth.* Earth or other materials shall not be placed on or removed from any premises unless the written permission of the owner of the land is obtained and exhibited on request of the enforcing officer by the operator of the vehicle used for loading, transporting or dumping such materials. Such permission shall be subject to zoning regulations and to the requirement that no nuisance shall be created.

(f) *Ice and snow.* When ice or snow has accumulated on sidewalks and it is impossible to remove the same by usual methods, salt, sand or sawdust shall be sprinkled in sufficient quantities to make such

sidewalks safe for use. The scattered materials must be cleaned off and disposed of as provided in this article immediately upon removal of the hazard.

(g) *Multiple dwellings.* In every multiple dwelling occupied by three or more families, in which dwelling the owner thereof does not reside, there shall be a responsible person designated as such by the owner. Such person and the owner shall be severally and jointly responsible for maintaining the entire premises, including the yards and one-half of the alley, street and any easement adjoining such dwelling, free of all litter.

(Code 1973, § 2.8; Code 1989, § 1840.02)

Sec. 18-118. - Littering public places; deposits and accumulations.

No person shall litter any of the streets, alleys, sidewalks or other public places in the city, by throwing, depositing, tracking, dropping, dumping or spilling any trash, paper, dirt, mud, ashes, sand, glass, leaves, garbage, debris or other materials thereon, or deposit or cause the same to be deposited upon, or permit the same to be accumulated upon, any premises other than those designated as official disposal sites.

(Code 1989, § 1840.03; Ord. No. 649, 5-8-1984)

Sec. 18-119. - Commercial and industrial waste.

No person shall discharge any commercial or industrial water or any polluted or contaminated waste upon the sidewalks, streets, alleys or gutters in the city at any time.

(Code 1989, § 1840.04; Ord. No. 649, 5-8-1984)

Sec. 18-120. - Sweepings onto public property.

No person shall sweep or cause to be swept any dirt or litter of any kind out of or off of any building or private property and into any public sidewalk, parkway, alley or roadway of the city.

(Code 1973, § 4.41; Code 1989, § 1840.05)

Sec. 18-121. - Deposit of grass clippings, leaves, etc.

No person shall place or cause to be placed in or on any public sidewalk, or on any pavement, gutter, drain, ditch, alley or roadway in the city, any grass clippings, leaves, lawn rakings, tree or bush trimmings, tree trunks, stumps, ashes, soil, dirt or household debris, unless specifically approved by the city clerk.

(Code 1973, § 4.42; Code 1989, § 1840.06)

Sec. 18-122. - Leaking vehicle loads.

No person shall drop, leave or scatter on any sidewalk, park, alley or roadway in the city any coal, sand, dirt, gravel, bricks, scrap materials or other materials that are being hauled or carried about in a truck, trailer, wagon, cart or other vehicle.

(Code 1973, § 4.43; Code 1989, § 1840.07)

Sec. 18-123. - Building construction operations.

(a) No person shall drive a truck or other commercial vehicle over any sidewalk or street curb for the purpose of delivering construction supplies or aiding in construction without first, by the use of planks or some other suitable material, reinforcing such sidewalk or curb in such a manner as will prohibit damage thereto.

(b) Before placing any construction material on any construction job, other than basement or foundation construction material, the basement shall be backfilled, the area graded to a rough grade, the excess dirt removed and the street and sidewalks cleaned.

(c) No dirt from a basement or sewer excavation shall be piled on city property. The sidewalk area shall be clear of all building materials during construction. Wherever necessary, the builder shall use cinders or aggregate to make a suitable pedestrian walk until permanent sidewalks are installed.

(d) Each and every inspector of the city is hereby authorized to place a stop order on any construction in the city upon which there is a violation of any of the provisions of chapter 10, pertaining to buildings and building regulations or this section.

(e) The inspector shall, immediately upon the issuance of such a stop order, notify the building department of the existence of such stop order and shall give the name and address of the builder or contractor involved. The building department shall not issue a building permit to the builder or contractor until notified by the inspector that the stop order is released.

(f) The builder, contractor, owner or occupant, or his or her employee, is hereby made chargeable under this section, and he or she shall see that no construction of any nature takes place during the time the stop order is in effect. His or her failure to prohibit such construction shall be a violation of this section.

(Code 1989, § 1840.08)

Sec. 18-124. - Enforcement.

(a) All code enforcement officers in the building department are hereby charged with the responsibility of enforcing the provisions of this article relating to littering and unlawful deposits and accumulations on private property, and, together with the police department or the city attorney, shall institute any appropriate action or proceeding in law or equity to prevent, restrain, correct or abate any violation of any of the provisions of this article. Should a code enforcement officer be required to enter upon any property or perform any special services to alleviate a violation of any of the provisions of this article relating to littering and unlawful deposits and accumulations on private property, he or she shall keep an accurate account of all expense incurred by the city with respect to such parcel of property, and such costs, together with overhead charges and penalties, shall constitute a lien upon such property as provided in section 36-24.

(b) All officers of the police department are hereby charged with the responsibility of enforcing the provisions of this article relating to littering and unlawful deposits and accumulations on public property and are authorized to issue violation tickets for any such violation.

(Code 1989, § 1840.09)

Secs. 18-125—18-146. - Reserved.

ARTICLE VI. - RODENT CONTROL

Sec. 18-147. - 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:

Building means any structure, whether public or private, that is adapted to or used for a multiple-dwelling occupancy, for the transaction of business, for the rendering of professional services, for amusement or for the display, sale or storage of goods, wares, merchandise, articles or equipment. The term "building" includes multiple dwellings, hotels, apartment houses, roominghouses, office buildings, public buildings, stores, theaters, markets, restaurants, grain processors, abattoirs, warehouses, workshops, garages, outhouses, sheds, barns and other structures or premises used as an accessory to dwelling or business purposes.

Food and*foodstuffs* mean and include, besides human food, grain and other feed for animals and fowl.

Occupant means the individual, partnership, corporation or public agency who or which owns, has the use of or occupies any building or part or fraction thereof, whether he, she or it is the actual owner or a tenant. In the case of vacant buildings or property or any vacant portion of a building or property, the owner or lessee shall have the responsibility of any occupant of a building.

Owner means the actual owner of the building, whether an individual, partnership, corporation or public agency.

Rat control means the distribution of rat poison, the setting of rat traps or such other methods as may be approved by the health officer.

Rat harborage means any condition under which rats may find shelter or protection.

Ratproof means a form of ratproofing that will prevent a rat from entering or leaving a given space or building or gaining access to food, water or harborage in occupied or unoccupied premises or on vacant land. It consists of the closing and keeping closed of every opening in all foundations, basements, cellars, exterior walls, ground or first floors, roofs, sidewalk gratings, sidewalk openings and other places that may be reached and entered by rats by climbing, burrowing or otherwise, and includes keeping all premises free of any condition likely to encourage rat harborage.

(Code 1989, § 1860.01; Ord. No. 688, 11-18-1986)

Sec. 18-148. - Rat harborage prohibited.

No owner or occupant of any premises in the city shall permit a condition of rat harborage or potential rat harborage to exist in any building or structure or on any occupied or vacant land. The presence of any rats in any building or structure or on any occupied or vacant land shall be prima facie evidence of a violation of this chapter and a violation of article III of this chapter, pertaining to nuisances.

(Code 1989, § 1860.02; Ord. No. 875, 5-19-1998)

Sec. 18-149. - Preventative measures.

All owners and/or occupants in the city, in order to prevent rat harborage, shall:

(1) Store and keep stored all garbage and debris on their premises inside, unless kept in metal or in ratproof containers with tightfitting lids which shall completely confine such garbage pending its removal. Such containers shall not be placed at the curb sooner than 4:00 p.m. on the day prior to collection. The containers shall conform to the type, size and number required by this Code;

(2) Maintain those portions of the building and premises under their control, keeping them free of the accumulation of trash, debris, rubbish and similar materials which may provide hiding places, nesting places or harborage for rats;

(3) Store and handle, in a manner approved by the city, all building materials, boxes, cartons, machinery, raw materials, fabricated goods, foods and/or foodstuffs and any other materials that might provide harborage and/or a food supply for rats;

(4) Store or pile neatly such material as firewood, coal, pipe, boxes, etc., above the ground at least eight inches with an open space underneath and in piles not higher than four feet above ground level. No such storage or piles shall be located in any front yard or required side yard;

(5) Keep all lots, vacant or occupied, as well as all buildings and structures, free of all litter, garbage and debris at all times;

(6) Elevate to a height of at least 48 inches above ground level all containers used for the feeding of wild birds or animals; and

(7) Wherever and whenever a rat infestation exists, immediately institute and regularly pursue a system of rat control on the premises by the poisoning, trapping or gassing of rats, or such other method as may be approved by the city, until the premises are reasonably free of rats as determined by inspection by the city.

(Code 1989, § 1860.03; Ord. No. 688, 11-18-1986)

Sec. 18-150. - Responsibility for ratproofing.

All buildings hereafter erected, altered, enlarged or repaired shall be made reasonably ratproof and maintained at all times in such condition in accordance with this chapter. Such maintenance shall be the responsibility of the owner and/or occupant, except that any contractor, public utility, person or individual who makes any alteration or repair to a building, who installs any wires, conduits or pipes, who makes other installations, or who, for any other reason, removes existing ratproofing and does not restore the same in a proper condition, or who makes or leaves openings by which rats may enter buildings from the ground or by climbing or burrowing, shall be deemed guilty of a violation of this article.

(Code 1989, § 1860.04; Ord. No. 688, 11-18-1986)

Sec. 18-151. - Inspections.

The city, through one of its designated departments, inspectors or employees, shall be authorized to inspect every reported rat-infested building, structure or vacant land to determine whether or not there is a rat harborage or infestation, and shall require the owner and/or occupant thereof to take particular steps or action to abate the same.

(Code 1989, § 1860.05; Ord. No. 688, 11-18-1986)

Sec. 18-152. - Food storage buildings.

No building or portion thereof shall be used as a place where food is stored, manufactured, prepared, sold or offered for sale unless it is free from vermin and rodents. In addition, no license shall be issued for the manufacture, preparation, sale or offering for sale of any food until the place where such business is to be conducted has been determined by the city to be of ratproof construction or to have been rendered ratproof.

(Code 1989, § 1860.06; Ord. No. 688, 11-18-1986)

Sec. 18-153. - Additional regulations.

The council may formulate and promulgate additional reasonable rules and regulations necessary to implement this article or to protect the public health, safety and welfare from rat harborage or infestation.

(Code 1989, § 1860.07; Ord. No. 688, 11-18-1986)

Sec. 18-154. - Notices of violations.

When any structure, building or vacant land is found to be in violation of this article, the owner and/or occupant shall be notified in writing and required to take corrective action immediately. Such notice may require the elimination of the violation within a specified period of time to be determined by any city authority charged with the enforcement of this article in light of the severity of the violation. Such notice may be posted in a conspicuous place or part of the building, structure or vacant land.

(Ord. No. 688, 11-18-1986)

Sec. 18-155. - Noncompliance with notice; abatement by city; costs.

Upon the failure of any owner and/or occupant to comply with the directives of any notice of violation issued by the city, the city or its authorized agent may enter upon the premises in violation and take whatever measures are necessary to remove the conditions or accumulations contributing to the violation and to exterminate or otherwise eliminate the rats. The costs incurred by the city for the same shall be billed to the owner of the property as listed on the last tax assessment roll. The bill shall be sent by first class mail to the address shown on the records. The property owner's failure to pay the same within 30 days of the assessment shall result in the city's adding the same to the next city tax roll, and the tax shall be collected in the same manner as provided by law for the collection of taxes by the city.

(Code 1989, § 1860.09; Ord. No. 688, 11-18-1986)

Sec. 18-156. - Enforcement.

This article will be enforced when reasonable concern exists that rodent infestation or the potential of rodent infestation is probable.

(Ord. No. 688, 11-18-1986)

Secs. 18-157—18-179. - Reserved.

ARTICLE VII. - TREES[6]

Footnotes:

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State Law reference— Municipal forests, MCL 324.32701 et seq.; box elder trees, female, as nuisance, MCL 124.151; cutting or destroying trees, MCL 247.241; malicious destruction of trees, MCL 750.382.

Sec. 18-180. - 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:

Parks means all public parks and land owned and maintained by the city.

Public property means any land currently held in public ownership by the city, regardless of size or dimensions, or any street right-of-way as determined by the city assessor.

Shrub means any plant material that at maturity is less than ten feet in height.

Street right-of-way means all of the publicly owned land lying between private property lines on either side of all streets, alleys, highways and boulevards in the city.

Tree means any shade or decorative tree that at mature growth exceeds ten feet in height, either annual or evergreen.

(Code 1973, § 3.21; Code 1989, § 1024.01; Ord. No. 954, 4-19-2005)

Sec. 18-181. - Penalty.

Imposition of any penalty for a violation of this article shall not be construed as a waiver of the right of the city to collect the costs of removal of a tree or parts thereof in accordance with the provisions of this chapter and the provisions of the city Charter in such case made and provided, where it is necessary for the city to remove such tree or parts thereof.

(Code 1973, § 3.39; Code 1989, § 1024.99)

Sec. 18-182. - Control of public trees.

The city shall have the power and control over the planting, removal, spraying, trimming, pruning, cultivation and preservation of all trees and shrubs on public parks, boulevards, highways, streets and other public grounds within the city limits.

(Code 1973, § 3.22; Code 1989, § 1024.02)

Sec. 18-183. - Permit—Required for operations on public grounds.

No person shall do or cause to be done any of the following operations on any public grounds within the city without first obtaining a written permit therefor from the city:

(1) Break, injure or remove any tree or shrub, or cut, disturb or interfere with any root of any tree or shrub;

(2) Spray any tree or shrub with any chemicals that would be injurious thereto;

(3) Fasten in any manner any rope, wire, sign or other device to any tree or shrub, or any guarding device on any tree or shrub, which device is hazardous to the public or injurious to the tree;

(4) Remove, injure or alter any guarding device placed on or about any tree or shrub;

(5) Close or obstruct any open space provided about the base of any tree or shrub to permit the access of air, water or protective and preventive chemicals to the roots of any tree or shrub; or

(6) Plant any tree or shrub either directly in the ground or in any form or planter box.

(Code 1973, § 3.23; Code 1989, § 1024.03)

Sec. 18-184. - Same—Fee; scope of.

The fee for the permit required by section 18-183 shall be in an amount as adopted by the city council from time to time. More than one operation may be included on each permit at the discretion of the city.

(Code 1989, § 1024.04)

Sec. 18-185. - Dangerous trees and shrubs as nuisance; abatement.

No person shall place or cause to be placed any tree or shrub in such a position as to be judged to be dangerous to the life, health, safety or property of the public. Such an offense shall be deemed to be a public nuisance. Notice shall be given to the person responsible for such nuisance of such a determination with a time allotment for the correction of the public nuisance. If such person fails to comply with the allotted time, the city shall correct such nuisance with the necessary financial reimbursement by the person involved.

(Code 1973, § 3.25; Code 1989, § 1024.05)

Sec. 18-186. - Planting and removal standards.

The following standards governing the planting and removal of trees and shrubs shall be enforced by the city. These standards shall be made available in written form with every permit issued. Any person who fails to comply with any of such standards shall correct the deficiency and effect compliance at his or her own expense:

(1) There shall be a minimum of 40 feet spacing between trees planted in the strip between the sidewalk and the curb on all public streets and highways.

(2) The types of trees to be planted between the sidewalk and the curb on all public streets and highways shall be of the recommended species for this area and climate as listed by the city.

(3) To be planted on public parks and boulevards, trees and shrubs shall be of the size and type as indicated in the beautification plan of the city.

(4) The city shall remove any tree or shrub on public property that is judged to be fatally diseased, dead or dying beyond renovation. Further, the city shall remove any tree that is deemed a public nuisance as set forth in section 18-185.

(5) The minimum sizes of trees for planting on public property shall be 2½ inches in diameter for shade trees and 1½ inches in diameter for ornamental trees, both measurements being taken on the trunk one foot above ground level. A description of ornamental and shade trees shall be as determined in the policy of the city.

(6) There shall be a minimum of 3½ feet of width between the sidewalk and the curb to allow the planting of any tree.

(7) Consideration as to the locations of public utilities, such as sewers, power and telephone lines, water lines and gas lines, must be made prior to the planting of any tree or shrub as set forth in the policy of the city.

(8) Any person who removes a tree from private property within the city shall be responsible for the complete removal and disposal of the stump, trunk, logs and branches, as contracted. Further, any person engaging in the removal, pruning or repairing of trees within the city must remove all debris, including soil, from the work site when the job is completed. Brush, limbs, trunks and logs from a diseased tree must be disposed of by burial at a point outside the city limits. It will not be the responsibility of the city to pick up brush, limbs, trunks, logs or any other part of a tree, shrub or plant, or any other materials left by a person for hire or a commercial operator, the same being the sole responsibility of such person for hire or commercial operator.

(9) Before any planting on public property, a permit must be obtained from the city.

(Code 1973, § 3.26; Code 1989, § 1024.06; Ord. No. 599, 5-27-1980; Ord. No. 954, 4-19-2005)

Sec. 18-187. - Protection of trees.

No person shall:

(1) Place salt, brine, oil or any other substance injurious to plant growth in any public grounds in such a manner as to injure any tree or shrub growing thereon, nor shall any person place any machinery giving off injurious fumes in a position to cause damage to any tree or shrub growing on public grounds.

(2) Knowingly permit any leak to exist in any gas line within the root zone of any tree or shrub growing on any public grounds.

(3) Plant, remove, prune, cut, break, deface, destroy, spray, or repair any tree or part thereof or interfere with, disturb or injure any tree growing upon any public property within the city.

(4) Place any chemical, either solid or fluid on or about any tree that is growing upon public property without first obtaining a permit from the city.

(5) Be permitted to hitch any animal to any tree nor fasten to, for the purpose of anchorage, any wire, rope, chain, or cable; nor shall any person nail, tie or in any way fasten any cards, signs, posters, boards or any other article on any tree on public property.

(6) Place or maintain upon the ground in any public place any stone, brick, sand, concrete, or other material or article which may injure or which may impede the movement of air, water or fertilizer to the roots of any tree, shrub or plant.

(7) No person shall excavate, erect, alter or repair any building or structure or perform other work without first placing or causing to be placed a guard, or other sufficient protection to prevent injury of the plant life, around all nearby trees, shrubs and plants in the street area, right-of-way or other public property.

(Code 1989, § 1024.07; Ord. No. 954, 4-19-2005)

Sec. 18-188. - Protection during building construction or repair.

(a) No person shall:

(1) Do any excavating within 15 feet of any tree or shrub growing on public grounds without first obtaining written permission therefor from the city; or

(2) Operate or cause to be operated any machinery, implements or tools in any manner as to cause damage to any tree or shrub growing on public grounds.

(b) In connection with the erection, alteration or repair of any building or other structure, the owner and the contractor shall be individually and jointly responsible for placing such guards around all nearby trees and shrubs in the public grounds, highways and parks, as will effectively prevent injury to such trees during the period of such construction.

(Code 1989, § 1024.08)

Sec. 18-189. - License required for tree pruning and removal; transferability; expiration.

Every person desiring to engage in the business of pruning, removing or repairing of trees within the city shall make written application to the city clerk for a license for that purpose. Licenses issued hereunder shall not be transferable and shall expire on December 31 subsequent to the date of issuance.

(Code 1989, § 1024.09; Ord. No. 599, 5-27-1980)

Sec. 18-190. - License plate and fees.

No person, licensed under section 18-189, shall use any vehicle in the conduct or maintenance of the business licensed under such section, unless such vehicle has placed upon it, in a conspicuous place, a plate furnished by the city clerk's office, identifying such vehicle as the vehicle of the licensee. The fee for such plate shall be in an amount as adopted by the city council from time to time and shall be paid annually. Trailers attached to vehicles equipped with such plates shall not be required to be equipped with such plates, but trailers attached to passenger vehicles shall be required to have a plate placed thereon.

(Code 1989, § 1024.10)

Sec. 18-191. - Diseased trees.

(a) *Infected trees.* Trees of all species and varieties infected with disease are hereby declared to be a public nuisance and shall be removed within 21 days following notification of the discovery of such infection. No person, being the owner of property whereon such a tree is situated, shall possess or keep such a tree after the expiration of 21 days following notification of the discovery of such infection.

(b) *Dead or dying trees as nuisance.*

(1) Trees or parts thereof located on private property, in a dead or dying condition that may serve as breeding places for tree diseases are hereby declared to be public nuisances, and no person owning property whereon said are located shall possess or keep them.

(2) Trees or parts thereof located on private property, in a dead or dying condition that are damaged beyond recovery or killed by contractors operating within the city, are hereby declared to be a public nuisance and shall be removed and disposed of within 21 days. Contractors shall immediately notify the director of parks and recreation of damage to trees on public property.

(c) *Notice.*

(1) The director of parks and recreation or his or her designate, upon discovering infected trees as herein described on private property, shall give to the owner where such trees or parts thereof are situated, written notice of the existence of such disease, and require the removal of such tree or trees or parts thereof within a period of 21 days following such notice, such removal to be under the direction and supervision of the director.

(2) Such notice shall also notify the owner of such premises that unless such tree or trees or parts thereof are removed in compliance with the terms thereof within such 21 day period, the city will proceed with the removal of such tree or parts thereof and assess the cost thereof against the property on which they were situated.

(d) *Service of notice.* Service of such notice shall be by personal service, certified mail, addressed to such owner at his or her last known address as shown in the records in the office of the city assessor, or by posting such notice on the property.

(e) *Right of entry.* The director of parks and recreation or his or her designate is hereby charged with the enforcement of this section and to that end may enter upon private property at all reasonable hours for purposes of inspecting trees thereon and may remove such specimens as are required for purposes of analysis to determine whether or not the same are infected. No person shall prevent any employee or agent of the city from entering on private property for the purpose of carrying out his or her duties

hereunder or interfere with such city employee or agent in the lawful performance of his or her duties under this chapter. The city employee or agent shall carry his or her official identification card while on duty and present the same when necessary to identify himself or herself in the performance of his or her duties.

(f) *Removal of private trees.* After service of the notice referred to in subsection (c) of this section, it shall become the duty of the owner of such premises to cause such tree or parts thereof to be removed under the direction and supervision of the director of the department of parks and recreation or his or her designate. In lieu thereof, the person charged with such removal may request that the same be done by the city. If the city removes any tree or parts thereof, the director of the department of parks and recreation or his or her designate shall keep an accurate account of all expense incurred in connection therewith and shall forward to the director of finance a statement of all costs incurred on each of the several descriptions or parcels of property entered upon in carrying out the provisions of this chapter. Such total charges shall immediately constitute a lien upon the property upon which such tree or parts thereof were removed. Within 21 days after receipt of such report, the director of finance shall forward a statement of the total charges assessed on each parcel of property to the owner as shown by the last current assessment or tax roll and such assessment shall be payable within 30 days without additional costs. If such assessments are not paid within 30 days, a penalty of five percent shall be added, and the total amount of assessments and penalty will be transferred or reassessed upon the next county tax roll. The director of finance shall, on or before October 10 of such year, prepare a report of all parcels of property upon which such assessments have not been paid and such unpaid assessments shall be reassessed upon the next county tax roll in a column headed "Diseased Tree Ordinance Assessment," together with the penalty of five percent to cover the cost thereof. Such assessments, when reassessed upon the county tax roll, shall be collected and paid in all respects as provided by law for the collection of county taxes.

(g) *Removal of public trees.* Trees on public lands within the city shall be removed at the expense of the city.

(Code 1989, § 1024.11; Ord. No. 954, 4-19-2005)

Sec. 18-192. - Vandalism; damaged tree or shrub.

(a) *Vandalism.* Any person apprehended causing damage or destruction of trees or shrubs on public property shall be held financially and legally responsible for the replacement or repair and all related costs of repair thereof.

(b) *Damaged tree or shrub.* If a tree or shrub is damaged or destroyed by a vehicle accident, the responsible party shall be held legally and financially responsible for the removal, replacement and repair.

(1) The appraised market value will be determined upon investigation by the city in accordance with the International Society of Arboriculture Guide for Plant Appraisal and the state tree evaluation supplement.

(2) Upon failure of a responsible party to reimburse the city through regular procedure and channels, the city has the option of levying a special assessment against the responsible party or pursuing the matter in a court of law.

(3) Shall the party responsible for damage or destruction of a tree or shrub not be apprehended, there shall be no obligation by the city to replace the plant material in question.

(Code 1989, § 1024.12; Ord. No. 954, 4-19-2005)

Sec. 18-193. - Promulgation of additional rules and regulations.

The city may, subject to the approval of the city council, promulgate additional rules and regulations pertaining to the removal, care, maintenance or protection of trees, as may be necessary to protect the property, health or safety of the public.

(Code 1989, § 1024.13; Ord. No. 954, 4-19-2005)

Secs. 18-194—18-211. - Reserved.

ARTICLE VIII. - STORMWATER[7]

Footnotes:

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Charter reference— Sewers and drains, ch. X, § 7 et seq.

Sec. 18-212. - 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:

Agent means the county health department.

Building means any structure, including a mobile home, that requires a supply of potable water and/or a means of disposal of wastewater.

Building drain means the drainage water pipes in a building which convey roof drainage, footing drainage water or stormwater to the building service drain, located five feet (1.52 meters) outside the outer face of the building.

Building service drain means any drainage water pipe extension from a building drain outlet point, located five feet (1.52 meters) outside of a building, to a point of connection with a public drain or with any private drain upstream from a public drain.

Building service sewer means the sewer extension from a building sewer outlet point, located five feet (1.52 meters) outside of a building, to a point of connection with a public sanitary sewer.

Building sewer means that part of the lowest horizontal piping of a building plumbing system that receives the sanitary sewage from pipes inside the walls of the building and conveys it from the building to the building service sewer, located five feet (1.52 meters) outside of the outer face of the building.

Combination sewer or *combined sewer* means a sewer receiving both surface runoff and sewage.

Drain or *storm drain* means a watercourse, ditch, drainage swale or pipe intended for the conveyance of drainage water.

Drainage system means any part, or all, of the property, structures, equipment, drains, watercourses, materials and appurtenances used in conjunction with the collection and disposal of drainage water.

Drainage water means stormwater, subsurface groundwater, melting snow or ice, roof and/or other surface water runoff or unpolluted water.

Public sewer means any pipe used to convey wastewater from homes or other establishments. The term "public sewers" shall include public combined sewers and/or public sanitary sewers.

User means the owner or occupant of any premises connected to and/or using any of the facilities operated by the department of water and sewers.

Wastewater or *sewage* means spent water which may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, institutions or other uses, including drainage water inadvertently present in said waste.

Wastewater disposal outlet means the point of connection with the public sanitary sewer.

Wastewater system or *sewer system* means any part, or all, of the property, structures, equipment, sewers, materials and/or appurtenances used in conjunction with the collection and disposal of wastewater.

(Code 1989, § 1044.01; Ord. No. 832, 6-20-1995)

Sec. 18-213. - Discharge of roof water.

No owner, lessee or occupant of any building in the city shall construct, maintain or use such building, or the water drainage facilities thereof, so as to discharge or permit the discharge of water from the roof of such building into any public sewer within the city, either by direct connection therewith or by connection with and through the basement drain or building footing drainage line thereof. Compliance with this section shall consist of no connection between the roof gutter and the public sewer. The roof gutter disconnection shall be accomplished by constructing a complete permanent waterproof sealing of the cast iron or crock connection. The seal shall be made with a caulked cast iron plug or cement joint.

(Code 1989, § 1044.02; Ord. No. 832, 6-20-1995)

Sec. 18-214. - Unlawful connections and discharges; backfilling and grading to facilitate drainage from buildings.

(a) No person shall make connections of roof downspouts, foundation or footing drains, areaway drains or other sources of surface runoff and/or ground water, to a building sewer or building service sewer which in turn is connected directly or indirectly to a public sewer.

(b) All new basement excavations and/or excavations for foundation walls for a building served by a public sewer shall be backfilled upon completion of the construction of basement walls or other foundation walls. The earth surface surrounding such wall shall be graded so as to direct the drainage water away from such walls to a point of disposal. The building contractor shall provide means to ensure drainage away from the building during all stages of construction, and the owner shall maintain such drainage during all times that the building is connected to a public sewer.

(c) All buildings connected to a public sewer shall be equipped with adequate eavestroughs, gutters, downspouts and similar connections so as to discharge stormwater at least five feet (1.52 meters) perpendicularly away from all building walls. If stormwater is discharged on the surface of the ground or on the surface of the sidewalk or driveway, said ground or surface shall slope away from the building so that the surface water will be effectively disposed of away from the building. During states of construction of the building, temporary downspouts and connections thereto directing the stormwater away from the building shall be provided, if necessary.

(d) Changes of existing building drainage to conform to this section, and the costs of effecting the same, shall be the joint responsibility of the owner, lessee and/or occupant, and the continuation of drainage contrary to this section is hereby decreed to be a public nuisance to be abated in the manner set forth in this article.

(e) All drainage water and uncontaminated water shall be discharged into public drains or watercourses.

(f) No sanitary sewage, industrial sewage, polluted water or wastes of any kind, solid or liquid, shall be discharged into a public drain or watercourse.

(Code 1989, § 1044.03; Ord. No. 832, 6-20-1995)

Sec. 18-215. - Stormwater from parking areas and yards.

Stormwater from parking areas and yard areas shall not be connected and run into sewers except for those connections whose plans are approved by the city director of water and sewers and/or the city engineer.

(Code 1989, § 1044.04; Ord. No. 832, 6-20-1995)

Sec. 18-216. - Dispersal of roof water.

The owner, lessee and occupant of any premises now constructed shall disconnect any existing water drainage connections, so that water falling on the roofs of buildings shall not be conducted directly into the public sewers and shall not be conducted into any connecting basement drain or house footing drainage line therefor. Such roof drainage shall be permitted to flow upon the ground in such manner as to reach the public sewers or drains by ground surface drainage as slowly as possible, and, whenever possible, shall not be directed over or upon the adjoining property.

(Code 1989, § 1044.05; Ord. No. 832, 6-20-1995)

Sec. 18-217. - Responsibility for changing drainage; violations as nuisance.

Changes of existing building drainage to conform to this chapter shall be the joint responsibility of the owner, lessee and/or occupant, and the continuation of drainage contrary to the provisions of sections 18-213 through 18-216 is hereby decreed to be a public nuisance to be abated in the manner set forth in this article.

(Code 1989, § 1044.06; Ord. No. 832, 6-20-1995)

Sec. 18-218. - Violations.

(a) *Notice to cease violation.* Any person found to be violating any provision of this chapter shall be served by the city with written notice stating the nature of such violation and providing 45 calendar days for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, take such corrective action as may be necessary.

(b) *Civil liability.* Whoever violates or fails to comply with subsection (a) of this section shall be liable to the city for any expense, loss or damage occasioned to the city by reason of such violation or noncompliance, and recovery therefor may be had in an appropriate action in any court of competent jurisdiction. Such liability shall be in addition to the penalty provided in section 1-15.

(c) *Abatement of nuisance.* Any continued violation, after due notice as provided in subsection (a) of this section, shall be deemed a public nuisance and may be abated by suit by the city in any court of competent jurisdiction. This remedy shall be in addition to that provided for in subsection (b) of this section and section 1-15.

(Code 1989, § 1044.07; Ord. No. 832, 6-20-1995)

Secs. 18-219—18-244. - Reserved.

ARTICLE IX. - SOIL REMOVAL[8]

Footnotes:

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State Law reference— Soil erosion and sedimentation control, MCL 324.9101 et seq.; soil conservation districts law, MCL 324.9301 et seq.

Sec. 18-245. - Removal prohibited.

No person shall remove topsoil from any lot or premises in the city, except such as may be necessary for the excavation of a basement for the construction of a house. No person shall remove topsoil from one lot or other premises in the city for the purpose of filling any other lot in the city or any other place.

(1973 Code, § 5.281; Code 1989, § 1468.01)

Chapter 19 - FARMERS' MARKET[1]

Footnotes:

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Editor's note— Ord. No. 1061, adopted Apr. 17, 2012, set out provisions intended for use as §§ 33-1—33-28. For purposes of alphabetization, and at the editor's discretion, these provisions have been included as §§ 19-1—19-28.

ARTICLE I. - IN GENERAL

Secs. 19-1—19-18. - Reserved.

ARTICLE II. - FARMERS' MARKET

Sec. 19-19. - 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:

Farmers' market means a place where fresh foods and articles from a defined local area are sold by the people who have grown, gathered, raised or created them.

(Ord. No. 1061, 4-17-2012)

Sec. 19-20. - Permit required.

No person shall operate a farmers' market without first obtaining a valid permit issued by the city pursuant to this article.

(Ord. No. 1061, 4-17-2012)

Sec. 19-21. - Permit applications.

Any person desiring to operate a farmers' market shall file a written application with the city clerk, on a form to be furnished by the city clerk. Said application shall be subject to the review of the building

official who shall forward his/her recommendation to the city manager. The city manager shall review and make final determination on the application. All persons desiring to sell foods or articles at a farmers' market shall be required to complete a registration form which shall be filed with the city clerk and subject to the approval of the city manager.

(Ord. No. 1061, 4-17-2012)

Sec. 19-22. - Market manager.

Farmers' markets shall be under the supervision and control of the city manager who shall also serve as the market manager. The market manager, or his/her designee, shall be responsible for the cleanliness of a farmers' market and for the enforcement of the provisions of this chapter, the market operating rules, and other provisions of this chapter pertaining to the operation of a farmers' market. The market manager, or his/her designee, shall attend the market during all hours during which the same is open, he/she shall see that no violations of rules or regulations are practiced by buyers or sellers, and he/she shall have authority to direct the arrangement of stalls and vehicles.

(Ord. No. 1061, 4-17-2012)

Sec. 19-23. - Market days.

A farmers' market shall be open at such times as prescribed by the market operating rules, which shall be approved by the market manager or his/her designee.

(Ord. No. 1061, 4-17-2012)

Sec. 19-24. - Persons who may use.

(a) A farmers' market authorized by this chapter may be occupied by persons who are offering for sale articles of their own raising or production. Any persons deemed qualified to be vendors at the market may offer for sale and sell articles of their own production or raising and may do so either personally or by or through any member or members of their families, regular employees, or a member or members of the vendor's business corporation or partnership, so long as the family member, employee or business member is an active participant in the vendor's business. The qualifications of any person offering any article for sale shall be determined by the market manager in accordance with the market operating rules. Vendors or vendor applicants may appeal the decision of the market manager to the city council as provided in the market operating rules.

(b) The market may also be occupied by charitable, educational, or community service organizations. Any such organization desiring to use the market shall first make application to the market manager specifying the name of the organization, the purpose of the organization, the proposed activity at the market, and such other information as required by the market operating rules. Any organization desiring to use the market for charitable purposes shall, in addition to complying with the chapter, comply with all other city requirements concerning charitable solicitations.

(Ord. No. 1061, 4-17-2012)

Sec. 19-25. - Restrictions.

(a) No vendor shall sell, order, or expose for sale any unwholesome or spoiled product or provision of any kind in said market.

(b) No vendor shall attract attention to their articles, goods, wares, or merchandise, or to any other service or activity, by outcry in a loud and annoying manner.

(c) No vendor shall occupy any stall in which goods are to be sold without first obtaining a Michigan sales tax license or any other licenses required by law or the market operating rules for the current year. No vendors shall fail to display prominently the number of such sales tax license in any location or stall on said market occupied by them.

(d) No vendor shall permit any refuse, garbage, or trash of any kind to remain on or near their stall or location after the closing hour of any market day.

(Ord. No. 1061, 4-17-2012)

Sec. 19-26. - Stall assignments.

(a) A stall fee shall be charged for each stall on said market, the amount thereof to be determined by the market manager or his/her designee, and subject to approval by the city council. Stall assignments are subject to the review and recommendation of the building department and final approval by the market manager or his/her designee.

(b) Fees for regular assignment of stalls shall be paid in full on or before July 1, or by an earlier date if so designated by the market operating rules. Application for stall assignment must be made on or before June 1, or by an earlier date if so designated by the market operating rules. Failure to pay the amount due for any stall when due shall constitute a forfeiture of previous payments and of all rights to the stall assigned and such stall may be reassigned to another applicant.

(Ord. No. 1061, 4-17-2012)

Sec. 19-27. - Responsibility of stallholders.

Each vendor or business assigned to any stall or location at a farmers' market shall be responsible for the same and no such stallholder shall permit any violation of this chapter at such stalls or locations, nor shall they sublet their location or stall to any other vendor or business. No vendor or business shall transfer seniority rights for a stall or stalls except as permitted under the market operating rules.

(Ord. No. 1061, 4-17-2012)

Sec. 19-28. - Market operating rules.

The market manager or his/her designee may promulgate market operating rules relating to the operation and management of a farmers' market to facilitate the administration of this chapter, not inconsistent with any laws, the city charter, or ordinance. The operating rules shall take effect in 30 days after they are filed with the city clerk, unless the city council acts by resolution to change or amend the operating rules.

(Ord. No. 1061, 4-17-2012)

Chapter 20 - FIRE PREVENTION AND PROTECTION[1]

Footnotes:

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Charter reference— State fire wardens, ch. III, § 31; fire chief, ch. III, § 33; volunteer firemen, ch. IX, §§ 13, 14.

State Law reference— State fire prevention code, MCL 29.1 et seq.; explosives act, MCL 29.41 et seq.; arson and burning, MCL 750.71 et seq.; crimes related to fires, MCL 750.240 et seq.; crimes related to explosives and bombs, MCL 750.200 et seq.

ARTICLE I. - IN GENERAL

Secs. 20-1—20-18. - Reserved.

ARTICLE II. - FIRE CODE

Sec. 20-19. - Adoption by reference of International Fire Code.

Pursuant to section 3(k) of Act 279 of the Public Acts of 1909, as amended, it is hereby adopted by and for the city, the 2015 International Fire Code as published by the International Code Council. All applicable codes as referenced, including the appendix chapters, by the 2015 International Fire Code are also adopted. These codes are adopted for the purpose of safeguarding life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

(Code 1989, § 1610.01; Ord. No. 975, § 1610.01, 8-1-2006; Ord. No. 1048, 9-6-2011; Ord. No. 1185, 4-7-2020)

Sec. 20-20. - References in codes.

Wherever the term "municipality" is used in the codes adopted by reference in section 20-19, it shall mean the City of Eastpointe, and wherever the term "corporation counsel" is used in such codes, it shall mean the city attorney.

(Code 1989, § 1610.03; Ord. No. 742, 11-13-1989; Ord. No. 788, 8-25-1992)

Sec. 20-21. - Application of standards.

The provisions of the codes adopted by reference in section 20-19 and supplementary rules and regulations shall apply equally to both public and private property. They shall apply to all new structures and their occupancies, including buildings, structures and equipment, and, except as otherwise specified, to existing structures and their occupancies, including buildings, structures and equipment, which constitute a clear and present hazard to life or to property.

(Code 1989, § 1610.04)

Sec. 20-22. - Modifications.

The fire chief or fire marshal shall have the power to modify any of the provisions of the codes adopted by reference in section 20-19, upon application by the owner or lessee or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of such codes, provided that the spirit of such codes shall be observed, public safety secured and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the fire chief or fire marshal thereon shall be entered upon the records of the fire department and a signed copy shall be furnished the applicant.

(Code 1989, § 1610.05)

Sec. 20-23. - Appeals.

Whenever the fire chief or fire marshal disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the codes adopted by reference in section 20-19 do not apply or that the true intent and meaning of such codes have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the fire chief or fire marshal to the council within 30 days from the date of the decision appealed.

(Code 1989, § 1610.06)

Sec. 20-24. - Violations.

No person shall violate or fail to comply with any of the provisions of the codes adopted by reference in section 20-19, or any rule or regulation supplementary thereto, or any order made thereunder, or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or in violation of any certificate or permit issued thereunder.

(Code 1973, § 9.207; Code 1989, § 1610.07)

Secs. 20-25—20-51. - Reserved.

ARTICLE III. - FIRE EXTINGUISHERS

Sec. 20-52. - Registration requirements.

(a) No person in the business of recharging, servicing and/or maintaining portable fire extinguishers, dry chemical extinguishing systems and/or wet chemical extinguishing systems shall service, install, recharge or maintain the same in the city until such person has first registered with and obtained a permit from the city.

(b) A person servicing portable fire extinguishers, dry chemical extinguishing systems and/or wet chemical extinguishing systems, by recharging, servicing and/or maintaining the same, shall provide the city with the following information:

(1) The name, address and telephone number of such person.

(2) The name and title of the officer in charge and the officer's business telephone and address.

(3) A list of the names and addresses of all employees that will be servicing portable fire extinguishers in the city.

(4) Copies of documents indicating proof of training in proper procedures for maintaining and recharging portable fire extinguishers and automatic systems, and a statement of qualifications for each employee who will be recharging, servicing and/or maintaining portable fire extinguishers in the city. The fire marshal shall determine whether the extent and type of training is acceptable.

(c) At the time of filing a registration application, the applicant shall be required to attach a certificate of liability insurance with a paid receipt for said insurance. That insurance is subject to the city attorney's approval.

(Code 1989, § 822.01; Ord. No. 804, 12-7-1993)

Sec. 20-53. - Application for registration permit; issuance; term.

(a) *Application; fire extinguisher training required.*

(1) All persons or firms for which a registration permit is required under this article shall submit an application for a registration permit with the city clerk prior to commencing operation in the city and, thereafter, shall file a new application for a registration permit on or before January 1 of each year. The fire marshal, the city clerk or their designated representatives shall approve the issuance of a permit when all of the information provided in the registration application meets with their approval. Once a registration permit is issued, that permit shall be effective from the date of issuance until December 31 of the same year.

(2) The fire marshal or his or her designated representative shall determine whether employees of the person have received adequate training in proper procedures for portable fire extinguisher maintenance and recharging, and automatic systems maintenance and recharging. If, in the opinion of the fire marshal or his or her designated representative, any employee has not received proper training, the permit shall exclude that employee.

(b) *Permit not transferable.* All permits issued under this article shall name a specific person and shall not be transferable to any other person whether related or unrelated.

(c) *Registration fee.* The council shall set the amount of the registration fee.

(Code 1989, § 822.02; Ord. No. 804, 12-7-1993)

Sec. 20-54. - Portable extinguishers.

(a) Minimum equipment, facility requirements, exceptions.

(1) Each firm engaged in the business of servicing portable fire extinguishers shall meet the following minimum equipment and facility requirements:

a. CO_2 receiver or cascade system for proper filling of CO_2 extinguishers.

b. Adequate hydrostatic test equipment for low-pressure cylinders.

c. Approved drying method for low-pressure cylinders after hydrotest.

d. Adequate safety cage (in shop) for hydrostatic testing of low-pressure cylinders.

e. Proper wrenches with nonserrated jaws or valve puller, hydraulic or electric.

f. Adequate inspection light for internal inspection.

g. Low-pressure hydrostatic test labels containing the information described in section 1-12.2(c) of the National Fire Protection Association 10 Standard for Portable Fire Extinguishers, the latest edition.

h. Halon 1211 supply, filling equipment and closed recovery system.

i. Accurate weighing scales for extinguisher inspection and filling.

j. Accurate weighing scales for cartridge inspection and filling.

k. Adequate vise for shop use.

l. Facilities for proper storage and adequate supply of extinguisher agents.

m. Equipment for leak testing of pressurized extinguishers.

n. Commercial dry nitrogen supply (minus 60 degrees Fahrenheit (- 51.1 Celsius) dew point or less) and pressure regulator with supply and regulated pressure gauges suitable for pressurizing portable fire extinguishers.

o. Adapters, fittings and sufficient tools and equipment for properly servicing and/or recharging all extinguishers being serviced and recharged.

p. Adequate closed recovery system and storage to remove and store chemicals from extinguisher cylinders during servicing.

q. Adequate inventory of spare parts.

r. Manufacturer service and maintenance manuals.

(2) Exception No. 1. Firms shall provide service only for those types of extinguishers for which they have suitable equipment and parts.

(3) Exception No. 2. Firms that do not perform low-pressure hydrostatic testing are not required to have hydrostatic test equipment or labels.

(b) Required equipment for high-pressure hydrostatic testing.

(1) The requirements provided in subsection (a) of this section are minimum equipment and facility requirements for a permittee. If high-pressure hydrostatic testing is performed, the following additional equipment is required:

a. DOT or CTC approved hydrostatic test equipment for high-pressure testing and calibrated cylinder.

b. Adequate equipment for stamping test date on high-pressure cylinders (over 500 psi (34.45 bars)). Die stamps must be a minimum of one-fourth of an inch (6.34 mm).

c. Approved drying method for high-pressure cylinders after static hydrostatic test.

(2) Exception. Firms that do not perform hydrostatic tests are not required to have hydrostatic test equipment.

(c) A firm that performs hydrostatic tests on high-pressure cylinders must submit a copy of its DOT or CC approval and renewals to the fire marshal.

(d) The recharging, servicing and/or maintaining of portable fire extinguisher equipment shall be as specified in N.F.P.A. 10 Standard for Portable Fire Extinguishers, (latest edition), except as modified below:

(1) Record labels; requirements. A new record tag shall be attached to the extinguisher when a new extinguisher is put into service or each time service is performed. The following information shall be recorded on a record tag:

a. The name or initials of the person who serviced the extinguisher.

b. An indication of the type of service performed.

c. An indication of the type of extinguisher involved.

d. An indication of the month and year that the service was performed.

e. The words "Do Not Remove."

f. The name, street address and phone number of the firm performing the service.

(2) Six-year maintenance labels; requirements. Each six-year maintenance shall be recorded on a record tag consisting of a metallized decal which shall be affixed on the exterior of the extinguisher shell. The tag shall contain the following information:

a. The year and month that the six-year maintenance was performed.

b. The name of the firm and the initials of the person performing the maintenance.

Any six-year maintenance tag previously attached to an extinguisher shall be removed prior to affixing a new tag.

(3) Test pressure labels; requirements. When a low-pressure hydrostatic test is performed, it shall be recorded on a record label consisting of a metallized decal which shall be affixed on the exterior of the extinguisher shell. The record label shall contain the following information:

a. The year and month that the test was performed, and the test pressure.

b. The name of the firm and the initials of the person performing the testing.

Any test labels previously attached to an extinguisher shall be removed prior to affixing a new label.

(4) Internal identification; requirements.

a. In addition to any other tag required by this article, an internal service tag shall be provided each time an extinguisher is opened up for any type of maintenance or for any purpose. The following types of extinguishers are exempt from this requirement:

1. Carbon dioxide;

2. Halogenated agents;

3. Dry chemical external cartridge-operated types; and

4. Extinguishers containing water or water-type solutions.

b. Internal service tags shall bear the following information:

1. The name or initials of the person who performed the service.

2. The month and year that the service was performed and the name of the firm performing the service.

c. A new internal tag shall be provided for an extinguisher each time a six-year maintenance or hydrostatic test is performed.

d. Internal service tags shall be affixed in the following manner:

1. Any tag previously attached shall be removed prior to affixing a new tag.

2. The area to which the tag is to be adhered shall be cleaned to remove all residue of any kind, including old adhesive from a previously attached tag.

3. The tag shall be placed within one inch (25.4 mm) of the top of the siphon tube below the valve assembly.

4. The adhesive side of the center point of the tag shall be tightly adhered against the tube.

5. The tag shall be pressed and adhered solidly around the tube and the writing must remain visible at all times.

e. Any other method of internal identification approved by the fire marshal shall be acceptable.

(Code 1989, § 822.03; Ord. No. 804, 12-7-1993)

Sec. 20-55. - Automatic dry chemical and/or wet chemical systems.

Each firm engaged in the business of recharging, servicing and/or maintaining of automatic dry chemical and/or wet systems shall comply with all requirements of N.F.P.A. pamphlets 12, 12A, 13, 13A, 15, 16, 17, 17A and 25.

(Code 1989, § 822.04; Ord. No. 804, 12-7-1993)

Sec. 20-56. - Grounds for denial or revocation of permits.

Registration permits required under this chapter may be denied or revoked by the fire marshal or his or her delegated representative at any time for any of the following causes:

(1) Fraud, misrepresentation or false or incomplete information contained in the application for a permit.

(2) Fraud, misrepresentation or false statements made in the operation of the business.

(3) Any violation of this article and the standards which it adopts by reference.

(4) Conducting the business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or welfare of the public.

(5) The failure or inability of an applicant to meet and satisfy the requirements of the provisions of this article and the standards which it adopts by reference.

(Code 1989, § 822.05; Ord. No. 804, 12-7-1993)

Sec. 20-57. - Written notice of revocation intent.

Written notice of intent of revocation stating the cause thereof shall be delivered to the permittee by certified mail to the business address stated in the application for the registration permit.

(Code 1989, § 822.06; Ord. No. 804, 12-7-1993)

Sec. 20-58. - Right to public hearing; appeal to city council.

Any person whose registration permit is revoked or the renewal thereof has been refused, or any person whose request for a registration permit is refused, shall have the right to a hearing before the council. A written request must be filed with the city clerk within ten days following the delivery or mailing of the notice of revocation, or within ten days following such refusal. The decision of the council shall become final within five days after mailing notice thereof to the applicant.

(Code 1989, § 822.07; Ord. No. 804, 12-7-1993)

Secs. 20-59—20-89. - Reserved.

ARTICLE IV. - FIREWORKS[2]

Footnotes:

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Editor's note— Ord. No. 1074, adopted July 3, 2012, repealed former Art. IV, §§ 20-90—20-103, and enacted a new Art. IV as set out herein. The former article pertained to similar subject matter and derived from Code 1989, §§ 824.01—824.14; Ord. No. 794, 6-8-1993. Ord. No. 1074 set out provisions intended for use as §§ 20-104—20-109. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as §§ 20-90—20-95.

State Law reference— Fireworks, MCL 750.243a et seq.

Sec. 20-90. - Purpose.

This article provides for the regulation of the ignition, discharge and use of consumer fireworks, as allowed under the Michigan Fireworks Safety Act, MCL 28.451 et seq., as amended.

(Ord. No. 1074, 7-3-2012)

Sec. 20-91. - Definitions.

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

APA standard 87-1 means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.

Consumer fireworks means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR Parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.

Fireworks means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation.

Low-impact fireworks means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

Minor means an individual who is less than 18 years of age.

National holiday means the following legal public holidays:

(1) New Years' Day, January 1.

(2) Birthday of Martin Luther King, Jr., the third Monday in January.

(3) Washington's Birthday, the third Monday in February.

(4) Memorial Day, the last Monday in May.

(5) Independence Day, July 4.

(6) Labor Day, the first Monday in September.

(7) Columbus Day, the second Monday in October.

(8) Veteran's Day, November 11.

(9) Thanksgiving Day, the fourth Thursday in November.

(10) Christmas Day, December 25.

(Ord. No. 1074, 7-3-2012)

Sec. 20-92. - Ignition, discharge and use of consumer fireworks.

A person shall not ignite, discharge or use consumer fireworks at any time on non-national holidays or between midnight and 8:00 a.m. on the day preceding, the day of, or the day after a national holiday, or between 1:00 a.m. and 8:00 a.m. on New Year's Day.

(Ord. No. 1074, 7-3-2012; Ord. No. 1087, 7-2-2013)

Sec. 20-93. - Possession of consumer fireworks by minor.

A minor shall not possess consumer fireworks.

(Ord. No. 1074, 7-3-2012)

Sec. 20-94. - Determination of violation; seizure.

If a police officer determines that a violation of this article has occurred, the officer may seize the consumer fireworks as evidence of the violation.

(Ord. No. 1074, 7-3-2012)

Sec. 20-95. - Penalty.

(a) A violation of this article is a civil infraction, punishable by a fine of up to $500.00, plus the costs of prosecution.

(b) Following final disposition of a finding of responsibility for violating this article, the city may dispose of or destroy any consumer fireworks retained as evidence in that prosecution.

(c) In addition to any other penalty, a person that is found responsible for a violation of this article shall be required to reimburse the city for the costs of storing, disposing of, or destroying consumer fireworks that were confiscated for a violation of this article.

(Ord. No. 1074, 7-3-2012)

Secs. 20-96—20-134. - Reserved.

ARTICLE V. - SERVICE STATIONS[3]

Footnotes:

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State Law reference— Gasoline service stations in residential districts, MCL 750.501.

Sec. 20-135. - 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:

Service station means as ascribed in section 50-3.

(Code 1989, § 866.01)

Sec. 20-136. - Application of article.

Any premises or portion of a premises, public or private, where gasoline or other flammable liquid fuel for self-propelled vehicles or portable internal combustion machines is dispensed from stationary equipment into the fuel tanks of such vehicles or machines, including self-service stations where automatic dispensing equipment is installed which may be operated by the customer, shall be equipped and operated in accordance with this article and in accordance with applicable state laws.

(Code 1989, § 866.02)

Sec. 20-137. - License required.

All service stations shall obtain a general business license in accordance with article II of chapter 12, pertaining to licensing.

(Code 1989, § 866.03)

Secs. 20-138—20-157. - Reserved.

ARTICLE VI. - KEY LOCK BOXES FOR COMMERCIAL AND GOVERNMENTAL STRUCTURES

Sec. 20-158. - Purpose.

(a) The city has determined that the health, safety and welfare of its citizens are promoted by requiring certain structures to have a key lock box installed on the exterior of the structure to the aid the city fire and rescue department in gaining access to the structure when responding to calls for emergency service.

(b) The key lock box system will operate on a master key basis that will expedite entry into a structure during an emergency. Many properties are equipped with automatic alarm systems and/or sprinkler/standpipe systems, and these automatic systems may cause the fire companies of the city fire and rescue department to be summoned at a time when the building or business is not occupied or when the occupant is not available to provide entry for the fire department. The city wishes to prevent damage from forceful entry into structures thereby avoiding costly and time-consuming efforts to gain entry to locked structures during an emergency.

(Code 1989, § 1622.01; Ord. No. 985, § 1622.01, 4-17-2007)

Sec. 20-159. - 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:

Lock box means a UL-listed high-security key vault system, master keyed with a Medeco Biaxial level seven or equivalent lock. Locks shall be keyed to the key configuration provided by the approved by the fire marshal division of the city fire department for secure containment access keys.

Lock box document cabinet means a UL-listed high-security steel plat vault/cabinet a minimum of 14 inches high by 12 inches wide by two inches deep, constructed to the same standards as the lock box

Responsible party means the person charged with the responsibility for the occupancy, building or business owner.

(Code 1989, § 1622.02; Ord. No. 985, § 1622.02, 4-17-2007)

Sec. 20-160. - Required.

(a) A lock box approved by the fire marshal division of the city fire and rescue department shall be installed and maintained for the following facilities:

(1) All new buildings and/or new occupancies of existing buildings or existing occupancies served by an automatic fire detection or suppression system, or any other type of alarm system, including security systems, connected to a central monitoring station facility or person that would initiate an emergency call to the city fire and rescue department or emergency dispatch.

(2) All governmental structures.

(3) All multiple-story occupancies that have elevators serving upper floors.

(4) In all buildings classified as H-1, H-2, H-3, H-4, as described and pursuant to the Michigan Building Code, 2003 Edition (Chapter 23-Hazardous Materials) of the Michigan Building Code, 2003 Edition, and in all buildings classified as 302 sites (S.A.R.A. Title 3).

(5) In any premises with manual- or power-operated gates necessary to be opened for fire department access and where security personnel are not on the premises to permit access when the facility is closed.

(6) In all existing buildings and occupancies that are to be renovated to include an automatic fire detection or suppression system or any other type of alarm system that sends a fire signal to a monitoring company or person that would initiate an emergency call to the city fire and rescue department or emergency dispatch.

(7) In all existing buildings and occupancies that are to be renovated and/or will be required to substantially update the building, electrical and plumbing system, and have added or have an existing automated fire detection or suppression system or any other type of alarm system that sends a fire signal to a monitoring company or person that would initiate an emergency call to the city fire and rescue department or emergency dispatch.

(b) Exceptions. Lock boxes are not required for the following:

(1) Buildings occupied 24 hours a day;

(2) All residential buildings as described in sections 50-121 through 50-125.

(Code 1989, § 1622.03; Ord. No. 1884, 10-28-2003; Ord. No. 985, § 1622.03, 4-17-2007)

Sec. 20-161. - Lock box—Application.

Application for a lock box shall be made on forms provided to the owner or occupant of the building or site by the fire marshal division of the city fire and rescue department. Such owner and/or occupant shall be responsible for the cost to purchase, install and maintain the lock box. Applications may be obtained from the fire marshal division of the city fire and rescue department.

(Code 1989, § 1622.04; Ord. No. 985, § 1622.04, 4-17-2007)

Sec. 20-162. - Same—Location.

The location of the lock box shall be approved by the fire marshal division of the city fire and rescue department and shall comply with the following criteria:

(1) The lock box shall be located at or near the recognized main public entrance on the exterior of the structure. When the occupancy is serviced by a fire sprinkler system, the lock box may be located above the fire department connection.

(2) The lock box shall be located at a height of not less than four feet and nor more than eight feet above normal grade unless approved at a higher or lower level by the fire marshal.

(3) The lock box may be connected to the NFPA 72A fire alarm control panel where provided. Wiring for the connection shall be supervised as required by NFPA 72A. The lock box shall be connected in such a manner that tampering or opening of the box shall produce an alarm signal.

(Code 1989, § 1622.05; Ord. No. 985, § 1622.05, 4-17-2007)

Sec. 20-163. - Same—Installation.

(a) No lock box shall be installed, voluntarily or otherwise, without first obtaining the approval of the fire marshal division of the fire and rescue department.

(b) An application for installation of a lock box shall be submitted to the fire marshal division of the fire and rescue department by the owner or occupant of the building/site.

(c) Buildings that choose to connect a lock box to an NFPA 72A fire alarm system can only obtain lock box installation authorization through licensed fire alarm contractors.

(Code 1989, § 1622.06; Ord. No. 985, § 1622.06, 4-17-2007)

Sec. 20-164. - Same—Contents.

(a) The key boxes shall contain the following:

(1) Labeled keys to locked points of egress, whether in interior or exterior of such buildings;

(2) Labeled keys to locked mechanical rooms;

(3) Labeled keys to locked elevator rooms;

(4) Labeled keys to the elevator controls;

(5) Labeled keys to any fence or secured areas;

(6) Labeled keys to any other areas that may be required by the fire marshal division;

(7) A card containing the emergency contact people and phone numbers for such building.

(b) In addition to the items specified in subsection (a) of this section, the following items may also be required in a key box:

(1) Floor plan of the rooms within the building;

(2) Material Safety Data Sheets (MSDS) of all chemicals in alphabetical order.

(c) The lock box shall contain keys that are labeled with plastic identification tags corresponding to complex card map specified by the fire marshal division of the fire and rescue department and other pertinent information that is specified by the fire marshal division.

(Code 1989, § 1622.07; Ord. No. 985, § 1622.07, 4-17-2007)

Sec. 20-165. - Compliance.

(a) All new or remodeled structures must comply with the requirements of this article prior to occupancy. Required approvals and specifications shall be obtained during the plan review process.

(b) Existing structures must comply with this article within three years of the adoption of the ordinance from which this article is derived. The fire marshal division of the city fire and rescue department shall provide notice of the lock box requirements to all applicable existing structures.

(c) The fire marshal division shall issue no certificate of occupancy prior to installation of a lock box and after inspection, as required.

(Code 1989, § 1622.08; Ord. No. 985, § 1622.08, 4-17-2007)

Sec. 20-166. - Violation.

The imposition of one penalty for any violation shall not excuse the violation or permit it to continue and all persons in violation shall be required to correct or remedy such violations or defects within a

reasonable time, and, where not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

(Code 1989, § 1622.09; Ord. No. 985, § 1622.09, 4-17-2007)

Chapter 22 - LAND DIVISIONS AND SUBDIVISIONS[1]

(RESERVED)

Footnotes:

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State Law reference— Land division act, MCL 560.101 et seq.

Chapter 24 - LAW ENFORCEMENT[1]

Footnotes:

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State Law reference— Mutual assistance agreements, MCL 123.811 et seq.; uniform crime reports, MCL 28.251 et seq.; commission on law enforcement standards act, MCL 28.601 et seq.

Sec. 24-1. - Constables.

(a) Pursuant to and under the authority of Public Act No. 26 of 1971 (MCL 117.32), the office of constable is abolished effective November 12, 1973, and section 16 of chapter XVII of the city Charter is repealed and deleted effective on such date.

(b) The duties of constables, in the service of civil process, shall be exercised by the members of the police department of the city and such other personnel as are designated by the court administrator, with the consent of the judges, under the powers granted in section 32 of chapter III and section 17 of chapter XVII of the city Charter.

(Code 1973, § 1.33; Code 1989, § 296.01; Ord. No. 536, 3-8-1976)

Sec. 24-2. - Enforcement; appearance tickets.

(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:

Public servant means an employee of the city identified as follows: the fire chief, the fire marshal or their designates; the superintendent of public works, or his or her designates; the director of water and sewers or his or her designates; the building official or his or her designates; the health officer; the animal control officer; any code enforcement officer; or the library director or his or her designates.

(b) If a police officer has arrested a person without a warrant for a violation of any of the provisions of this Code, instead of taking the person before a district court judge and promptly filing a complaint stating the charge against the person arrested, the officer may issue to and serve upon the person an appearance ticket as defined in subsection (d) of this section.

(c) A public servant, as defined in subsection (a) of this section, is specifically authorized to issue and serve appearance tickets with respect to those offenses which violate this Code if the public servant has reasonable cause to believe that a person has committed such an offense.

(d) As used in subsections (b) and (c) of this section, an appearance ticket means a complaint or written notice issued and subscribed by a police officer or other public servant authorized by this Code to issue it, directing a designated person to appear in the 38th District Court at a designated future time in connection with his or her alleged commission of a violation of this Code for which the maximum permissible penalty does not exceed 93 days in jail and/or a fine of $500.00. The appearance ticket shall be numbered consecutively, be in such form as determined by the state attorney general, the state court administrator and the director of the state department of state police and shall consist of the following parts:

(1) The original, which shall be a complaint or notice to appear made by the officer or public servant and filed with the court;

(2) The first copy, which shall be the abstract of the court record;

(3) The second copy, which shall be retained by the city department enforcing the violation; and

(4) The third copy, which shall be delivered to the alleged violator.

(Code 1989, § 202.05; Ord. No. 742, 11-13-1989; Ord. No. 788, 8-25-1992; Ord. No. 996, § 202.05, 11-13-2007)

Chapter 26 - LIBRARY[1]

Footnotes:

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State Law reference— Public libraries, Mich. Const. art. VIII, § 9, MCL ch. 397.

ARTICLE I. - IN GENERAL

Sec. 26-1. - Use of library.

The city memorial library and reading room shall be forever free for the use of the inhabitants of the city, subject to such reasonable rules and regulations as the library commission may adopt. The commission may exclude from the use of such library and reading room any and all persons who willfully violate such rules and regulations.

(Code 1973, § 1.173; Code 1989, § 278.03; Ord. No. 788, 8-25-1992)

Sec. 26-2. - Failure to return library property.

No person shall willfully or negligently detain or fail to return to the city memorial library any book, magazine, pamphlet, map, manuscript, picture, microfilm, phonograph record, clipping or other property belonging to such library in satisfactory condition, or pay the reasonable value thereof, within 30 days from the date of the posting by certified mail of a notice addressed to such person at the last address furnished the library. Notice may be given at any time after the date on which such person, under the rules of the library, should have returned the loaned property.

(Code 1989, § 278.09; Ord. No. 742, 11-13-1989; Ord. No. 788, 8-25-1992)

State Law reference— Larceny from libraries, MCL 750.364.

Sec. 26-3. - Obtaining property by fraud.

No person shall give a fictitious or incorrect name or address at the city memorial library in order to obtain possession or use of any book, magazine, pamphlet, map, manuscript, picture, microfilm, phonograph record, clipping or other property of such library, or shall practice any deceit of any kind whatsoever to conceal or mislead in respect to his or her identity or address or place of employment.

(Code 1989, § 278.10; Ord. No. 742, 11-13-1989; Ord. No. 788, 8-25-1992)

State Law reference— Larceny from libraries, MCL 750.364.

Secs. 26-4—26-24. - Reserved.

ARTICLE II. - LIBRARY COMMISSION

Sec. 26-25. - Establishment; appointments and removals.

There is hereby established in and for the city a library commission, pursuant to Public Act No. 164 of 1877 (MCL 397.201 et seq.). Annually, the mayor shall appoint one member, with the consent of the council, for a term of five years, to take the place of the member whose term then expires. The mayor may, with the consent of the council, remove any member of the commission for misconduct or neglect of duty. Appointments to the commission shall be made from the citizens at large with reference to their fitness for office. Not more than one member of the council shall at any time be a member of the commission.

(Code 1973, § 1.171; Code 1989, § 278.01)

Sec. 26-26. - Annual meetings; officers; powers and duties.

The library commission shall annually meet and organize by the election of one of its members as president, and by the election of such other officers as it may deem necessary. The commission shall make and adopt such bylaws, rules and regulations for its own guidance and for the government of the city memorial library and reading room as may be expedient, not inconsistent with state law and this Code. It shall have the exclusive control of the expenditure of all moneys collected to the credit of the library fund, of the construction of any library building, and of the supervision, care and custody of the grounds, rooms or buildings leased or set apart for that purpose. All moneys received for the library shall be deposited in the city treasury to the credit of the library fund and shall be kept separate and apart from other moneys of the city and drawn upon by the proper officers of the city upon the properly authenticated vouchers of the commission. The commission shall have the power to purchase or lease grounds, to occupy, lease or erect an appropriate building for the use of the library, to appoint a suitable librarian and necessary assistants, and to fix their compensation. It shall also have the power to remove such appointees and shall, in general, carry out the spirit and intent of state law in establishing and maintaining a public library and reading room.

(Code 1973, § 1.172; Code 1989, § 278.02; Ord. No. 788, 8-25-1992)

Sec. 26-27. - Annual report.

The library commission shall make, at the end of each year, a report to the council, stating the condition of its trust on the date of such report, the various sums of money received from the library fund

and from other sources and how such moneys have been expended and for what purposes; the number of books and periodicals on hand, including the number added by purchase, gift or otherwise during the year and the number lost or missing; the number of visitors attending; the number of books loaned out and the general character and kind of such books; with such other statistics, information and suggestions as it may deem of general interest. All portions of such report that relate to the receipt and expenditure of money, as well as to the number of books on hand, books lost or missing and books purchased, shall be verified by affidavit.

(Code 1973, § 1.174; Code 1989, § 278.04)

Sec. 26-28. - Donations.

Any person desiring to make donations of money, personal property or real estate for the benefit of the city memorial library shall have the right to vest the title to money or real estate so donated in the library commission, to be held and controlled by such commission when accepted, according to the terms of the deed, gift, devise or bequest of such property, and as to such property, the members of the commission shall be held and considered to be special trustees.

(Code 1973, § 1.175; Code 1989, § 278.05; Ord. No. 788, 8-25-1992)

Sec. 26-29. - Compensation.

Members of the library commission shall be excluded from receiving any compensation for their services as commission members.

(Code 1973, § 1.176; Code 1989, § 278.06)

Sec. 26-30. - Major expenditures.

The library commission shall not expend more funds than it has on hand and no major expenditures, such as the erection of the city memorial library, the purchase of grounds, etc., shall be made without first obtaining the approval of the council. Any agreement so entered into covering such major expenditure shall be null and void unless approved by the council.

(Code 1973, § 1.177; Code 1989, § 278.07; Ord. No. 788, 8-25-1992)

Sec. 26-31. - Immunity from suit.

The members of the library commission shall not be responsible for any injury which might occur to patrons of the city memorial library while on the premises of the library, such library being operated as a governmental function and not as a private enterprise.

(Code 1973, § 1.178; Code 1989, § 278.08; Ord. No. 788, 8-25-1992)

Chapter 28 - OFFENSES[1]

Footnotes:

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State Law reference— Michigan penal code, MCL 750.1 et seq.

ARTICLE I. - IN GENERAL

Sec. 28-1. - Definitions.

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

Public place means any street, alley, parking lot, park, public building, any place of business or assembly open to or frequented by the public, and any other place which is open to public view or to which the public has access.

(Code 1973, § 9.101; Code 1989, § 664.03(a); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(a), 4-20-2010)

Sec. 28-2. - Engaging in illegal occupation, business.

It shall be unlawful for any person to engage in an illegal occupation or business.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(3); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(3), 4-20-2010)

State Law reference— Such person deemed a disorderly person, MCL 750.167(1)(d).

Sec. 28-3. - Loitering in a place where illegal occupation, business conducted.

It shall be unlawful for any person to knowingly loiter in or about a place where an illegal occupation or business is being conducted.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(8); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(8), 4-20-2010)

State Law reference— Such person deemed a disorderly person, MCL 750.167(1)(j).

Sec. 28-4. - State misdemeanors.

Every act prohibited by state law as a misdemeanor is hereby prohibited and whoever violates the provisions of this section within the city shall, upon conviction thereof, be punished by the same penalty provided by state law except that the penalty shall, in no case, exceed a fine of $500.00, or imprisonment for 93 days or both.

(Ord. No. 1064, 5-1-2012)

Secs. 28-5—28-24. - Reserved.

ARTICLE II. - OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS

Sec. 28-25. - Resisting an officer.

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

Possible unlawful conduct means a potential violation of any provision of this Code, where the police officer has reason to believe a misdemeanor or civil infraction violation has occurred.

(b) No person may willfully resist, interfere with, hinder, obstruct or impede or attempt to resist, interfere with, hinder, obstruct or impede any police officer in the performance of his or her duty by physical, verbal or passive action or inaction or by the utterance of abusive, indecent, profane or vulgar language that by its very utterance tends to incite an immediate breach of the peace.

(c) No person may, by physical, verbal or passive action or inaction:

(1) Willfully resist or attempt to resist an arrest which he or she knows is being made by a police officer;

(2) Assist any person in the custody of a police officer to escape or attempt to escape from custody by physical action;

(3) Willfully misrepresent, falsify or otherwise disguise himself or herself or the fact of his or her identity to a police officer who is investigating possible unlawful conduct;

(4) Willfully fail or refuse to provide identification to an officer who is investigating possible unlawful conduct;

(5) Willfully fail or refuse to obey lawful commands of a police officer during an arrest, search, traffic stop or other lawful execution of the police officer's duties;

(6) Willfully exit and flee from a vehicle stopped by a police officer for a traffic violation or criminal offense;

(7) Enter an area or remain in an area where access has been restricted or closed by a law enforcement officer or other public official, or whenever a person has been informed by an officer or other public official that the area is closed or restricted, or when an area has been cordoned off with ropes, tape, barriers or any other line or boundary designed to restrict access to the area.

(d) Any peace officer may detain any person whom the officer encounters under circumstances which reasonably indicate that the person has committed, is committing or is about to commit a crime.

(1) Any peace officer may detain any person the officer encounters under circumstances which reasonably indicate that the person has violated or is violating the conditions of his parole or probation.

(2) The officer may detain the person pursuant to this section only to ascertain his identity and the suspicious circumstances surrounding his presence abroad. Any person so detained shall identify himself, but may not be compelled to answer any other inquiry of any peace officer.

(3) A person must not be detained longer than is reasonably necessary to effect the purposes of this section.

(e) A person shall not refuse to allow or resist the taking of his or her fingerprints if fingerprinting is authorized or required by law.

(Code 1989, § 658.03; Ord. No. 649, 5-8-1984; Ord. No. 663, 2-12-1985)

State Law reference— Hinder by disguise, MCL 750.217; resisting or obstructing officer in discharge of duty, MCL 750.81d, 750.479.

Sec. 28-26. - Summoning police, fire, ambulance as joke, prank.

It shall be unlawful for any person to summon as a joke or prank or otherwise without any good reason therefor, by telephone or otherwise, the police or fire department or any public or private ambulance to go to any address where the service called for is not needed.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(18); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(18), 4-20-2010)

State Law reference— False fire alarms, MCL 750.240; false report of crime, MCL 750.411a.

Sec. 28-27. - Making fictitious report of commission of a crime.

It shall be unlawful for any person to willfully or knowingly make a fictitious or untrue report of the commission of any crime to any police officer.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(23); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(22), 4-20-2010)

State Law reference— False report of crime, MCL 750.411a.

Sec. 28-28. - Giving false identity to police after lawful arrest.

It shall be unlawful for any person to submit or supply, in oral or written form, to a police officer any false information as to the person's identity when the same has been requested by a police officer after a lawful arrest of the person has been made or during the officer's performance and execution of his or her official duties and responsibilities.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(24); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(23), 4-20-2010)

State Law reference— False report of crime, MCL 750.411a.

Sec. 28-29. - Hindering obstructing, endangering, etc., utility workers.

No person shall hinder, obstruct, endanger or interfere with any person who is engaged in the operation, installation, repair or maintenance of any essential public service facility, including a facility for the transmission of electricity, gas, telephone messages or water.

(Code 1989, § 658.05; Ord. No. 795, 6-8-1993)

State Law reference— Hindering public employees, MCL 750.478a, 750.241.

Secs. 28-30—28-45. - Reserved.

ARTICLE III. - OFFENSES RELATING TO PERSONS

Sec. 28-46. - 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:

Course of conduct means a pattern of conduct composed of a series of two or more separate noncontinuous acts, evidencing a continuity of purpose.

Emotional distress means significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling.

Harassment means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress. The term "harassment" does not include constitutionally protected activity or conduct that serves a legitimate purpose.

Stalking means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested, and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

Unconsented contact means any contact with another individual that is initiated or continued without the individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. The term "unconsented contact" includes, but is not limited to, any of the following:

(1) Following or appearing within the sight of that individual.

(2) Approaching or confronting that individual in a public place or on private property.

(3) Appearing at the workplace or residence of that individual.

(4) Entering onto or remaining on property owned, leased or occupied by that individual.

(5) Contacting that individual by telephone.

(6) Sending mail or electronic communications to that individual.

(7) Placing an object on, or delivering an object to, property owned, leased or occupied by that individual.

Victim means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

(Code 1989, § 658.09; Ord. No. 936, 1-3-2004)

State Law reference— Similar provisions, MCL 750.411h.

Sec. 28-47. - Malicious use of service provided by telecommunications service provider.

(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:

Telecommunications, telecommunications service, and *telecommunications device* mean those terms as defined in MCL 750.540c.

(b) A person is guilty of a misdemeanor who maliciously uses any service provided by a telecommunications service provider with intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy another person, or to disturb the peace and quiet of another person by any of the following:

(1) Threatening physical harm or damage to any person or property in the course of a conversation or message through the use of a telecommunications service or device.

(2) Falsely and deliberately reporting by message through the use of a telecommunications service or device that a person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime or an accident.

(3) Deliberately refusing or failing to disengage a connection between a telecommunications device and another telecommunications device or between a telecommunications device and other equipment provided for the transmission of messages through the use of a telecommunications service or device.

(4) Using vulgar, indecent, obscene, or offensive language or suggesting any lewd or lascivious act in the course of a conversation or message through the use of a telecommunications service or device.

(5) Repeatedly initiating a telephone call and, without speaking, deliberately hanging up or breaking the telephone connection as or after the telephone call is answered.

(6) Making an unsolicited commercial telephone call that is received between the hours of 9:00 p.m. and 9:00 a.m. For the purpose of this subdivision, the term "an unsolicited commercial telephone call" means a call made by a person or recording device, on behalf of a person, corporation, or other entity, soliciting business or contributions.

(7) Deliberately engaging or causing to engage the use of a telecommunications service or device of another person in a repetitive manner that causes interruption in telecommunications service or prevents the person from utilizing his or her telecommunications service or device.

(c) An offense is committed under this section if the communication either originates or terminates in the city.

(Code 1989, § 658.01; Ord. No. 649, 5-8-1984)

Sec. 28-48. - Assault and battery.

No person shall commit an assault or an assault and battery upon any other person. A person violating this section is subject to imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(Code 1989, § 658.02; Ord. No. 649, 5-8-1984)

State Law reference— Assaults, MCL 750.81 et seq.

Sec. 28-49. - Domestic assault.

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

Assaultive crime means one or more of the following:

(1) An offense against a person described in any of the following sections of the state penal code: 82 to 89, 316, 317, 321, 349 to 350, 397, 520a to 520g, 529 and 530 of Public Act No. 328 of 1931 (MCL 750.82 to 750.89, 750.316, 750.317, 750.321, 750.349 to 750.350, 750.397, 750.520a to 750.520g, 750.529 and 750.530).

(2) A violation of chapter XI of the state penal code, Public Act No. 328 of 1931(MCL 750.81 et seq.), or a local ordinance that substantially corresponds thereto.

(3) The accused violates an order of the court that he or she receive counseling regarding his or her violent behavior.

(4) The accused violates an order of the court that he or she have no contact with a named individual.

Dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional involvement. The term "dating relationship" does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

Domestic assault means an assault, or an assault and battery, by an individual of his or her spouse, his or her former spouse, an individual with whom he or she has or has had a dating relationship, an

individual with whom he or she has a child in common, or a resident or former resident of his or her household.

(b) *Domestic assault prohibited.* No individual shall assault, or assault and batter, his or her spouse, his or her former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has a child in common, or a resident or former resident of his or her household.

(c) *Warrantless arrest.* An officer of the police department may arrest an individual for violating any of the provisions of this section, regardless of whether the officer has a warrant or whether the violation was committed in his or her presence, if the officer has reasonable cause to believe that the violation occurred or is occurring and that the individual is a spouse or former spouse of the victim, has or has had a dating relationship with the victim, has a child in common with the victim, or resides or has resided in the same household as the victim. When a person has been arrested without a warrant pursuant to this subsection and a judge is not available, said person shall be held for 20 hours before release from custody. Interim bond, personal recognizance, or any other lawful means of release shall not be available until after the expiration of this 20-hour period.

(d) *Notice of availability of shelter programs and other resources.* After investigating or intervening in a domestic violence incident, a police officer shall provide the victim with a copy of the notice in this section. The notice shall be written and shall include all of the following:

(1) The name and telephone number of the responding police agency.

(2) The name and badge number of the responding police officer.

(3) Substantially the following statement: "You may obtain a copy of the police incident report for your case by contacting this law enforcement agency at the telephone number provided. The domestic violence shelter program and other resources in your area are (include local information). Information about emergency shelter, counseling services, and the legal rights of domestic violence victims is available from these resources. Your legal rights include the right to go to court and file a petition requesting a personal protection order to protect you or other members of your household from domestic abuse which could include restraining or enjoining the abuser from doing the following:

a. Entering onto premises.

b. Assaulting, attacking, beating, molesting or wounding you.

c. Threatening to kill or physically injure you or another person.

d. Removing minor children from you, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.

e. Engaging in stalking behavior.

f. Purchasing or possessing a firearm.

g. Interfering with your efforts to remove your children or personal property from premises that are solely owned or leased by the abuser.

h. Interfering with you at your place of employment or education or engaging in conduct that impairs your employment relationship or your employment or educational environment.

i. Engaging in any other specific act or conduct that imposes upon or interferes with your personal liberty or that causes a reasonable apprehension of violence.

j. Having access to information in records concerning any minor child you have with the abuser that would inform the abuser about your address or telephone number, the child's address or telephone number, or your employment address.

k. Your legal rights also include the right to go to court and file a motion for an order to show cause and a hearing if the abuser is violating or has violated a personal protection order and has not been arrested."

(e) *Reports by police officer.* The police officer shall prepare a domestic violence report after investigating or intervening in a domestic violence incident. A police officer shall use the standard domestic violence incident report form developed by the department of state police or a form substantially similar to that standard form to report a domestic violence incident. The report shall contain, but is not limited to containing, all the following:

(1) The address, date and time of the incident being investigated.

(2) The victim's name, address, home and work telephone numbers, race, sex and date of birth.

(3) The suspect's name, address, home and work telephone numbers, race, sex, date of birth and information describing the suspect and whether an injunction or restraining order covering the suspect exists.

(4) The name, address, home and work telephone numbers, race, sex and date of birth of any witness, including a child of the victim or suspect and the relationship of the witness to the suspect or victim.

(5) The following information about the incident being investigated:

a. The name of the person who called the law enforcement agency.

b. The relationship of the victim and suspect.

c. Whether alcohol or controlled substance use was involved in the incident, and by whom it was used.

d. A brief narrative describing the incident and the circumstances that led to it.

e. Whether and how many times the suspect physically assaulted the victim and a description of any weapon or object used.

f. A description of all injuries sustained by the victim and an explanation of how the injuries were sustained.

g. If the victim sought medical attention, information concerning where and how the victim was transported, whether the victim was admitted to a hospital or clinic for treatment, and the name and telephone number of the attending physician.

h. A description of any property damage reported by the victim or evident at the scene.

i. A description of any previous domestic violence incidents between the victim and the suspect.

j. The date and time of the report and the name, badge number and signature of the police officer completing the report.

(f) *Police department requirements.* The police department shall retain the completed domestic violence report in its files. The police department shall also file a copy of the completed domestic violence report with the city attorney within 48 hours after the domestic violence incident is reported to the police department. The police department shall further, upon arrest, forward sufficient sets of fingerprints to the 38th Judicial District Court to ensure proper transcription of the disposition of any complaint brought pursuant to this section to the department of state police.

(g) *Deferral of proceedings and order of probation.*

(1) When an individual who has not been convicted previously of a violation of section 81 or 81a of the state penal code, Public Act No. 328 of 1931 (MCL 750.81, 750.81a), or a violation of a local ordinance substantially corresponding to section 81 of that act, pleads guilty to, or is found guilty of, a violation of section 81 or 81a of the state penal code, Public Act No. 328 of 1931 (MCL 750.81, 750.81a), and the victim of the assault is the offender's spouse or former spouse; an individual who has had a child in common with the offender; an individual who has or has had a dating relationship with the offender; or an individual residing or having resided in the same household as the offender; the court, without entering a judgment of guilt and with the consent of the accused and of the city attorney in consultation with the victim, may defer further proceedings

and place the accused on probation as provided in this section. However, before deferring proceedings under this subsection, the court shall contact the department of state police and determine whether, according to the records of the department of state police, the accused has previously been convicted under section 81 or 81a of the state penal code, Public Act No. 328 of 1931 (MCL 750.81, 750.81a), or under a local ordinance substantially corresponding to section 81 of that act, or has previously availed himself or herself of this section. If the search of the records reveals an arrest for a violation of section 81 or 81a of the state penal code, Public Act No. 328 of 1931 (MCL 750.81, 750.81a) or a local ordinance substantially corresponding to section 81 of that act but no disposition, the court shall contact the arresting agency and the court that had jurisdiction over the violation to determine the disposition of that arrest for purposes of this section.

(2) Upon a violation of a term or condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided in this section.

(3) An order of probation entered under subsection (g)(1) of this section may require the accused to participate in a mandatory counseling program. The court may order the accused to pay the reasonable costs of the program.

(4) The court shall enter an adjudication of guilt and proceed as otherwise provided in this chapter if any of the following circumstances exist:

a. The accused commits an assaultive crime during the period of probation.

b. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

c. There may be only one discharge and dismissal under this section with respect to any individual. The department of state police shall retain a nonpublic record of an arrest and discharge or dismissal under this section. This record shall be furnished to a court or police agency upon request pursuant to subsection (g)(1) of this section for the purpose of showing that a defendant in a criminal action under section 81 or 81a of the Michigan penal code, Public Act No. 328 of 1931(MCL 750.81, 750.81a), or a local ordinance substantially corresponding to section 81 of that act has already once availed himself or herself of this section.

(Code 1989, § 658.08; Ord. No. 936, 1-3-2004)

Secs. 28-50—28-73. - Reserved.

ARTICLE IV. - OFFENSES RELATING TO PROPERTY

Sec. 28-74. - Malicious destruction of property.

No person shall willfully and maliciously destroy or injure the personal property of another or willfully and maliciously destroy or injure any house or other building of another or the appurtenances thereof, if the damage resulting from such injury is less than $200.00. A person violating this section is subject to imprisonment for not more than 93 days or a fine of not more than $500.00 or three times the amount of the destruction or injury, whichever is greater, or both imprisonment and a fine.

(Code 1989, § 660.01; Ord. No. 649, 5-8-1984)

State Law reference— Malicious mischief generally, MCL 750.377a et seq.

Sec. 28-75. - Destroying, damaging, defacing property not one's own.

It shall be unlawful for any person to willfully destroy, remove, damage, alter or in any manner deface any property not his or her own, or any public building or the fixtures therein, any fire hydrant, alarm box, street light, street sign, traffic control device, parking meter or shade tree, belonging to the city or located in the public places of the city, or to mark or post handbills on, or in any manner mar the walls of, any public building, fence, tree or pole within the city, or destroy, take or meddle with any property belonging to the city, or remove the same from the building or place where it may be kept, placed or stored, without proper authority, or disturb, tamper with, disconnect or damage any city water meter without proper authority.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(12); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(12), 4-20-2010)

State Law reference— Malicious mischief generally, MCL 750.377a et seq.

Sec. 28-76. - Spitting on floor, seat of any public carrier or place of public assembly.

It shall be unlawful for any person to spit on the floor or seat of any public carrier, or on any floor, wall, seat or equipment of any place of public assembly.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(16); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(16), 4-20-2010)

Sec. 28-77. - Trespass.

(a) No person shall willfully enter upon the lands or premises of another without lawful authority from the owner or occupant of such lands or premises or the agent or servant of the owner or occupant, and no person, being upon the lands or premises of another, shall, upon being notified to depart therefrom by the owner or occupant of such lands or premises or the agent or servant of either, without lawful authority, neglect or refuse to depart therefrom.

(b) All delivery personnel shall use sidewalks and accepted and approved walkways and shall refrain from traversing lawns or other private property not normally used as a walkway by the general public in order to effect delivery.

(Code 1989, § 660.02; Ord. No. 597, 3-18-1980)

State Law reference— Trespassing generally, MCL 750.546 et seq.

Sec. 28-78. - Window peeping.

It shall be unlawful for any individual to peek, peer or look into the windows or doors of a home or business, whether occupied or unoccupied, for sexual gratification; or to infringe upon the reasonable expectation of privacy of the occupant, resident and/or employee; or for the purpose of obtaining information on the daily operations and/or contents of the location for purposes of perpetrating a crime against the resident/residence, occupant/employee or business. The peeking, peering and/or looking may be performed within close proximity of the location or at any distance and may be assisted with visual enhancement devices (i.e., binoculars/telescopes).

(Code 1973, § 9.101; Code 1989, § 664.03(b)(2); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(2), 4-20-2010)

State Law reference— Window peepers deemed disorderly persons, MCL 750.167(1)(c).

Sec. 28-79. - Passing bad checks.

No person shall, with intent to defraud, make, draw, utter or deliver any check, draft or order for the payment of money, to apply on account or otherwise, upon any bank or other depository, knowing at the time of such making, drawing, uttering or delivering, that the maker, or drawer, has not sufficient funds in or credit with such bank or other depository, for the payment of such check, draft or order, in full, upon its presentation; or with the intent to defraud, make, draw, utter or deliver any check, draft or order for the payment of money to apply on account or otherwise, upon any bank or other depository not having sufficient funds for the payment of the same when presentation for payment is made to the drawee, except where such lack of funds is due to garnishment, attachment, levy or other lawful cause, and such fact was not known to the person who made, drew, uttered or delivered the instrument at the time of so doing, if the amount payable on the check is less than $100.00. A person violating this section is subject to imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(Code 1989, § 660.03)

State Law reference— Checks without sufficient funds, MCL 750.131 et seq.

Sec. 28-80. - Larceny.

No person shall commit the offense of larceny, by stealing the property of another, including any money, goods or chattels, or any bank note, bank bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order or certificate, or any book of accounts for or concerning money or goods due or to become due, or to be delivered, or any deed or writing containing a conveyance of land, or any other valuable contract in force, or any receipt, release or defeasance, or any writ, process or public record, if the value of the property stolen is less than $200.00. A person violating this section is subject to imprisonment for not more than 93 days or a fine of not more than $500.00 or three times the value of the property stolen, whichever is greater, or both imprisonment and a fine.

(Code 1989, § 660.04; Ord. No. 649, 5-8-1984)

State Law reference— Larceny generally, MCL 750.356 et seq.

Sec. 28-81. - Larceny by conversion; embezzlement.

(a) No person who has temporary custody and possession of property of another of a value of less than $200.00 shall, without consent, fraudulently dispose of or convert the same to his or her own use or take or hide the property with the intent to convert the same to his or her own use.

(b) No person who is the agent, servant or employee of another person, governmental entity within this state or other legal entity, or who is the trustee, bailee or custodian of the property of another person, governmental entity within this state or other legal entity shall fraudulently dispose of or convert to his or her own use or take or conceal with the intent to convert to his or her own use without the consent of his or her principal, any money or other personal property of his or her principal that has come to that person's possession or that is under his or her charge or control by virtue of his or her being an agent, servant, employee, trustee, bailee or custodian, where the money or personal property embezzled has a value of less than $200.00. In a prosecution under this subsection, the failure, neglect or refusal of the agent, servant, employee, trustee, bailee or custodian to pay, deliver or refund to his or her principal the money or property entrusted to his or her care upon demand is prima facie proof of intent to embezzle.

(c) In a prosecution under this section, the failure, neglect or refusal of the person to pay, deliver or refund to the property's true owner the money or property entrusted to his or her care upon demand is prima facie proof of intent.

(d) A person who violates subsection (b) of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00 or three times the value of the money or property embezzled, whichever is greater, or both imprisonment and a fine.

State Law reference— Larceny by conversion, MCL 750.362; embezzlement, MCL 750.174 et seq.

Sec. 28-82. - Receiving and concealing stolen property.

No person shall buy, receive or aid in the concealment of any stolen, embezzled or converted money, goods or property knowing the same to have been stolen, embezzled or converted, if the value of the property purchased, received or concealed is less than $200.00. Any dealer in or collector of any merchandise or personal property, or the agent, employee or representative of a dealer in or collector of any merchandise or personal property, who fails to make reasonable inquiry that the person selling or delivering any stolen, embezzled or converted property to him or her has a legal right to do so, or who buys or receives any such property which has a registration, serial or other identifying number altered or obliterated on any external surface thereof, shall be presumed to have bought or received such property knowing it to have been stolen, embezzled or converted. This presumption may be rebutted by proof. A person violating this section is subject to imprisonment for not more than 93 days or a fine of not more than $500.00 or three times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine.

(Code 1989, § 660.05; Ord. No. 649, 5-8-1984)

State Law reference— Similar provisions, MCL 750.535.

Sec. 28-83. - Retail fraud.

A person who does any of the following in a store or within its immediate vicinity is guilty of retail fraud, a misdemeanor, punishable by imprisonment of not more than 93 days or a fine of not more than $500.00 or three times the value of the difference in price, property stolen or money or property obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(1) While a store is open to the public, alters, transfers, removes and replaces, conceals or otherwise misrepresents the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale, if the resulting difference in price is less than $200.00.

(2) While a store is open to the public, steals property of the store that is offered for sale at a price of less than $200.00.

(3) With intent to defraud, obtains or attempts to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store, if the amount of money, or the value of the property, obtained or attempted to be obtained is less than $200.00.

(Code 1989, § 660.07; Ord. No. 940, 5-4-2004)

State Law reference— Similar provisions, MCL 750.356c et seq.

Sec. 28-84. - Financial transaction devices.

(a) No person shall, for the purpose of obtaining goods, property, services or anything of value, knowingly and with intent to defraud use one or more financial transaction devices that have been revoked or canceled by the issuer of the device, as distinguished from expired, where the person has received notice of the revocation or cancellation and where the value of the goods, property, services or anything of value is less than $100.00.

(b) No person shall knowingly and with intent to defraud use a financial transaction device to withdraw or transfer funds from a deposit account in violation of the contractual limitations imposed on the amount or frequency of withdrawals or transfers or in an amount exceeding the funds then on deposit in the account, where the amount of the funds withdrawn or transferred is less than $200.00.

(c) A person who violates subsection (a) of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(d) A person who violates subsection (b) of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00 or three times the amount of funds withdrawn or transferred, whichever is greater, or both imprisonment and a fine.

State Law reference— Similar provisions, MCL 750.157s, 750.157w.

Secs. 28-85—28-111. - Reserved.

ARTICLE V. - OFFENSES AGAINST PUBLIC PEACE

Sec. 28-112. - Noise control.

(a) *Definitions.* The following words, terms and phrases, when used in this section shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties. The enforcing officer need not determine the title of a specific sound, specific words, or the performing artist, and the detection of the rhythmic bass component of music is sufficient to constitute a plainly audible sound.

(b) *Offenses in general.* No person shall make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city.

(c) *Specific offenses.* The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive, namely:

(1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, street car or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device whether or not operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

(2) *Radios, television sets, phonographs, loudspeakers, amplifiers, etc.* The use or operation, or permitting the use or operation, of any radio, television receiving set, musical instrument, phonograph, loudspeaker, amplifier or other machine or device for producing or reproducing sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or at anytime with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle, or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible

outside of the building, structure or vehicle, or the operation of any such set, instrument, phonograph, machine or device between the hours of 7:00 a.m. to 11:00 p.m. in such a manner as to be plainly audible at a distance of 30 feet is prima facie evidence of a violation of this subsection (c).

(3) *Loudspeakers, amplifier for advertising or attracting attention.* The use or operation, or permitting the use or operation, of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public for any purpose, to any building, structure or residence.

(4) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or signaling on the public streets or at anytime or place, except during a sanctioned sporting event being held in a designated sports venue, as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type of residence, or persons in the vicinity thereof.

(5) *Animals, birds, etc.* The keeping of any animal or bird which, by causing frequent or long continued noise, disturbs the comfort or repose of any person in the vicinity.

(6) *Steam whistles.* The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon the request of proper city authorities.

(7) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(8) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise, or the use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such a manner that the operation and/or presence of said vehicle creates a danger to the public and or may cause damage to public road surfaces.

(9) *Loading, unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers, or the loading or unloading of commercial and/or private trucks, vans or any type of vehicle in any residential area between the hours of 11:00 p.m. to 6:00 a.m. that creates such noise as to disturb the peace and good order of the neighborhood.

(10) *Construction or repairing of buildings.* The erection, including excavating, demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m., except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building official, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the building official should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways between the hours of 6:00 p.m. and 7:00 a.m. of the following day, and if he or she shall further determine that loss or inconvenience would result to any party in interest, he or she may grant permission for such work to be done between the hours of 6:00 p.m. and 7:00 a.m. of the following day, upon application being made at the time the permit for the work is awarded or during the progress of the work.

(11) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital, church or court street.

(12) *Handling merchandise.* The creation of loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers.

(d) *Mobile sound amplification.* The broadcasting of electronically reproduced sound from motor vehicles or other portable means, when audible to or perceived by others in the community who are not responsible for such broadcast, has the deleterious effect upon the community of increasing noise pollution, disturbs the peace and quiet of residential neighborhoods and others near the sound in question, and impedes the ability of the listener and others from hearing or noticing the approach of emergency vehicles using sirens and other alerts. It is the intent of this article to strike an appropriate balance between the right of individuals to obtain information and derive pleasure by listening to radios and other devices and the right of the public to a peaceful and healthful environment. Therefore, the following restrictions shall govern the broadcasting of such sound within the city:

(1) The playing, transmitting, amplifying, or other broadcasting of personal or commercial music or sound, by electronic or other technological means installed in a residence, commercial establishment, motor vehicle or otherwise portable, in such a manner that it is plainly audible at a distance of 30 feet in any direction from the operator or source between the hours of 7:00 a.m. and 11:00 p.m., is prohibited.

(2) The playing, transmitting, amplifying, or other broadcasting of personal or commercial music or sound, by electronic or other technological means installed in a residence, commercial establishment, motor vehicle or otherwise portable, in such a manner that it is plainly audible in a public place or residential neighborhood by any person other than the operator between the hours of 11:00 p.m. and 7:00 a.m., is prohibited.

(e) *Violations involving broadcasts from a motor vehicle.* For violations of this subsection involving broadcasts from a motor vehicle, the operator of the motor vehicle shall be presumed to have dominion and control over the source of the broadcast, and shall therefore be presumed to be responsible for the violation. Passengers, or others lacking an ownership interest, may be found guilty of violating this subsection if such persons had constructive dominion and control over the source of the broadcast, or otherwise aided and abetted the operator.

(f) *Permitted use of sound amplification.* This section shall not be applicable to mobile sound amplification for which a valid city permit has been issued, or for which such sound amplification is incidental to and appropriate for the use of a valid city permit, such as for parades, ice cream trucks, and similar activities, so long as such activities comply with the terms of any such city permit.

(g) *Exceptions.* None of the terms or prohibitions of subsections (b) and (c) of this section shall apply to or be enforced against:

(1) *Emergency vehicles.* Any police or fire vehicle or any ambulance, while engaged upon emergency business; or

(2) *Highway maintenance and construction.* Excavations or repairs of bridges, streets or highways by or on behalf of the city, county or state, during the night, when the public safety, welfare and convenience render it impossible to perform such work during the day.

(Code 1973, §§ 9.10, 9.11, 9.13; Code 1989, § 664.01; Ord. No. 772, 12-3-1991; Ord. No. 971, 6-6-2006)

Sec. 28-113. - Open house parties.

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

Adult means a person 17 years of age or older.

Minor means a person not legally permitted, by reason of age, to possess alcoholic liquors, pursuant to MCL 436.1703.

Open house party means a social gathering of persons at a residence. The gathering may include the consumption of alcoholic liquors and the playing of music through live bands, radio receivers,

television receivers, phonographs and/or any other device designed to create, amplify and/or project music or sound.

Residence means a home, apartment, condominium or other dwelling unit and includes the curtilage of such dwelling unit.

(b) *Alcoholic liquors and controlled substances prohibited.* No adult having control of any residence shall allow an open house party to take place at such residence if any alcoholic liquor or controlled substance is possessed or consumed at such residence by any minor where the adult knew or reasonably should have known that an alcoholic liquor or controlled substance was in the possession of or being consumed by a minor at such residence and where the adult failed to take reasonable steps to prevent the possession or consumption of the alcoholic liquor or controlled substance at such residence by such minor.

(Code 1989, § 664.02; Ord. No. 672, 6-4-1985)

Sec. 28-114. - Language or gestures causing public disorder.

A person shall be deemed guilty of a misdemeanor if, with the purpose of causing public danger, alarm, disorder or nuisance, or if his conduct is likely to cause public danger, alarm, disorder or nuisance, such person willfully uses abusive or obscene language or makes an obscene gesture to any other person when such words, by their very utterance, inflict injury or tend to incite an immediate breach of the peace and invade the right of others to pursue their lawful activities.

Sec. 28-115. - Intoxication in public places.

It shall be unlawful for any person to be intoxicated or under the influence of any controlled substance in a public place and who is either endangering directly the safety of another person or of property or is acting in a manner that causes a public disturbance.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(4); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(4), 4-20-2010)

State Law reference— Such person deemed a disorderly person, MCL 750.167(1)(e).

Sec. 28-116. - Indecent or obscene conduct in public place.

It shall be unlawful for any person to be engaged in indecent or obscene conduct in a public place.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(5); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(5), 4-20-2010)

State Law reference— Such person deemed a disorderly person, MCL 750.167(1)(f).

Sec. 28-117. - Begging and soliciting alms by accosting or forcing oneself upon the company of another.

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

Accosting means approaching or speaking to a person in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon the person or property in his immediate possession.

Ask, beg or solicit means, without limitation, the spoken, written or printed word or such other acts as are conducted in furtherance of the purpose of obtaining alms.

Forcing oneself upon the company of another means continuing to request, beg or solicit alms from a person after that person has made a negative response, blocking the passage of the individual addressed, or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

(b) *Unlawful to ask, beg solicit money; exceptions.* Except when performed in the manner and locations set forth in subsections (c) and (d) of this section, it shall not be unlawful to ask, beg or solicit money or other things of value.

(c) *Location.* It shall be unlawful for any person to solicit money or other things of value:

(1) On private property if the owner, tenant or lawful occupant has asked the person not to solicit on the property or has posted a sign clearly indicating that solicitations are not welcome on the property;

(2) Within 15 feet of the entrance to, or exit from, any public toilet facility;

(3) Within 15 feet of an automatic teller machine, provided that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance to, or exit from, the automated teller machine facility;

(4) Within 15 feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance to, or exit from, the telephone booth or facility;

(5) In any public transportation vehicle, bus or subway station, or within 15 feet of any bus stop or taxistand;

(6) From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this subsection shall not apply to services rendered in connection with emergency repairs requested by the owner or passenger of such vehicle;

(7) From any person who is waiting in line for entry to any building, public or private, including any residence, business or athletic facility; or

(8) Within 15 feet of the entrance to, or exit from, a building, public or private, including any residence, business or athletic facility.

(d) *Manner.* It shall be unlawful for any person to solicit money or other things of value by:

(1) Accosting another; or

(2) Forcing oneself upon the company of another.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(7); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(7), 4-20-2010)

State Law reference— Persons begging deemed disorderly persons, MCL 750.167(1)(7).

Sec. 28-118. - Loitering.

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

Loitering on private property includes the concepts of spending time idly, loafing or walking aimlessly, and shall also include knowingly or willingly entering upon the property of another, without the consent of the owner, lessee or other person rightfully in charge or possession thereof, if either of the following conditions exist:

(1) The premises is fenced or enclosed in a manner to exclude intruders; or

(2) Notice against trespass is given by posting the premises in a conspicuous manner.

(b) *Certain types of loitering prohibited.*

(1) No person shall loiter in a public place in such manner as to:

a. Create, or cause to be created, any disturbance or annoyance to the comfort and repose of any person;

b. Create, or cause to be created, a danger of breach of the peace;

c. Obstruct the free passage of pedestrians or vehicles;

d. Obstruct, molest or interfere with any person lawfully in any public place.

(2) This subsection (b) shall include the making of any unsolicited remarks of an offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person to or in whose hearing such remarks are made.

(c) *Request to leave.* Whenever the presence of any person in any public place is causing any of the conditions enumerated in subsection (b) of this section, the owner, lessee or person rightfully in charge or possession thereof or any police officer may order that person to leave that place. Any person who shall refuse to leave after being ordered to do so shall be responsible of a violation of this section.

(d) A person who violates this section is responsible for a civil infraction.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(9); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(9), 4-20-2010; Ord. No. 1111, 10-7-2014)

State Law reference— Certain loiterers deemed disorderly persons, MCL 750.167.

Sec. 28-119. - Jostling or crowding people in public place.

It shall be unlawful for any person to be found jostling or roughly crowding people unnecessarily in a public place.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(10); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(10), 4-20-2010)

State Law reference— Such person deemed a disorderly person, MCL 750.167(1)(l).

Sec. 28-120. - Fighting, quarreling, disturbing the peace in a public place.

It shall be unlawful for any person to engage in any disturbance, fight or quarrel in a public place; disturb the public peace and quiet by loud, boisterous or vulgar conduct; or permit or suffer any place occupied or controlled by him or her to be a resort of noisy, boisterous or disorderly persons, including disorderly house parties.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(13); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(13), 4-20-2010)

Sec. 28-121. - Playing ball games in public street or sidewalk.

It shall be unlawful for any person to play any ball game in any public street or sidewalk or otherwise obstruct traffic on any street or sidewalk by collecting in groups thereon, for any purpose.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(14); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(14), 4-20-2010)

Sec. 28-122. - Pedestrians to use sidewalks where provided; walk facing traffic where no sidewalks provided.

(a) Where sidewalks are provided, a pedestrian shall not walk upon the main portion of the street, unless within a crosswalk. Where sidewalks are not provided, pedestrians shall, when practicable, walk on the left side of the street facing traffic which passes nearest.

(b) A person who violates this section is responsible for a civil infraction.

(Ord. No. 1095, 9-17-2013)

Secs. 28-123—28-140. - Reserved.

ARTICLE VI. - OFFENSES AGAINST PUBLIC SAFETY

Sec. 28-141. - Fire.

(a) *False alarms.* No person shall commit any one or more of the following actions:

(1) Raise a false alarm of fire at any gathering or in any public place.

(2) Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof, for the purpose of creating a false alarm of fire.

(3) Raise a false alarm of fire orally, by telephone or in person.

(b) *Tampering with fire equipment.* No person shall tamper with, injure, destroy or deface any equipment, tool, item or record used for the purpose of investigating, preventing, fighting or warning of fires.

(c) *Hindering, obstructing, endangering, etc., firefighters; disobeying reasonable orders.*

(1) No person shall hinder, obstruct, endanger or interfere with any firefighter in the performance of his or her duties.

(2) No person, while in the vicinity of a fire, shall disobey any reasonable order or rule of an officer commanding any fire department at such fire when such order or rule is given by the commanding officer or a firefighter there present.

(d) *Throwing hot or burning substances.* No person shall throw hot or burning substances or objects, such as cigars, cigarettes, papers, matches and ashes, from the windows, doors and other openings of any building or public place or from any moving vehicle.

(Code 1989, § 658.05; Ord. No. 795, 6-8-1993)

State Law reference— Crimes relating to fires, MCL 750.240 et seq.

Sec. 28-142. - Throwing or propelling snowball, missile, object from a moving automobile.

It shall be unlawful for any person to throw or propel any snowball, missile or object from any moving automobile or throw or propel any snowball, missile or object toward any person or automobile.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(17); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(17), 4-20-2010)

Sec. 28-143. - Discharging firearms, air rifle, air pistol or bow and arrow in the city.

It shall be unlawful for any person to discharge any firearm, air rifle, air pistol or bow and arrow in the city, except when lawfully acting in the defense of persons or property or the enforcement of law or at a duly established range, the operation of which has been approved by the council.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(19); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(19), 4-20-2010)

State Law reference— Discharge of firearms, MCL 750.234 et seq.

Sec. 28-144. - Carrying or concealing dangerous weapons.

No person shall carry in any public street, highway, alley, park, building or any other place open to the public, or have concealed or otherwise in any vehicle operated or occupied by such person, an air pistol, BB gun, starter gun, blank cartridge gun, blackjack, slingshot, sandclub, sap bag, metal or plastic knuckles, karate sticks, nightsticks or any other dangerous or deadly weapon, except as otherwise permitted by law.

(Code 1989, § 690.01; Ord. No. 657, 12-18-1984; Ord. No. 1009, 5-19-2009; Ord. No. 1021, 4-20-2010)

State Law reference— Similar provisions, MCL 750.227.

Sec. 28-145. - Hunting.

It shall be unlawful for any person to hunt any game of any description within the city.

(Code 1973, § 9.101; Code 1989, § 664.03(b)(21); Ord. No. 649, 5-8-1984; Ord. No. 672, 6-4-1985; Ord. No. 1022, § 664.03(b)(20), 4-20-2010)

State Law reference— Hunting area control, MCL 324.41902.

Sec. 28-146. - Replica or facsimile firearms.

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

Firearm means any weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion, including any shotgun, rifle, pistol, or other device of a similar character.

Replica or facsimile firearms means any devices or objects made of plastic, wood, metal, or any other material which are replicas, facsimiles, or toy versions of, or are otherwise recognizable as: a pistol, revolver, shotgun, sawed-off shotgun, rifle, machine gun, rocket launcher, starter pistol, air gun, inoperative firearm, or other firearm. As used in this section, the term "replica or facsimile firearms" shall include, but is not limited to, toy guns, theatrical production props, hobby models, either in kit form or fully assembled, or any other devices which might reasonably be perceived to be real firearms.

(b) *Possession/transportation.*

(1) No person shall carry in any public street, highway, alley, park, building or any other place open to the public, or have concealed or otherwise in any vehicle operated or occupied by such person, a replica or facsimile firearm within the city.

(2) The provisions of this article shall not apply to replica or facsimile firearms, which because of their distinct color, exaggerated size, permanently affixed international blaze orange markings on the receiver portions of the product, and blaze orange plug recessed no more than six millimeters from the muzzle end of the barrel, cannot reasonably be perceived to be real firearms.

(3) The possession of a replica or facsimile firearms is permitted solely for lawful use in theatrical productions including motion picture, television, and stage productions.

(c) *Brandishing.*

(1) It is unlawful for any person to draw, exhibit, or brandish replica or facsimile firearms or simulate the drawing, exhibiting, or brandishing of replica or facsimile firearms, in a rude, threatening, or angry manner, which results in frightening, vexing, harassing, or annoying any other person.

(2) It is unlawful for any person, with knowledge that a peace officer, fire fighter, emergency medical technician, or paramedic is engaged in the performance of his or her duties, to draw, exhibit, possess or brandish a replica or facsimile firearms in their presence.

(d) *Civil forfeiture.* Any replica or facsimile firearm possessed in violation of this Code shall be seized and forfeited to the city.

Sec. 28-147. - Storage of firearm in unlocked motor vehicle; prohibition.

(a) No person shall store or keep any pistol, revolver, rifle or shotgun in an unlocked motor vehicle unless such weapon is secured in the trunk or locked in the glove box or other locked container, or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user. For purposes of this section, such weapon shall not be deemed stored or kept if carried by or under the control of the owner or other lawfully authorized user.

(b) *Violations; penalties.*

(1) A first offense shall be a municipal civil infraction subject to a fine up to $350.00.

(2) A second or subsequent offenses shall constitute a misdemeanor punishable by a fine up to $500.00 or up to 90 days in jail or both.

(Ord. No. 1178, § 1, 10-15-2019)

Secs. 28-148—28-177. - Reserved.

ARTICLE VII. - OFFENSES ON SCHOOL PROPERTY

Sec. 28-178. - Property destruction.

No person shall damage, destroy or deface any public, private or parochial school building, or any building occupied by any public, private or parochial school, or the grounds, outbuildings, fences, trees or other appurtenances or fixtures belonging thereto.

(Code 1989, § 670.01)

State Law reference— Malicious mischief generally, MCL 750.377a et seq.

Sec. 28-179. - Disturbing school sessions.

No person, while on public or private grounds adjacent to any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace, quiet or good order of such school session or class thereof.

(Code 1989, § 670.02; Ord. No. 649, 5-8-1984)

State Law reference— Disturbing public places, MCL 750.170.

Sec. 28-180. - Disturbing school gatherings or functions.

No person, while on public or private lands adjacent to any building or lands owned, occupied or otherwise used by a school within the city, in or on which any gathering or function is in progress, whether in the daytime or nighttime, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace, quiet or good order of such gathering or function.

Sec. 28-181. - Duty to leave upon request.

Any person found to be creating a disturbance in any private, public or parochial school or on the surrounding school grounds shall leave immediately when so directed by the principal or by any other person designated by the principal.

(Code 1989, § 670.04; Ord. No. 649, 5-8-1984)

Sec. 28-182. - Trespass.

(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:

Student means any person enrolled in the school at which he or she is then present, or if present at another school, has written permission from the principal of the school where the student is enrolled and the principal of the school where the student is then present. The term "student" does not include suspended or expelled persons, during such suspension or expulsion, or persons enrolled for classes or programs during other hours than those during which the person enters or remains in any school or on land owned, occupied or used by any school.

(b) During normal school hours, no person who is not a regularly enrolled student, teacher or school employee shall enter and remain in any school building or on any lands owned, occupied or used by and adjacent to any school, whether public, private or parochial, in the city, for any reason whatever, unless such person has first reported to the school business office and receives permission from the principal or other person designated by the principal to be in any such public, private or parochial school building or on any lands owned, occupied or used by any school within the city and adjacent to such building.

(Code 1989, § 670.05; Ord. No. 649, 5-8-1984)

State Law reference— Trespass generally, MCL 750.546 et seq.

Sec. 28-183. - Alcoholic liquors.

No person shall consume or be in possession of alcoholic liquor while in any school building, or on lands owned, occupied or used by any school.

State Law reference— Michigan liquor control code of 1998, MCL 436.1101 et seq.

Sec. 28-184. - Weapons.

No person, while in any school building or on land owned and occupied or used by any school, shall use, possess, carry or conceal firearms of any description or any air rifles, spring guns, slings, knives, martial arts weapons or any other form of weapon potentially dangerous to human safety. This section does not apply to police officers acting in their normal course of duty.

State Law reference— Firearms and weapons, MCL 750.222 et seq.

Sec. 28-185. - Drug paraphernalia.

No person shall use, possess, carry or conceal any drug paraphernalia or marihuana accessories in a school bus or on the grounds of any public or private schools where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12.

(Ord. No. 1161, § 1, 2-19-2019)

State Law reference— Drug paraphernalia, MCL 333.7451 et seq.

Sec. 28-186. - Use of tobacco products on school property; prohibition.

(a) *Definition.* The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Tobacco product, means a preparation of tobacco to be inhaled, chewed or placed in a person's mouth, including, but not limited to, cigars, cigarettes, pipes and chewing tobacco.

(b) *Generally.* No person while in any buildings owned, occupied or otherwise used by a school, or while on any lands owned, occupied or otherwise used by a school, shall carry, inhale, chew or place within his mouth any tobacco product.

(c) *Penalty.* A person who violates this section shall be guilty of a misdemeanor punishable by a fine of not more than $50.00.

Sec. 28-187. - Use of tobacco on school property-exceptions.

Section 28-186 shall not apply to persons age 18 or older on outdoor areas owned, used or otherwise occupied by a school, including, but not limited to, an open air stadium, during either of the following time periods:

(1) Saturdays, Sundays and other days on which there are no regularly scheduled school hours;

(2) After 6:00 p.m. on days during which there are regularly scheduled school.

State Law reference— Youth tobacco act, MCL 722.641 et seq.

Sec. 28-188. - Borrowing from students.

No person shall borrow or attempt to borrow any money or thing of value from any student in any public, private or parochial school or on any public, private or parochial school property in the city, or during any time when any such student is going to or returning from any regularly scheduled session of any such school, without first obtaining the written approval of the principal of such school or other person designated by the principal to issue such written approval.

(Code 1989, § 670.06; Ord. No. 649, 5-8-1984)

Sec. 28-189. - Loitering on school property.

(a) *Loitering.* No person shall loiter or remain upon any school grounds or in any school building, whether public, private or parochial, before or after normal school hours, or on days when school is not in session.

(b) *Hours grounds and buildings closed to public; exception.* It shall be unlawful for any person to loiter or remain upon any school grounds or in any school building between the hours of 10:00 p.m. and 7:00 a.m.; provided, however, that this section shall not apply to employees of the school, and provided further that this section shall not apply during the conduct of any activity under the direction, supervision or auspices of the school.

(Code 1989, § 670.07; Ord. No. 649, 5-8-1984)

Sec. 28-190. - Fighting on school property.

No person shall, while present in any building or on any property that is owned, occupied, or otherwise used by any school, incite, participate, or otherwise be involved in any fight or other physical confrontation with another. Such prohibited conduct includes before, during, and after school hours or other social or sporting event hosted at any school. A person who violates this section is responsible for a municipal civil infraction, punishable by a fine of not more than $100.00 and costs of prosecution. A second or subsequent violation shall result in a fine up to $500.00 plus costs of prosecution. Pursuant to a probation order, the court may require a person who violates this section to participate in an anger management class, or other similar type of program, if available. A person who is ordered to participate in such a class or program under this section is responsible for the costs of participating in the class or program. In addition, or in lieu of a fine, the court may further order the person to perform community service.

(Ord. No. 1159, § 1, 11-20-2018)

Secs. 28-191—28-216. - Reserved.

ARTICLE VIII. - CONTROLLED SUBSTANCES[2]

Footnotes:

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State Law reference— Controlled substances generally, MCL 333.7101 et seq.

Sec. 28-217. - Definitions.

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

Act means the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as it may be amended from time to time.

Consume or *consuming* means to smoke, ingest, eat, drink, or otherwise imbibe.

Controlled substance means a drug substance or immediate precursor set forth in Schedules 1 to 5 of Part 72 of Public Act No. 368 of 1978 (MCL 333.7201 et seq.), or any other controlled substance which contains a quantity of substances which, by regulation, has been designated by the United States

government as having a potential for abuse, because of its depressant or stimulative effect on the central nervous system, or which has a hallucinogenic effect under the Federal Controlled Substance Act, 1970 P.L. 91-513, as amended. The term "controlled substance" shall include the substances methaqualone, ephedrine and benzephetamine.

Cultivate means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

Marihuana means all parts of the plant genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or sterilized seed of the plant that is incapable of germination; industrial hemp; or any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

Marihuana concentrate means the resin extracted from any part of the plant of the genus cannabis.

Process or *processing* means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

Public place means a place or location that is open to or may be used by the members of the community, or where the general public has a right or invitation to resort, or where the public may come and go, including without limitation any public street, sidewalk, or park; any area open to the general public in a publicly owned or operated building; real property or an appurtenance to the real property that is publicly owned; areas within a place of business that is open to the public at any time; any space, room, or building wherein, by general invitation, members of the public attend for reasons of business, communal activities, entertainment, instruction, lodging, or similar activities, and are welcome as long as they conform to what is customarily done there; any public conveyance; any place of employment while employees are working and guests or patrons are present or generally invited; any place of public assembly; the common areas of any commercial place of communal living, such as a home for the aged; any place or location to which the public is generally invited or permitted to visit; within a privately owned vehicle located in a public place, such as a parking lot that is open for use by the general public; or otherwise any place determined by the courts of the State of Michigan to be a public place when analyzed in the context to which the term is applied.

Smoking or *smoke* means the burning of marihuana or any substance or matter that contains marihuana within a cigar, cigarette, pipe, or any other item or device.

(Code 1973, § 9.122; Code 1989, § 616.01; Ord. No. 1163, § 1, 2-19-2019)

Sec. 28-218. - Possession, sale or distribution.

No person shall possess, sell, offer for sale, distribute, administer, dispense, prescribe or give away any controlled substance, unless authorized by law.

(Code 1973, § 9.121; Code 1989, § 616.02)

Sec. 28-219. - Possession of needles or instruments.

No person shall have or possess a hypodermic syringe or needle or any other instrument, implement or paraphernalia adapted for the use of a controlled substance by subcutaneous injection or intracutaneous injection or any other paraphernalia used or adapted for the controlled substance to be introduced into the body, unless such possession is authorized by law.

(Code 1973, § 9.123; Code 1989, § 616.03)

Sec. 28-220. - Sale or furnishing of needles or instruments.

No person shall sell, furnish, supply or give away any empty gelatin capsule, hypodermic syringe or needle or any other instrument, implement or paraphernalia adapted for the use of a controlled substance by subcutaneous injection or intracutaneous injection or any other paraphernalia used or adapted for the controlled substance to be introduced into the body, unless such dispensing is authorized by law.

(Code 1973, § 9.124; Code 1989, § 616.04)

Sec. 28-221. - Frequenting premises connected with controlled substance abuse.

No person shall loiter about, frequent or live in any building, apartment, store, automobile, trailer or any other place of any description whatsoever where said person intends to be present where, or has knowledge that, a controlled substance is used, sold, dispensed, furnished, given away, stored, possessed or kept illegally.

(Code 1989, § 616.05; Ord. No. 743, 1-23-1990)

Sec. 28-222. - Paraphernalia.

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

Drug paraphernalia.

(1) The term "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of state or local law.

(2) The term "drug paraphernalia" includes, but is not limited to:

a. Kits, products or materials used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived;

b. Kits, products or materials used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing a controlled substance;

c. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

d. Testing equipment that is used, intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity, of controlled substances;

e. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

f. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;

g. Separation gins and sifters that are used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

h. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

i. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;

j. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;

k. Hypodermic syringes, needles and other objects used, intended for use or designed for use in injecting controlled substances in the human body;

l. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

2. Water pipes;

3. Carburetion tubes and devices;

4. Smoking and carburetion masks;

5. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette;

6. Miniature cocaine spoons and cocaine vials;

7. Chamber pipes;

8. Carburetor pipes;

9. Electric pipes;

10. Air-driven pipes;

11. Chillums;

12. Bongs; and

13. Ice pipes or chillers.

(3) In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

a. Statements by an owner or by anyone in control of the object concerning its use;

b. Prior convictions, if any, of an owner, or of anyone in control of the object, under any local, state or federal law relating to any controlled substance;

c. The proximity of the object, in time and space, to a direct violation of local or state law;

d. The proximity of the object to controlled substances;

e. The existence of any residue of controlled substances on the object;

f. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows intends to use the object to facilitate a violation of state or local law. The innocence of an owner, or of anyone in control of the object, as to a direct violation of state law, shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;

g. Instruction, oral or written, provided with the object concerning its use;

h. Descriptive materials accompanying the object which explain or depict its use;

i. National and local advertising concerning its use;

j. The manner in which the object is displayed for sale;

k. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor of or dealer in tobacco products;

l. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

m. The existence and scope of legitimate uses for the object in the community; and

n. Expert testimony concerning its use.

(b) *Possession.* No person shall use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of state or local law.

(c) *Manufacture, delivery or sale.* No person shall deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, drug paraphernalia, knowing that it will be used to plant, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of state law.

(d) *Advertisement.* No person shall place in any newspaper, magazine, handbill, sign, poster or other publication any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(e) *Exceptions.* This section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropodists, veterinarians, pharmacists and embalmers in the normal legal course of their respective business or profession, nor to persons suffering from diabetes, asthma or any other medical condition requiring self-injection.

(f) *Civil forfeiture.* Any drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell, in violation of this section, shall be seized and forfeited to the city in accordance with the following procedure:

(1) Property subject to forfeiture under this section may be seized upon process issued by a court having jurisdiction over the property. Seizure without process may be had in any of the following cases:

a. The seizure is incident to an arrest or a search warrant or an inspection under an administrative inspection warrant.

b. The property subject to seizure has been the subject of a prior judgment in favor of the city in an injunction or forfeiture proceeding based upon this section.

c. There is probable cause to believe that the property is directly or indirectly dangerous to health or safety.

d. There is probable cause to believe that the property was used or intended to be used in violation of this section.

(2) In case of a seizure without process issued by a court with jurisdiction, forfeiture proceedings shall be instituted promptly. If seizure is made without process and the total value of the property seized does not exceed $100,000.00, the following procedure shall be used:

a. The city shall cause notice of the seizure of property and the intention to forfeit and dispose of the property according to this section to be given to the owner of the property by delivering the owner notice or by sending the notice to the owner by certified mail. If the name and address of the owner are not reasonably ascertainable or if delivery of the notice cannot reasonably be accomplished, the notice shall be published in a newspaper of general circulation in the county in which the property was seized for ten successive publishing days.

b. Any person claiming an interest in property which is the subject of a notice under subsection (f)(2)a. of this section may, within 20 days after receipt of the notice or within 20 days after the date of first publication of the notice, file a claim with the city expressing his or her interest in the property. Upon filing of the claim and giving of a bond in the amount of $250.00, with surety approved by the city, the city shall transmit the claim and bond to the city attorney, who shall promptly institute forfeiture proceedings after the expiration of the 20-day period. The condition of such bond shall be that if the property is ordered forfeited by the court, the obligor shall pay all costs and expenses of the forfeiture proceedings.

c. If no claim is filed or bond given within the 20-day period as described, the city shall declare the property forfeited and shall dispose of the property as set forth hereinafter.

(3) Property taken or detained under this section shall not be subject to an action to recover personal property but is deemed to be in the custody of the city subject only to this section or an order and judgment of the court having jurisdiction over the forfeiture proceedings. When property is seized under this section, the police department may do either of the following:

a. Place the property under seal; or

b. Remove the property to a place designated by the court.

(4) When property is forfeited under this article, the city may make any of the following dispositions, at its discretion:

a. Retain it for official lawful use;

b. Sell that which is not required to be destroyed by law and which is not harmful to the public, paying from the proceeds thereof expenses of the proceedings of forfeiture and sale, including maintenance of custody, advertising and other costs, with the balance of moneys to be retained by the city drug forfeiture fund; or

c. Destroy and dispose of, in a safe manner, any property not reasonably capable of resale or otherwise potentially dangerous and harmful to the community at large.

(Code 1989, § 616.06; Ord. No. 697, 3-10-1987)

State Law reference— Drug paraphernalia, MCL 333.7451 et seq.

Sec. 28-223. - Possession and use of marihuana; prohibitions; penalties.

(a) *Generally*. A person shall only possess marihuana as authorized by law and subject to the following:

(1) No person shall transfer marihuana or marihuana accessories to a person under the age of 21.

(2) If under the age of 21, no person shall possess, consume, purchase or otherwise obtain, cultivate, process, transport, or sell marihuana.

(3) No person shall separate plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure.

(4) No person shall consume marihuana in a public place.

(5) No person shall smoke marihuana where prohibited by a person who owns, occupies, or manages a property.

(6) No person shall cultivate marihuana plants if the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area.

(7) No person shall consume marihuana while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat.

(8) No person shall smoke marihuana within the passenger area of a vehicle upon a public way.

(9) No person shall possess or consume marihuana on the grounds of a public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility.

a. For a violation of this subsection by a person under the age of 17, the person shall be responsible for a municipal civil infraction punishable by a fine of $500.00, except that the fine will be $100.00 if the person completes a drug awareness program approved by the police department, either within 30 days of receiving the citation or prior to entering a plea of responsibility at the district court.

(10) No person shall possess more than 2.5 ounces of marihuana within a person's place of residence unless the excess marihuana is stored in a container or area equipped with locks or other functioning security devices that restrict access to the contents of the container or area.

(b) The following acts by a person 21 years of age or older are not unlawful, are not an offense, are not grounds for seizing or forfeiting property, are not grounds for arrest, prosecution, or penalty in any manner, are not grounds for search or inspection, and are not grounds to deny any other right or privilege:

(1) Except as permitted by subsection (2), possessing, using or consuming, internally possessing, purchasing, transporting, or processing 2.5 ounces or less of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate;

(2) Within the person's residence, possessing, storing, and processing not more than ten ounces of marihuana and any marihuana produced by marihuana plants cultivated on the premises and cultivating not more than 12 marihuana plants for personal use, provided that if more than 12 marihuana plants are possessed, cultivated, or processed on the premises at once, the person shall be guilty of a misdemeanor punishable as provided in section 28-218 and by forfeiture of the plants;

(3) Assisting another person who is 21 years of age or older in any of the acts described in this subsection; and

(4) Giving away or otherwise transferring without remuneration up to 2.5 ounces of marihuana, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate, to a person 21 years of age or older, as long as the transfer is not advertised or promoted to the public, provided that a transfer for remuneration of any kind, overt or inferred, and a transfer that exceeds the limits set forth here or which is advertised or promoted to the public shall constitute a misdemeanor as provided in section 28-218 and by forfeiture of the marihuana.

(c) Except for a person who engaged in conduct described in subsections (a)(1), (2), (3), (7), (8), (9), or as otherwise provided in the act, a person who possesses, cultivates, delivers without receiving any remuneration to a person who is at least 21 years of age, or possesses with intent to deliver not more than the amount of marihuana allowed by subsection (b) is responsible for a municipal civil infraction and may be punished by a fine of not more than $100.00 and forfeiture of the marihuana.

(d) Except for a person who engaged in conduct described in subsection (a), or as otherwise provided in the act, a person who possesses, cultivates, delivers without receiving any remuneration to a person who is at least 21 years of age, or possesses with intent to deliver not more than twice the amount of marihuana allowed by subsection (b), is subject to the following:

(1) For a first violation, is responsible for a municipal civil infraction punishable by a fine of $500.00 and forfeiture of the marihuana.

(2) For a second violation, is responsible for a municipal civil infraction punishable by a fine of $1,000.00 and forfeiture of the marihuana.

(3) For a third or subsequent violation, is guilty of a misdemeanor punishable by a fine of up to $500.00 and forfeiture of the marihuana.

(e) Except for a person who engaged in conduct described by subsections (a)(3), (7), (8), or as otherwise provided in the act, a person under 21 years of age who possesses not more than 2.5 ounces of marihuana or who cultivates not more than 12 marihuana plants, is subject to the following:

(1) For a first violation, is responsible for a municipal civil infraction punishable as follows:

a. If the person is less than 18 years of age, by a fine of $100.00 or community service, forfeiture of the marihuana, and completion of four hours of drug education or counseling.

b. If the person is at least 18 years of age, by a fine of $100.00 and forfeiture of the marihuana.

(2) For a second violation, is responsible for a municipal civil infraction punishable as follows:

a. If the person is less than 18 years of age, by a fine of $500.00 or community service, forfeiture of the marihuana, and completion of eight hours of drug education or counseling.

b. If the person is at least 18 years of age, by a fine of $500.00 and forfeiture of the marihuana.

(3) For a third or subsequent violation committed by a person less than 18 years of age, is responsible for a municipal civil infraction punishable by a fine of $1,000.00 and community service, forfeiture of the marihuana, and completion of 16 hours of drug education or counseling. For a third or subsequent violation committed by a person at least 18 years of age, is guilty of a misdemeanor punishable as provided in section 28-218, community service, forfeiture of the marihuana, and completion of drug education or counseling ordered by the court.

(f) Except for a person who engaged in conduct described by subsection (a), or as otherwise provided in the act, a person who possesses, cultivates, or delivers without receiving any remuneration to a person who is at least 21 years of age more than twice the amount of marihuana allowed by subsection (b) shall be guilty of a misdemeanor punishable as follows:

(1) A fine up to $500.00 if the violation was not habitual, willful, and for a commercial purpose, and the violation did not involve violence.

(2) A fine up to $500.00 and up to 90 days in jail if the violation was habitual, willful, and for a commercial purpose, or if the violation involved violence.

(Ord. No. 1163, § 2, 2-19-2019)

Secs. 28-224—28-252. - Reserved.

ARTICLE IX. - SEX-RELATED OFFENSES

Sec. 28-253. - Accosting and soliciting; prostitution.

No person shall accost, solicit or invite another in any public place or in or from any building or vehicle, by word, gesture or any other means, to commit or afford an opportunity to commit fornication or prostitution or to do any other lewd or immoral act. No person shall engage or offer to engage in the services of another person for an act of prostitution, lewdness or assignation, by the payment of money or other forms of consideration. No person shall loiter in a house of ill fame or prostitution, or a place where prostitution or lewdness is practiced, encouraged or allowed.

(Code 1989, § 674.02; Ord. No. 649, 5-8-1984)

State Law reference— Prostitution generally, MCL 750.448 et seq.

Sec. 28-254. - Indecent exposure.

No person shall knowingly make an open or indecent exposure of his or her person or the person of another.

State Law reference— Similar provisions, MCL 750.335a.

Sec. 28-255. - Indecent/lewd behavior/exposing undergarments.

(a) It shall be unlawful for any person in any public place or in view of the public, to be found exposing his or her undergarments which cover the areas of his or her: buttock, genitals, or a woman's breasts.

(b) Any person violating any provision of this section shall be guilty of a municipal civil infraction. Upon conviction thereof, said person shall be fined not more than $150.00.

(c) Upon a second conviction whoever violates this section shall be guilty of a municipal civil infraction with a fine of not more than $500.00.

(d) Upon a third conviction whoever violates this section shall be guilty of a misdemeanor.

Sec. 28-256. - Student safety zone—SOR work/loitering violation.

No person, being an individual required to be registered under the sex offender registration act, Public Act No. 295 of 1994 (MCL 28.723 et seq.), shall:

(1) Work within a student safety zone.

(2) Loiter within a student safety zone.

Sec. 28-257. - Sex offenders—Failure to comply with reporting duties.

No person, being an individual required to be registered under the sex offender registration act, Public Act No. 295 of 1994 (MCL 28.723 et seq.), shall fail to comply with MCL 28.725a.

Secs. 28-258—28-277. - Reserved.

ARTICLE X. - OFFENSES CONCERNING UNDERAGE PERSONS

DIVISION 1. - GENERALLY

Sec. 28-278. - Penalty.

(a) Whoever violates any of the provisions of section 28-279 shall, upon conviction thereof, be fined not more than $25.00 or imprisoned not more than 30 days in the city or county jail, or both, in the discretion of the court. The police department may, in regard to violations by minors, refer the matter to the judge of probate for proceedings under the delinquent children's statutes of the state.

(b) Whoever violates section 28-280(b) is guilty of a misdemeanor and shall be fined not more than $50.00 for each offense.

(c) Whoever violates section 28-280(c) is guilty of a civil infraction punishable by a fine of not more than $50.00 for each offense. The court may require a person who violates section 28-280(c) to participate in a health promotion and risk reduction assessment program and make such person responsible for the costs of participating in the program. In addition, a person who violates section 28-280(c) is subject to the following:

(1) For the first violation, the court may order the person to perform not more than 16 hours of community service in a hospice, a nursing home or a longterm care facility, or other community service as the court deems appropriate.

(2) For a second violation, in addition to participation in a health promotion or risk reduction program, the court may order the person to perform not more than 32 hours of community service in a hospice, a nursing home or a longterm care facility, or other community service as the court deems appropriate.

(3) For a third or subsequent violation, in addition to participation in a health promotion or risk reduction program, the court may order the person to perform not more than 48 hours of community service in a hospice, a nursing home or a long-term care facility, or other community service as the court deems appropriate.

(d) Civil infraction.

(1) Whoever violates any of the provisions of section 28-281 is responsible for a civil infraction and shall be fined not more than $100.00, plus costs, for a first offense, and not more than $200.00, plus costs, for any subsequent offense.

(2) Any person who is found to be responsible for a civil infraction as stated herein, and who fails to pay any civil infraction judgment, may have any license or permit that is to be issued to such person by the city, withheld by the city, or any recommendation for the issuance of a license or permit, may be withheld by the city, in cases where the city has the authority to so recommend. Any civil infraction judgment may be collected in the same manner as provided for under the laws of the state.

(Code 1973, §§ 9.171—9.175; Code 1989, § 658.99; Ord. No. 558, 8-8-1977; Ord. No. 853, 1-7-1997; Ord. No. 878, 6-16-1998; Ord. No. 936, 1-3-2004)

Sec. 28-279. - Minors' curfew.

(a) *Hours.* No person shall be permitted, caused or suffered to be in any public park or playground between the hours of 10:00 p.m. and 6:00 a.m., immediately following, nor shall any minor under the age of 17 years be permitted, caused or suffered to be in any public street, highway, alley or any public place, between the hours of 11:00 p.m. and 6:00 a.m., immediately following, nor shall any minor under the age of 12 years be permitted, caused or suffered to be in any public street, highway, alley or any public place, between the hours of 10:00 p.m. and 6:00 a.m., immediately following, except where the minor is accompanied by a parent or guardian or some adult above the age of 21 years delegated by the parent as guardian to accompany such minor.

(b) *Temporary park or playground curfew.* The director of parks and recreation and the police chief, with the council's confirmation, may post a temporary earlier curfew at any park or playground where, in their judgment, problems or incidents at such location warrant a temporary earlier curfew. No such temporary earlier curfew at any park or playground shall be applicable to any parks and recreation department activity or city-sponsored program.

(c) *Employment permit.* No minor under the age of 17 years shall be permitted, caused or suffered to be engaged or employed in any public street, highway, alley, park or any public place, between the hours of 12:00 midnight and 6:00 a.m., immediately following. The chief of police shall have the power to issue a permit exempting such minor from the provisions of this section when such exception is necessary to enable him or her to go to and from his or her place of employment, which permit may be revoked by the chief of police at any time.

(d) *Abetting violation; presumption.* Any person assisting, aiding, abetting or encouraging any minor to violate the provisions hereof shall be guilty of a violation of this section, and when any minor is found violating this section a presumption shall arise that the parents or legal guardian having the care and custody of such minor, as well as the owner, manager or operator of any public place, assisted, aided, abetted and encouraged such minor in so violating this section and the same presumptions shall apply to an employer where no employment permit for the minor is in force.

(e) *Exemptions.* The following activities shall be exempt from the curfew requirements of this section where the minor is:

(1) Accompanied by his or her parent, guardian or any other person 21 years of age or older who is authorized by a parent as the caretaker for the minor;

(2) On an errand, without any detour or stop, at the direction of his or her parent, guardian or caretaker;

(3) In a vehicle involved in interstate travel;

(4) Engaged in a certain employment activity, or going to or from employment, without any detour or stop;

(5) Involved in an emergency;

(6) On the sidewalk that abuts the minor's or the next door neighbor's residence, if the neighbor has not complained to the police;

(7) In attendance at an official school, religious or other recreational activity sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor, or going to or from such an activity, without any detour or stop, and supervised by adults;

(8) Exercising First Amendment rights, including free exercise of religion, freedom of speech and the right of assembly.

(Code 1973, §§ 9.171—9.175; Code 1989, § 658.04; Ord. No. 558, 8-8-1977)

State Law reference— Curfew for minors, MCL 722.751 et seq.

Sec. 28-280. - Sale and use of tobacco products and vapor products; minors; prohibited.

(a) *Findings, intent and purpose.* The city finds that persons under age 18 are prohibited by law from purchasing or possessing cigarettes and other tobacco products, and retailers are prohibited from selling them to minors. However, tobacco-less products commonly referred to as "electronic cigarettes," "e-cigarettes," "e-cigars," "e-cigarillos," "e-pipes," "e-hookahs," "mods," "Juuls," "e-pens," or "electronic nicotine delivery systems" allow the user to simulate cigarette smoking and ingest nicotine. These products may be purchased by minors and are being marketed without age restrictions or health warnings and come in different flavors that appeal to young people. The city further finds studies by the FDA have determined that e-cigarettes can increase nicotine addiction among young people and contain chemical ingredients known to be harmful, which may expose users and the public to potential health risks. Furthermore, the use of e-cigarettes and similar devices has increased significantly in recent years. Based on these findings, this section is adopted for the purpose and with the intent to protect the public health and safety of the city and its residents by prohibiting persons under age 18 from possessing and using tobacco products and vapor products and prohibiting the sale of tobacco products and vapor products to persons under age 18.

(b) *Definitions*. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicated a different meaning:

Minor means an individual who is less than 18 years of age.

Person who sells tobacco products at retail means a person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products subject to state sales tax.

Person who sells vapor products at retail means a person whose ordinary course of business consists, in whole or in part, of the retail sale of vapor products.

Possess a tobacco product or vapor product shall mean either actual physical control of the tobacco product or vapor product without necessarily owning that product, or the right to control the product, regardless of whether it is in a different room or place than where the person is physically located.

Public place means a public street, sidewalk, or park or any area open to the general public in a publicly owned or operated building or premises, or in a public place of business.

Tobacco product means a product that contains tobacco and is intended for human consumption, including but not limited to cigarettes, non-cigarette smoking tobacco, or smokeless tobacco, as those terms are defined in section 2 of the Tobacco Products Tax Act, cigars, chewing tobacco, and flavored tobacco (shisha). Tobacco product does not include a vapor product or a product regulated as a drug or device by the United States Food and Drug Administration.

Use a tobacco product or vapor product means to smoke, chew, suck, inhale, or otherwise consume a tobacco product or vapor product.

Vapor product means a noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. Vapor product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include a product regulated as a drug or device by the United States Food and Drug Administration.

(c) *Generally.* No person shall sell, give, or furnish a tobacco product or vapor product to a minor, including, but not limited to, through the use by a minor of a vending machine. A person who violates this subsection or subsection (c)(4) is guilty of a misdemeanor punishable by a fine of not more than $50.00 for each violation.

(1) It is an affirmative defense to a charge under subsection (c) that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of tobacco products and vapor products to persons under 18 years of age and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file and serve notice of the defense, in writing, with the court and serve a copy of the notice on the city attorney. The defendant shall serve the notice not less than 14 days before the date set for trial.

(2) If the city attorney proposes to offer testimony to rebut the affirmative defense described in subsection (c)(1), the city attorney shall file a notice of rebuttal, in writing, with the court and serve a copy of the notice on the defendant. The city attorney shall serve the notice not less than seven days before the date set for trial and shall include in the notice the name and address of each rebuttal witness.

(3) Subsection (c) does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of the minor's employment.

(4) Before selling, offering for sale, giving, or furnishing a vapor product to an individual, a person shall verify that the individual is at least 18 years of age by doing one of the following:

a. If the individual appears to be under 27 years of age, examining a government-issued photographic identification that establishes that the individual is at least 18 years of age.

b. For sales made by the internet or other remote sales method, performing an age verification through an independent, third-party age verification service that compares information available from a commercially available database, or aggregate of databases, that are regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is 18 years of age or older.

(d) *Sign required concerning sales to minors*.

(1) A person who sells tobacco products or vapor products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign that includes the following statement:

The purchase of a tobacco product or vapor product by a minor under 18 years of age and the provision of a tobacco product or vapor product to a minor are prohibited by law. A minor who unlawfully purchases or uses a tobacco product or vapor product is subject to criminal penalties.

(2) If the sign required under subsection (d)(1) is more than six feet from the point of sale, it shall be 5½ inches by 8½ inches and the statement required in subsection (d)(1) shall be printed in 36-point boldface type. If the sign required under subsection (d)(1) is six feet or less from the point of sale, it shall be two inches by four inches and the statement required under subsection (d)(1) shall be printed in 20-point boldface type.

(3) The signs required by subsection (d)(1) may be procured from the department of community health pursuant to state law. The seller may add the "vapor product" language to the sign if the department of community health does not or will not include it.

(4) A person who violates this subsection shall be guilty of a misdemeanor, punishable by a fine of not more than $50.00 for each offense.

(e) *Prohibited conduct; penalty for violation.*

(1) Subject to subsection (e)(3), a minor shall not do any of the following:

a. Purchase or attempt to purchase a tobacco product or vapor product.

b. Possess or attempt to possess a tobacco product or vapor product.

c. Use a tobacco product or vapor product in a public place or on school property.

d. Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product or vapor product.

(2) A violation of subsection (e)(1) is punishable as follows:

a. The first violation is a municipal civil infraction, punishable by a fine of $500.00 for each violation, except that the fine will be $50.00 for each violation cited on a single municipal civil infraction citation if the individual completes a health promotion and risk reduction program approved by the public safety department, either within 30 days of receiving the citation or prior to entering a plea of responsibility at the district court.

b. For minors under the age of 17, a second violation or subsequent violation is a municipal civil infraction punishable by a fine of $500.00 for each violation, except that the fine will be $50.00 for each violation cited on a single municipal civil infraction citation if the individual performs not less than 20 hours of community service in a hospice, nursing home, or long-term care facility, as verified in a form satisfactory to the public safety department, either within 30 days of receiving the citation or prior to entering a plea of responsibility at the district court.

c. For minors age 17, a second violation or subsequent violation is a misdemeanor, punishable by a fine up to $500.00. The court may order the individual to complete a health promotion and risk reduction program and perform not more than 40 hours of community service in a hospice, nursing home, or long-term care facility.

(3) Subsection (e)(1) does not apply to a minor participating in any of the following:

a. An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

b. An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the state police or a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the tobacco product or vapor product by the minor was not under the direction of the state police or the local police agency and was not part of the undercover operation.

c. Compliance checks in which the minor attempts to purchase tobacco products for the purpose of satisfying federal substance abuse block grant youth tobacco access requirements, if the compliance checks are conducted under the direction of a substance abuse coordinating agency as defined in the Public Health Code, 1978 PA 368, MCL 333.6103, and with the prior approval of the state police or a local police agency.

(4) Subsection (e)(1) does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of that minor's employment.

(5) This section does not prohibit an individual from being charged with, convicted of, or sentenced for any other violation of law that arises out of the violation of subsection (e)(1).

(f) *Parental responsibility.* A primary caretaker having custody or control of a minor who violates subsection (e)(1) shall be responsible for a municipal civil infraction and a fine of $500.00 for knowingly allowing or, through lack of supervision, allowing the minor to violate subsection (e)(1). The fine will be $50.00 if the primary caretaker completes a health promotion and risk reduction program approved by the public safety department, either within 30 days of receiving the citation or prior to entering a plea of responsibility at the district court.

(g) *Sales of individual cigarettes.*

(1) Except as otherwise provided in subsection (g)(2), a person who sells tobacco products at retail shall not sell a cigarette separately from its package.

(2) Subsection (g)(1) does not apply to a person who sells tobacco products at retail in a tobacco specialty retail store or other retail store that deals exclusively in the sale of tobacco products and smoking paraphernalia.

(3) A person who violates subsection (g)(1) is guilty of a misdemeanor, punishable by a fine of not more than $500.00 for each offense.

(Code 1989, § 658.06; Ord. No. 853, 1-7-1997; Ord. No. 1162, § 1, 2-19-2019)

State Law reference— Similar provisions, MCL 722.641 et seq.

Sec. 28-281. - Truancy.

(a) *Responsibility of parents and guardians.* No parent, guardian or other adult person in the city having control and charge of a child from the age of six to the child's 16th birthday shall allow said child to be absent from school without excuse within the city during the hours when said child is required to be in attendance either at a public school, private school or home school as required by state law.

(b) *Aiding and abetting.* No person shall encourage or assist a child to not attend or return to school unless such absence is excused by a school official or such excuse is recognized by law.

(Code 1989, § 658.07; Ord. No. 878, 6-16-1998)

State Law reference— Compulsory school attendance, MCL 380.1561 et seq.

Secs. 28-282—28-310. - Reserved.

DIVISION 2. - PARENTAL RESPONSIBILITY

Sec. 28-311. - Purpose.

This division is declared necessary for the preservation of the public peace, health, safety and welfare of the people of the city, and is intended to address situations where parents have failed to act

responsibly and reasonably in the supervision of their minor children to the detriment of the general public.

(Ord. No. 1012, § 1, 8-18-2009)

Sec. 28-312. - 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:

Delinquent acts means those acts which violate the laws of the United States, or the statutes of the state or the ordinances of the city, or those acts which would cause or tend to cause the minor to come under the jurisdiction of the juvenile division of the probate court as defined by MCL 712A.2, but does not include traffic violations.

Illegal drugs means controlled substances obtained without a legal prescription.

Juvenile delinquent means those minors whose conduct is in violation of MCL 712A.2(a).

Minor means any person under the age of 18 years residing with a parent.

Parent means mother, father, legal guardian and any other person having the care or custody of a minor, or any person acting in the parents' stead who has custody or control of the minor.

(Ord. No. 1012, § 2, 8-18-2009)

Sec. 28-313. - Parental duties.

It is the continuous duty of the parent of any minor to exercise reasonable control to prevent the minor from committing any delinquent act. This parental duty includes, but is not limited to, the following:

(1) To keep illegal drugs or illegal firearms out of the home, and legal firearms locked in places that are inaccessible to the minor.

(2) To know the curfew requirements of this article and to require the minor to comply with same.

(3) To arrange proper supervision for the minor when the parent must be absent.

(4) To take the necessary precautions to prevent the minor from maliciously or willfully destroying real, personal, or mixed property.

(5) To forbid the minor from keeping stolen property, illegally possessing firearms or illegal drugs, or associating with known juvenile delinquents, when the parent knew or reasonably should have known that the minor was engaging in, had engaged in, or was or had been attempting to engage in such conduct.

(Ord. No. 1012, § 3, 8-18-2009)

Sec. 28-314. - Notification of parents; record of notification.

(a) Whenever a minor is arrested or detained for the commission of any delinquent act within the city, the parent of the minor shall be immediately notified by the city police department, advising the parent of such arrest or detention, the reason therefor, and the parent's responsibility under this division.

(b) A record of such notifications shall be kept by the youth bureau of the city police department.

(Ord. No. 1012, § 4, 8-18-2009)

Sec. 28-315. - Parental violation and penalty.

(a) No parent or guardian of any minor under the age of 18 years shall fail to exercise reasonable parental control over such minor, or fail to perform a parental duty as described in this division.

(b) Upon violation of this division, the parent/guardian of a minor shall be held civilly responsible for the damages caused by the commission of any delinquent act by the minor within the city.

(c) Upon the first conviction of a violation of this division, the parent shall be subject to a fine up to $500.00 and/or 30 days in jail. Such conviction shall be a misdemeanor.

(d) Upon the second or subsequent violation and misdemeanor conviction, the parent shall be subject to a fine up to $500.00 and/or 93 days in jail.

(Ord. No. 1012, § 5, 8-18-2009)

Secs. 28-316—28-330. - Reserved.

ARTICLE XI. - SYNTHETIC MARIJUANA AND DANGEROUS PRODUCTS[3]

Footnotes:

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Editor's note— Ord. No. 1070, adopted July 3, 2012, set out provisions intended for use as §§ 28-316—28-321. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as §§ 28-331—28-336.

Sec. 28-331. - Findings, intent and purpose.

(a) The city finds that synthetic marijuana, consisting of plant or other material treated with chemicals or other substances that have not been approved for human consumption, is being marketed and sold as herbal incense and is being used in the same manner and for the same purposes as marijuana, with that use having become increasingly popular, particularly among teens and young adults.

(b) The city further finds based on information and reports from poison control centers, hospitals, emergency room doctors, and police agencies, that individuals who use synthetic marijuana experience dangerous side effects including convulsions, tremors, seizures, hallucinations, unconsciousness, anxiety attacks, dangerously elevated heart rates, increased blood pressure, vomiting, and disorientation, evidencing that these herbal incense products are harmful if consumed and present an imminent and significant public health danger to persons consuming such products and other persons coming in contact with them.

(c) The city further finds that, notwithstanding the high potential for abuse, and lack of any accepted medical use, the ability of the state to prohibit all forms of synthetic marijuana as a controlled substance has been frustrated due to the changing nature of the chemicals used in the manufacturing process.

(d) The city further finds that in addition to synthetic marijuana, there may be other products or materials containing chemicals or substances, that while not approved for human consumption, are or may be marketed and sold in a form that allows for such consumption and which, upon consumption, may result in the same serious side effects and public health dangers as synthetic marijuana.

(e) Based on these findings, this article is adopted for the purpose and with the intent to protect the public health and safety of the city and it residents from the threat posed by the availability and use of synthetic marijuana and other dangerous products by prohibiting persons from trafficking in, possessing, and using them in the city.

(Ord. No. 1070, 7-3-2012)

Sec. 28-332. - Definitions and adoption by reference.

As used in this article, the following words and phrases shall have the meanings indicated.

Act means the controlled substances provisions in Article 7 of the Public Health Code, Public Act No. 368 of 1978, MCL 333.7101 to MCL 333.7545, as amended, which is hereby adopted by reference as a part of this article.

Chemical agent means any chemical or organic compound, substance, or agent that is not made, intended and approved for consumption by humans.

Consumable product or material means a product or material that, regardless of packaging disclaimers or disclosures, is not for human consumption or use, is in a form that readily allows for human consumption by inhalation, ingestion, injection, or application, through means including but not limited to smoking, or ingestion by mouth with or without mixing with food or drink.

Controlled substance means a substance included as a controlled substance in schedules 1 through 5 of the act or a substance temporarily scheduled or rescheduled as a controlled substance as provided in the act.

Controlled substance analogue has the same meaning as defined in the act, which is a substance, the chemical structure of which is substantially similar to that of a controlled substance in schedules 1 and 2 of the act.

Dangerous product means a consumable product or material containing a dangerous substance.

Dangerous substance means: (i) a chemical agent that under section 2451 of the act, MCL 333.2451, has been determined by the local health officer to be or present an imminent danger to the health or lives of humans when present in a consumable product or material; and (ii) a chemical agent in a consumable product or material unless that chemical agent is conspicuously identified and described in writing on the packaging of the product, and has not been previously determined by the city or other governmental authority to be or present an imminent danger to the health or lives of humans when present in that type of consumable product or material.

Synthetic cannabinoid means a chemical compound, substance or agent identified in the synthetic cannabinoid appendix that is part of this article, as amended from time to time by resolution of the city council.

Synthetic marijuana means a consumable product or material that contains a synthetic cannabinoid or other dangerous substance, which on the date this article was added to the code, included herb and herbal incense products marketed and most commonly known as K-2 and spice.

Traffic and *trafficking* means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, sell, or transfer.

Transfer means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

(Ord. No. 1070, 7-3-2012)

Sec. 28-333. - Trafficking prohibitions.

It shall be unlawful for any person to traffic, or knowingly allow trafficking on property owned or controlled by that person, in any of the following:

(1) A consumable product or material containing a controlled substance or controlled substance analogue;

(2) A dangerous product; or

(3) Synthetic marijuana.

(Ord. No. 1070, 7-3-2012)

Sec. 28-334. - Possession and use prohibitions.

It shall be unlawful for any person to possess or use, or knowingly allow the possession and use on property owned or controlled by that person, of any of the following:

(1) A consumable product or material containing a controlled substance or controlled substance analogue;

(2) A dangerous product; or

(3) Synthetic marijuana.

(Ord. No. 1070, 7-3-2012)

Sec. 28-335. - Probable cause evidentiary presumption.

In recognition that the presence of a controlled substance, controlled substance analogue, synthetic cannabinoid, or dangerous substance in a consumable product or material may require laboratory testing that cannot be done at the time a violation of this article is believed to have occurred, for purposes of determining the existence of probable cause, it shall be presumed that a consumable product or material contains one or more of those substances if it is being or has been marketed or sold for a price that is substantially higher than the price at which the same quantity of a similar and comparable product or material that is known to not contain such substances can be purchased.

(Ord. No. 1070, 7-3-2012)

Sec. 28-336. - Violations, penalty.

The violation of any provision of this article by any person shall be guilty of a misdemeanor which, upon conviction, shall be punished by a fine not to exceed $500.00 or imprisonment for a term not to exceed 93 days in jail, or both, plus costs and other sanctions for each violation.

(Ord. No. 1070, 7-3-2012)

SYNTHETIC CANNABINOID APPENDIX

Synthetic Cannabinoids include all of the following chemical compounds, substances and agents.

"AM Cannabinoids" being synthetic chemical compounds, substances or agents created by Alexandros Makriyannis or his research group and identified as AM-087; 4M-251; AM-281; AM-356; 4M-374; 4M-381; AM-404; AM-411; 4M-630; AM-661; AM-678; 4M-679; AM694; 4M-855; AM-881; 4M-883; 4M-905; 4M-906; 4M-919; 4M-926; 4M-938; AM-11 16; 4M-I172; 4M-1220; AM-1221; 4M-1235; 4M-1241; AM-1248; AM-2201; 4M-2212; AM2213; 4M-2232; 4M-2233; AM-2102; AM-4030; and other substances with a structure and effect that is substantially similar to those listed. The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.

"CP Cannabinoids" being synthetic chemical compounds, substances or agents identified as CP47, 497; (C6)-CP-47, 497; (C7)-CP-47, 497; (C8)-CP-47, 497; (C9)-CP-47, 497; CP-50, 556-1; CP-55, 244; CP-55, 940; CP-945, 598; and other substances with a structure and effect that is substantially similar to those listed. The term shall not include synthetic cannabinoids that require a prescription, are approved

by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.

"HO Cannabinoids" being synthetic chemical compounds, substances or agents synthesized at the Hebrew University and identified as RU-210; HU-211; RU-243; BU-308; HU-320; HTJ-331; HU-336; RU-345; and other substances with a structure and effect that is substantially similar to those listed. The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.

"JWH Cannabinoids" being synthetic chemical compounds, substances or agents created by John W. Huffman or his research group and identified as JW14-007; JWH-015; JWH-018; YWH-019; JWH-030; JWI-1-047; JWN-048; JWH-051; JWH-057; JWH-073; JWH-081; JWH-098; JWH116; JWN-120; JWH-122; JWH-133; TWH-139; JINN-147; JW11-148; JW11-149; TWH-161; JWH-164; JWH-166; JWH-167; JWH-171; JWH-175; JWH-176; JWH-181; JWH-182; JWH184; JWH-185; JWH-192; JWH-193; JWH-194; JW14-195; .1WH-196; JWH-197; JWH-198; JWH-199; JWIT-200; JWH-203; JWH-205; JWH-210; TW3-213; JWI-1-229; 3WH-234; JAIN249; JWH 250; JWH-251; JWH-253; JWN-258; JWH-300; JWH-302; JWH-307; JW11-336; JWH-350; JWH-359; JW1-1-387; JWH-398; JWH-424; and other substances with a structure and effect that is substantially similar to those listed. The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.

Secs. 28-337—28-350. - Reserved.

ARTICLE XII. - MUNICIPAL CIVIL INFRACTIONS[4]

Footnotes:

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Editor's note— Ord. No. 1109, adopted July 1, 2014, set out provisions intended for use as §§ 28-337—28-343. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as §§ 28-351—28-356.

Sec. 28-351. - Municipal civil infraction defined.

A municipal civil infraction means any act or omission prohibited by the ordinances specified in section 28-353, infra.

(Ord. No. 1109, 7-1-2014)

Sec. 28-352. - Municipal civil infraction determination.

A municipal civil infraction determination means a determination that a person is responsible for a municipal civil infraction by one of the following:

(1) An admission of responsibility for the civil infraction;

(2) An admission of responsibility for the civil infraction with explanation;

(3) A preponderance of the evidence at a hearing on the charge; or

(4) A default judgment for failing to appear as directed by a citation or other notice at a scheduled appearance for a hearing.

(Ord. No. 1109, 7-1-2014)

Sec. 28-353. - Municipal civil infractions.

Except as provided in section 28-354, it is hereby determined that the violation of the following subsections shall constitute a municipal civil infraction punishable by fines established by city council resolution.

(1) *Public nuisances*. Whatever annoys, injures or endangers the safety, health, comfort or repose of the public; interferes with or destroys or renders dangerous any street, highway, or navigable stream; allows accumulation of junk or obnoxious matter on private property; or in any way renders the public insecure in life or property is hereby declared to be a public nuisance and prohibited by this article. Public nuisances shall include, but not limited to, whatever is forbidden by any provisions of this chapter.

(2) *Anti-smoke regulations*. No person shall create, cause or maintain any nuisance within the city by the unreasonable creation of dust, smoke, fly ash or noxious odors, offensive or disturbing to adjacent property owners and residents of the area.

(Ord. No. 1109, 7-1-2014; Ord. No. 1176, § 1, 10-15-2019)

Sec. 28-354. - Multiple violations.

The enforcement authority shall have the option to cause the issuance of a complaint and warrant for a misdemeanor violation of any subsection set forth in section 28-353 whenever the authority has determined that the violator had been convicted of violating the same subsection contained in section 28-353 within the six preceding months. In such circumstances, any violation of section 28-353 which occurs within six months of a previous conviction shall constitute a misdemeanor punishable by a fine up to $500.00 or up to 93 days in jail or both.

(Ord. No. 1109, 7-1-2014)

Sec. 28-355. - Enforcement authority.

Enforcement of this article and issuance of tickets shall be performed by those persons deputized for this purpose by the city council and such persons shall, in any event, include the code enforcement officer and any other person deemed appropriate.

(Ord. No. 1109, 7-1-2014)

Sec. 28-356. - Fines for violation.

A conviction of a civil infraction pursuant to this ordinance shall result in imposition of fines as established by resolution of the city council. Failure to remit such fines in a timely manner shall result in an imposition of a late fee in an amount also established by resolution of council.

(Ord. No. 1109, 7-1-2014)

Chapter 30 - PEDDLERS, SOLICITORS AND HANDBILL DISTRIBUTORS[1]

Footnotes:

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State Law reference— Home solicitation sales, MCL 445.111 et seq.; transient merchants, MCL 445.371 et seq.; charitable organizations and solicitations act, MCL 400.271 et seq.; public safety solicitation act, MCL 14.301 et seq.; veteran's license for peddlers, MCL 35.441 et seq.

ARTICLE I. - IN GENERAL

Secs. 30-1—30-18. - Reserved.

ARTICLE II. - PEDDLERS AND SOLICITORS

Sec. 30-19. - Definitions.

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

Hawking, peddling or *vending* includes selling or offering for sale at retail any products or services, by sample or by taking orders, or otherwise, for delivery then or in the future. The term "hawking," "peddling" or "vending" includes traveling about the city during the conduct of such sale from door to door, on foot or vehicle, and selling from temporary stands erected or motor vehicles parked on or about public streets, alleys, public places, vacant lots and/or side yards and parking lots of any business not licensed therefor.

(Code 1973, § 7.43; Code 1989, § 856.01; Ord. No. 537, 4-5-1976; Ord. No. 600, 5-13-1980; Ord. No. 933, 12-16-2003)

Sec. 30-20. - License required.

No person shall engage in the business of hawking, peddling or vending, at retail, any products or services, from door to door, from or upon the streets, alleys and public places, from any hotel or roominghouse, on foot, or with a pushcart or vehicle, either by sample or by taking orders, for delivery then or in the future, without first obtaining a license therefor.

(Code 1973, § 7.41; Code 1989, § 856.02)

Sec. 30-21. - Interstate commerce.

Solicitors operating in interstate commerce may be excepted from the payment of fees for licenses issued under this chapter after establishing the character of their business to the satisfaction of the city clerk. All such persons shall submit applications and supporting documents as required by this chapter, shall obtain licenses and badges before engaging in business and shall be subject to all other regulations.

(Code 1973, § 7.45; Code 1989, § 856.05)

Sec. 30-22. - License application.

(a) Any person desiring to obtain a license to engage in the business of hawking, peddling or vending shall make written application therefor to the city clerk, upon a form furnished by the city clerk. Such application shall contain the following items, together with such additional information as the city clerk may require:

(1) The full name, permanent address, business address, age and occupation of the applicant at the time of the filing of the application;

(2) The name of the person represented, if any, together with the address of the central or district office;

(3) A list or general description of the articles to be sold or offered for sale; and

(4) The type of license requested by the applicant.

(b) Each applicant shall file with the application two copies of a recent photograph of himself or herself, and the applicant shall be fingerprinted. Disposition of the photographs shall be made as provided in this chapter.

(c) The following types of licenses shall be applied for and issued upon qualification therefor under the procedures stated:

(1) Three-day license: This license shall apply to any business activity regulated under this chapter which the person seeking the license intends to conduct over any period of three consecutive days. The fee for this license is an amount as adopted by the city council from time to time. The license shall be renewable within the calendar year in which it is issued for as many successive three-day periods as the licensee may desire upon payment of the prescribed fee for each such license and upon written application therefor on forms to be provided by the city clerk, provided that each of the items of information in the original application and all of the business activity and matters pertaining to such application are substantially identical as originally submitted. If there is any substantial or material change in the information or business activity, a new application shall be made in the manner and form prescribed in this section for an original application.

(2) Ninety-day license: This license shall apply to any business activity regulated under this chapter which the person seeking the license intends to conduct over any period of 90 consecutive days. The fee for this license is an amount as adopted by the city council from time to time. The license shall be renewable within the calendar year in which it is issued for as many successive 90-day periods as the licensee may desire upon payment of the prescribed fee for each such license and upon written application therefor on forms to be provided by the city clerk, provided that each of the items of information in the original application and all of the business activity and matters pertaining to such application are substantially identical as originally submitted. If there is any substantial or material change in the information or business activity, a new application shall be made in the manner and form prescribed in this section for an original application.

(Code 1973, §§ 7.46, 7.47; Code 1989, § 856.06; Ord. No. 933, 12-16-2003)

Sec. 30-23. - Investigations.

The city clerk may require that the applicant establish his or her identity with the chief of police and submit a certificate from the chief stating that the applicant has definitely demonstrated, by references or otherwise, that he or she is of good moral character. The chief shall, in such cases, take and keep records of the fingerprints of the applicant and such other identification as he or she deems necessary.

(Code 1973, § 7.48; Code 1989, § 856.07)

Sec. 30-24. - Liability insurance and hold harmless provisions.

(a) An application for a license required by this chapter shall be accompanied by policies of insurance to protect the city, its elected and appointed officials, employees and volunteers and others working on behalf of the city from any liability or damage whatsoever, for injury, including death, to any person or property. Said insurance shall be in amounts as adopted by the city council from time to time. An applicant shall, during the duration of its license, maintain:

(1) Workers compensation and public liability insurance in an amount sufficient to protect itself from any liability or damages for injury, including death, to any of its employees including liability or

damage which may arise by virtue of any statute or law in force or which may hereafter be enacted.

(2) Public liability insurance in an amount sufficient to protect itself and the city, its elected and appointed officials, employees and volunteers and others working on behalf of the city against all risks of damage or injury, including death, to property or persons wherever located, resulting from any action or operation in connection with the license.

(3) Automobile liability insurance, including property damage, covering all owned or rented equipment used in connection with the business.

All insurance policies shall be issued by companies authorized to do business under the laws of the state. Such policies shall contain appropriate endorsements to save and hold the city and licensee harmless from any liability or damage whatsoever. Certificates of insurance evidencing such insurance and endorsements shall accompany the application for license. The city shall at all times maintain a copy of each certificate of insurance.

(b) The applicant shall sign a hold harmless agreement whereby it agrees to the fullest extent permitted by law to defend, pay on behalf of, indemnify and hold harmless the city, its elected and appointed officials, employees, volunteers and others working on behalf of the city against any and all claims, demands, suits or loss, including all costs connected therewith, and for any damages which may be asserted, claimed or recovered against or from the city, its elected and appointed officials, employees, volunteers and others working on behalf of the city by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof, or any matter which arises out of or is in any way connected or associated with the sale of goods and services for which a license was issued.

(Code 1989, § 856.08; Ord. No. 933, 12-16-2003)

Sec. 30-25. - Waiver of requirements.

Sections 30-22 to 30-24 may be waived by the city clerk if he or she is fully satisfied that the applicant for the license possesses all the necessary requirements set forth in this article.

(Code 1973, § 7.50; Code 1989, § 856.09)

Sec. 30-26. - Use of multiple vehicles; individual licenses.

Where a person owns and operates more than one vehicle, one general license may be obtained by such person covering all of his or her activities in the city. However, the regular fee for each and every vehicle shall be paid. If such person possesses a general bond and pays the general fee, the city clerk, if satisfied with the investigation of the individual drivers under section 30-23, shall issue individual licenses. However, if any driver or employee of any applicant company is unsatisfactory for any reason, then the city clerk may require the licensee to relieve such driver and replace him or her with another. If any such driver, after being accepted by the city clerk, is found guilty of a violation of this chapter, then the company, at the request of the city, shall immediately remove such driver. If the licensee refuses or neglects to remove any such driver if, as and when requested by the city, then the council may suspend and/or revoke the license of such person, and such person shall become liable upon his or her bond furnished to the city. The bond furnished by such person shall guarantee not only the fulfillment of any provision of the chapter by the company but also by its drivers working in the city.

(Code 1973, § 7.51; Code 1989, § 856.10)

Sec. 30-27. - Fees.

The city clerk shall collect the appropriate fee in an amount as adopted by the city council from time to time before issuing a license pursuant to this chapter, which fee shall be nonrefundable. The city clerk shall make a separate list of all fees collected under this chapter and shall deposit and properly account for such fees with the director of finance. The fees deposited by the city clerk shall be credited by the director of finance to the general fund of the city.

(Code 1989, § 856.11; Ord. No. 933, 12-16-2003)

Sec. 30-28. - Restrictions on license issuance.

No license shall be granted to any minor. No applicant to whom a license has been refused, or who has had a license which has been revoked, shall make further application until at least six months have elapsed since the last previous rejection or revocation, unless he or she can show, to the satisfaction of the city clerk, that the reason for such rejection or revocation no longer exists.

(Code 1973, § 7.53; Code 1989, § 856.12)

Sec. 30-29. - Duplicate licenses.

Additional cases or copies of licenses to replace those lost, spoiled, destroyed or worn so as to be partially or wholly illegible or useless may be obtained at a fee as adopted by the city council from time to time. Not more than one copy of a license shall be issued to or in the possession of any licensee at any one time. The city clerk may require the licensee to file an affidavit to the fact of the loss or destruction of the original license and the circumstances thereof before issuing a duplicate copy. Such duplicate copy shall be marked "Duplicate" in plain letters on its face. A record of such additional copies of licenses shall be made as required in the case of original licenses.

(Code 1989, § 856.13)

Sec. 30-30. - Contents of licenses.

Each license issued under this article shall be in such form as to contain on its face the full name of the licensee, his or her permanent address, local address if other than the foregoing and physical description, and the name of the company, if any, which the licensee represents as an agent. The license shall also specify the class of license issued, the articles to be sold and the dates of issuance and expiration. Each license shall bear a number which shall agree with the number of the badge issued. One of the photographs submitted by the licensee shall be firmly affixed to the face of the license and thereafter shall be stamped with the city clerk's seal in such a manner as to prevent substitution.

(Code 1973, § 7.55; Code 1989, § 856.14)

Sec. 30-31. - Rules and regulations.

A copy of the following rules and regulations governing the conduct of hawkers and peddlers while carrying on their business under a license will be provided to all persons obtaining a peddler's, vendor's or solicitor's license. Such rules and regulations are in addition to those set forth in other parts of this chapter or in this Code.

(1) No licensee shall use or carry about with him or her any scale or measure, or have in his or her possession any scale or measure, not approved by the state sealer of weights and measures.

(2) No licensee shall sell or offer for sale any article or commodity purporting to be in quantities of standard weight or measure, whether or not in the original or other package, unless the same is actually of the weight or measure purported.

(3) No licensee shall sell or offer for sale any unsound, unripe or unwholesome food, or any defective, faulty, incomplete or deteriorated article of merchandise, unless such goods are so represented to the prospective customer.

(4) No licensee shall shout or call his or her wares in a loud, boisterous or unseemly manner, or to the disturbance of residents of or dwellers in the city. No licensee shall use any horn, bell or other noisemaking device to call attention to his or her wares.

(5) No licensee shall stop or remain in any one place upon the streets, alleys or public places of the city longer than necessary to make a sale to a customer wishing to buy. No licensee shall stop or remain upon any private property in the city without the consent of the owner thereof or some person having authority to grant such permission.

(6) No licensee shall engage, at any time, in the business of his or her occupation in the congested district of the city. Such licensee shall refrain from exercising his or her vocation on any other street, alley or public place in the city when requested to do so by a police officer because of congested traffic conditions.

(7) Every licensee, upon the request of any police officer or other officer of the city, or of any resident, or prospective customer, shall exhibit his or her license and permit such person to examine such license.

(8) Every licensee, upon the request of any police officer or other officer of the city, shall sign his or her name for comparison with the signature upon the license application.

(9) Any licensee who solicits orders for future delivery shall write each order at least in duplicate, plainly stating the quantity of each article or commodity ordered, the price to be paid therefor, the total amount ordered, the amount paid or deposited and the amount to be paid on or after delivery. One copy of such order shall be given to the customer.

(Code 1989, § 856.15)

Sec. 30-32. - Acceptance of licenses.

Each licensee, upon receipt of a license and in the presence of the city clerk, shall affix his or her signature upon the reverse of the license accepting the license under all the conditions thereon stated, or conditions of issue and regulations as stated in this article, and agreeing to the suspension and revocation of such license if any such condition or regulation is violated.

(Code 1973, § 7.57; Code 1989, § 856.16)

Sec. 30-33. - Exhibition of licenses.

Each licensee shall carry his or her license at all times while he or she is engaged in the conduct of the business of hawking and peddling. Such licensee shall exhibit his or her license upon the request of any officer of the city, any police officer or any resident. Refusal to exhibit a license shall be prima facie evidence of failure to obtain a license.

(Code 1973, § 7.58; Code 1989, § 856.17)

Sec. 30-34. - Identification card.

Every person licensed under this article shall obtain an identification card from the city clerk. Such card shall state that the person is a "Licensed Peddler, City of Eastpointe." Such card shall be carried at all times when conducting business in the city. Such card shall be shown when requested by a resident of the city, by a city official or by a member of the police department.

(Code 1989, § 856.18; Ord. No. 742, 11-13-1989; Ord. No. 788, 8-25-1992)

Sec. 30-35. - Records.

Upon receipt of an application for a license required by this article, the city clerk shall endorse thereon the physical description of the applicant, the date the application is filed and a list of the accompanying documents filed therewith. He or she shall affix one of the photographs submitted by the applicant firmly to the application. If the license is granted, the city clerk shall endorse on the application the number and class of the license granted, the fee collected therefor and the date of expiration. If the application is refused, the city clerk shall endorse the fact upon the application, together with a statement of the reason for such refusal.

(Code 1973, § 7.60; Code 1989, § 856.19)

Sec. 30-36. - Soliciting on posted premises.

No person shall solicit business on any residential property, if requested by any person thereon not to do so or if there is placed on such premises, in a conspicuous position near the entrance thereof, a sign bearing the words "No Soliciting," or any similar notice indicating in any manner that the occupants of such premises do not desire to be molested or to have their right of privacy disturbed.

(Code 1973, § 7.61; Code 1989, § 856.20)

Sec. 30-37. - Suspension and revocation of licenses.

Any police officer may suspend and revoke the license issued under this article upon finding that any licensee has violated any of the express terms under which the license was granted and accepted or any ordinance of the city. Such suspension shall be reported at once to the chief of police, and shall be reported by the chief to the city manager.

(Code 1989, § 856.21)

Sec. 30-38. - Hours of operation.

No business subject to this chapter shall be conducted except between the hours of 8:00 a.m. and 8:00 p.m., Eastern Daylight Time and 8:00 a.m. and 6:00 p.m., Eastern Standard Time.

(Code 1989, § 856.22; Ord. No. 933, 12-16-2003)

Secs. 30-39—30-64. - Reserved.

ARTICLE III. - CHARITABLE SOLICITATIONS[2]

Footnotes:

State Law reference— Charitable Organizations and Solicitation Act, MCL 400.271 et seq.; definition of charitable organization, MCL 400.272; charity games, MCL 432.101 et seq.

Sec. 30-65. - Permit required.

No person or society of any kind, nature or description, either charitable, fraternal or eleemosynary, or his, her or its agents, representatives or employees, shall sell any newspaper, article or thing, secure subscriptions for the payment thereof or solicit funds, the proceeds of which are to be used for any so-called charitable purpose, in the city, without first obtaining a written permit therefor from the city manager.

(Code 1973, § 7.161; Code 1989, § 818.01)

Sec. 30-66. - Falsification.

No person or society, or his, her or its agents, representatives or employees, shall falsely or by misrepresentation of any kind sell any newspaper, article or thing, or secure subscriptions therefor, claiming that the proceeds of such sale or subscription are to be used for any so-called charitable purpose.

(Code 1973, § 7.162; Code 1989, § 818.02)

State Law reference— Similar provisions, MCL 400.293.

Sec. 30-67. - Permit application.

Before the city manager issues a permit required by this chapter, the applicant shall file a written application at least ten days before the issuance of such permit. Such application shall state the name of the person desiring to engage in such practice, the articles intended to be sold or subscribed, the purpose for which the same is to be done and the dates of permission.

(Code 1973, § 7.163; Code 1989, § 818.03)

Sec. 30-68. - Investigations.

The application described in section 30-67 shall be referred to the chief of police. He or she shall make an investigation of the matter of issuing the permit, and shall file with the city manager a written report of the result of his or her investigation before such permit is issued.

(Code 1973, § 7.164; Code 1989, § 818.04)

Sec. 30-69. - Application blanks; permit fee.

Application blanks for charitable solicitation permits shall be prepared by the city clerk and furnished free of charge to the applicant. There shall be no fee charged for the issuance or granting of such permit.

(Code 1973, § 7.165; Code 1989, § 818.05)

Sec. 30-70. - Permit issuance.

Whenever the city manager issues a permit to any corporation or society for a charitable solicitation, he or she shall issue as many individual permits as he or she deems necessary to such corporation or society. The names of the persons entitled to engage in such practice shall be left blank to be filled in by the officers of such corporation or society.

(Code 1973, § 7.166; Code 1989, § 818.06)

Sec. 30-71. - Display of permits; use of streets.

Whenever a person, society or organization, or his, her or its agent or representative, is engaged in the soliciting of money or subscriptions of any kind for a charitable purpose, either upon the streets or from house to house, he or she shall have with him or her the permit authorizing the same, and shall, upon demand of a police officer or city resident, exhibit the same. In addition to the requirements contained herein, the use of streets and roadways for the solicitation of contributions by persons on behalf of a charitable or civic organization during daylight hours shall be subject to the following:

(1) The charitable or civic organization shall maintain at least $500,000.00 in liability insurance;

(2) The person shall be 18 years of age or older;

(3) The person shall wear high-visibility safety apparel that meets current American standards promulgated by the International Safety Equipment Association; and

(4) The portion of the street or roadway upon which the solicitation occurs is not a work zone and is within an intersection where traffic control devices are present.

(Code 1973, § 7.167; Code 1989, § 818.07; Ord. No. 1165, § 1, 4-2-2019)

Sec. 30-72. - Financial reports.

Before a second and subsequent permit is granted to a person, society or corporation to engage in charitable solicitations, there shall be filed with the city clerk a written statement, under oath, setting forth fully and completely the full amount of moneys received under the authority of the former permit and the expenditures of such moneys. Such report shall be in detail and must be approved by the director of finance in substance and in form before another permit shall be issued to the same person, society or corporation for a like purpose.

(Code 1973, § 7.168; Code 1989, § 818.08)

Secs. 30-73—30-102. - Reserved.

ARTICLE IV. - HANDBILL DISTRIBUTION AND BILLPOSTING[3]

Footnotes:

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State Law reference— Posting signs without permission, MCL 752.821 et seq.

Sec. 30-103. - Purposes.

To protect the residents of the city against the nuisance of the promiscuous distribution of handbills and circulars, with the resulting detriment and danger to public health and safety, the public interest,

convenience and necessity require the regulation thereof, and to that end the purposes of this chapter are specifically declared to be as follows:

(1) To protect local residents against trespassing by solicitors, canvassers or handbill distributors upon the private property of such residents if they have given reasonable notice that they do not wish to be solicited by such persons or do not desire to receive handbills or advertising matter;

(2) To protect the people against the health and safety menace and the expense incident to the littering of streets and public places by the promiscuous and uncontrolled distribution of advertising matter and handbills; and

(3) To preserve to the people their constitutional right to receive and disseminate information not restricted under ordinary rules of decency, good morals and public order, by distinguishing between the nuisance created by the promiscuous distribution of advertising and handbills and the right to deliver handbills to persons who are willing to receive the same.

(Code 1989,§ 606.01)

Sec. 30-104. - 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:

Billposter includes any person engaging in the business for hire of posting, fastening, nailing or otherwise affixing any sign containing a message or information of any kind whatsoever, to any outdoor billboard or to or upon any bridge, fence, pole, post, sidewalk or tree or to or upon the exterior of any other structure, except that the terms of this definition shall not apply to nor include any such sign mounted on, fastened to or suspended from the outside of any building or other structure, in accordance with and authorized by any provision of an ordinance or statute, either for any public convenience or use, or regulating the construction or use of so-called outdoor display signs, whether such display signs are illuminated or not.

Commercial handbill means and includes any printed or written matter, sample, device, dodger, circular, leaflet, pamphlet, paper, booklet or other printed or otherwise reproduced original or copy of any matter or literature which:

(1) Advertises for sale any merchandise, product, commodity or thing;

(2) Directs attention to any business, mercantile or commercial establishment or other activity, for the purpose of, directly or indirectly, promoting the interests thereof by sales; or

(3) While containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as an advertiser or distributor.

Handbill distributor includes any person engaging or engaged in the business for hire or gain of distributing commercial or noncommercial handbills, other than newspapers distributed to subscribers thereof, and any person receiving compensation directly or indirectly for the distribution of such handbills.

Newspaper means and includes any newspaper of general circulation as defined by general law; any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation; any newspaper filed and recorded with any recording officer as provided by general law; and any periodical or current magazine regularly published with not less than four issues per year and sold to the public.

Noncommercial handbill means and includes any printed or written matter, sample, device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper booklet or other printed or otherwise reproduced original or copy of any matter or literature not included in the definition of the term "commercial handbill" or "newspaper," with the exception of political and religious literature.

Private premises means and includes any dwelling, house, building or other structure designed or used wholly or partly for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling house, building or other structure.

Public place means and includes all streets, boulevards, avenues, lanes, alleys or other public ways, and all public parks, squares, spaces, plazas, grounds and buildings.

(Code 1989, § 606.02)

Sec. 30-105. - Distributors license.

(a) It shall be unlawful for any person to engage as a handbill distributor for hire, or for any person to distribute commercial handbills or noncommercial handbills that are designed to sell something or to solicit money, without first complying with the terms of this article and all other relevant laws and regulations; provided, that nothing contained herein shall apply to any person advertising his business or activity upon his own premises, if such business or activity is regularly established at a definite location in such city, and also if a license has been obtained therefor, if such license be required under the terms of any applicable law or ordinance.

(b) Any person desiring to engage, as principal, in the business of distributing handbills for hire, shall make application to and receive from the city clerk, or other officer empowered to issue the same, who shall act whenever the city clerk is herein referred to, a license in the manner and for the period prescribed by the terms of this article and by all relevant provisions of this Code. Such applicant shall make written application to the city clerk upon a form provided for such purpose by the city clerk. Such form shall contain, among other things that may be required, the name, the business, address, and a brief description of the nature of the business to be conducted by the applicant, the name and number of agents and employees so to be engaged, together with a request for a license for the period for which the applicant seeks to engage in such business; provided, further, that each day distribution is made within the city under a license, the person or corporation shall provide the city clerk, or his designated agent, the name and address of the agents and employees to be engaged in the distribution.

(c) Without excluding other just grounds for revocation, the city council, or official so empowered by law, may revoke any license obtained under an application containing a false or fraudulent statement knowingly made by the applicant with intent to obtain a license by means of false or fraudulent representations, or for violation of this article, or any other grounds specified by law, such application to be accompanied by the fee hereinafter provided for in this article. No license issued under this article shall be transferable; and if such license shall be surrendered by the licensee therein named, or shall be revoked for cause, neither, the licensee named in such license, nor any other person, shall be entitled to any refund or any part of such fee.

(d) License fees under the terms of this article shall be as adopted by the city council from time to time. Provided, that persons acting for licensees, as agents or employees, in the distributing of any handbills, shall not be required to obtain a license or pay a fee, but each such person shall comply with each and all of the other provisions hereof, and be subject thereto.

(e) A copy of the issued license must be in the possession of every person acting as a handbill distributor and/or billposter.

(Code 1973, § 7.91; Code 1989, § 830.01)

Sec. 30-106. - Registration with police department.

Prior to or at the same time any licensed distribution program is carried out in the city, the agent or other person in charge shall register with the police department and provide such department with the following information: the name under which the license is issued; the license number; the agent's name,

address and telephone number at which he or she can be reached during the period of distribution; the number of handbill distributors at work in the city, together with their names and addresses; the length of time required to complete the distribution; the nature of the material being distributed; and such other information as may be required by the department from time to time to properly enforce this article.

(Code 1973, § 7.94; Code 1989, § 830.04)

Sec. 30-107. - Street posters and signs.

(a) *Street signs.* No person shall construct, erect, maintain or post any sign, poster, placard, display device or advertisement within the right-of-way of any public street, roadway, alley or sidewalk in the city.

(b) *Writing on pavement.* No person shall write or make any sign or advertisement on any pavement, except as provided in section 38-60, pertaining to sidewalk and driveway approaches, as to the name of cement contractors and the date of their work.

(c) *Posters.* No person shall attach any sign, poster, placard, advertisement or notice to any tree, pole, shrub or bench in any public places.

(d) G*overnmental signs.* The United States, the state and all of its political subdivisions shall be exempt from this section.

(e) *Presumption.* It shall be presumed that the name of the person appearing on any sign, poster, placard, advertisement or notice constructed, erected, maintained, attached, written, made or posted in violation of this section shall have so constructed, erected, maintained, attached, written, made or posted such sign, poster, placard, advertisement or notice, or it shall be presumed that the person authorized his or her agent to do so.

(Code 1989, § 606.03)

Sec. 30-108. - Distribution on public property.

No person shall deposit, place, throw, scatter or cast any handbill in or upon any public place in the city. However, any person may hand out or distribute, without charge to the receiver thereof, any handbill in any public place to any person willing to accept such handbill.

(Code 1989, § 606.04)

Sec. 30-109. - Placing handbills in or on motor vehicles.

No person shall distribute, deposit, place, throw, scatter or cast any handbill in or upon any automobile or other vehicle. This section shall not be deemed to prohibit the handing, transmitting or distributing of any handbill to the owner or occupant of any automobile or other vehicle who is willing to accept the same.

(Code 1989, § 606.05)

Sec. 30-110. - Distribution on vacant private property.

No person shall distribute, deposit, place, throw, scatter or cast any handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(Code 1989, § 606.06)

Sec. 30-111. - Signs prohibiting distribution.

No person shall distribute, deposit, place, throw, scatter or cast any handbill upon any premises if requested by anyone thereon not to do so or if there is placed on such premises, in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement" or any similar notice, indicating in any manner that the occupants of such premises do not desire to be molested, to have their right of privacy disturbed or to have any such handbills left upon such premises. However, the owner, landlord or person in control of any premises remaining vacant for more than five days shall post in a conspicuous position on the premises such sign as is indicated by this section. The term "vacant," as used in this section, shall not be deemed to include temporary absences from the premises by its regular occupants.

(Code 1973, § 7.96; Code 1989, §§ 606.07, 830.06)

Sec. 30-112. - Manner of distribution.

No person shall distribute, deposit, place, throw, scatter or cast any handbill in or upon any private premises which are inhabited, except by handling or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises. However, in the case of inhabited private premises which are not posted as provided in this chapter, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or elsewhere, except that mailboxes may not be so used when prohibited by federal postal laws or regulations.

(Code 1989, §§ 606.08, 830.01)

Sec. 30-113. - Hours of distribution.

It shall be unlawful for any person to distribute, deposit, place, throw, or scatter any handbill except between the hours of 8:00 a.m. and 8:00 p.m., Eastern Daylight Time and 8:00 a.m. and 6:00 p.m., Eastern Standard Time.

Sec. 30-114. - Exceptions to article.

This article shall not be deemed to apply to the distribution of mail by the United States or to newspapers.

(Code 1989, § 606.09)

Secs. 30-115—30-141. - Reserved.

ARTICLE V. - ICE CREAM VENDORS

Sec. 30-142. - 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:

Ice cream vending vehicle means any vehicle used for the carrying and selling of ice cream, snow cones and similar confectionery products, including, but not limited to, cotton candy, popcorn, caramel corn and peanuts, upon the public streets or parks, except push-carts and bicycles which are prohibited as a necessary police measure for the prevention of traffic accidents or personal injuries.

Operator of an ice cream vending vehicle means any person who operates an ice cream vending vehicle while in the process of vending ice cream, snow cones and similar confectionery products, including, but not limited to, cotton candy, popcorn, caramel corn and peanuts, upon the public streets or parks.

(Code 1989, § 836.01; Ord. No. 494, 4-9-1973)

Sec. 30-143. - License required; application; issuance; fee.

(a) All ice cream vending vehicles shall be licensed in accordance with article II of chapter 12, pertaining to licensing, and this article.

(b) The operator of any ice cream vending vehicle must be licensed as such. Such license shall be issued by the city clerk upon recommendation of the police department. Each applicant for a license to operate such a vehicle must:

(1) Be at least 18 years of age;

(2) Fill out, on a form provided by the police department, a statement giving his or her full name, residence address and employment for the past five years, marital status and whether he or she has ever been convicted of a criminal offense, and if convicted, the date, place and nature of the crime. Such statement shall be signed and sworn to by the applicant;

(3) Have its ice cream vending vehicle pass an annual safety inspection as required in this article.

(c) The police department, after investigation, shall make a recommendation to the city clerk based upon the moral character of such applicant.

(d) Upon approval of the applicant for a license, a license shall be issued by the office of the city clerk upon the payment of a license fee in an amount as adopted by the city council from time to time.

(e) The license shall be carried at all times, either within the vehicle or upon the person, while in the process of conducting business from a licensed ice cream vending vehicle in the city.

(Code 1989, § 836.02; Ord. No. 856, 5-6-1997)

Sec. 30-144. - Vehicle equipment.

(a) Every ice cream vending vehicle shall, in addition to any other equipment required by law, be equipped with signal lamps mounted as high and widely spaced laterally as practical, which lamps shall be capable of displaying to the front two alternately flashing amber lights located at the same level, and to the rear two alternately flashing amber lights located at the same level. Such lights shall have sufficient intensity to be visible from a distance of at least 300 feet in normal sunlight and shall be actuated by the driver of such vehicle whenever such vehicle is stopped on any public street for the purpose of vending its products or is about to stop for that purpose.

(b) In addition to the lights required by subsection (a) of this section, each ice cream vending vehicle, when operating on a public street, shall have a sign lettered upon the vehicle itself or prominently displayed and attached to the vehicle warning other approaching motor vehicles to stop and then proceed with caution when the signal lamps are actuated. Such warning shall be located both on the front and the rear of such vehicle.

(c) A licensee may attach to his or her vehicle, for the purpose of attracting persons to buy his or her products, one bell which shall not exceed a noise frequency of 68 decibels, or a music box and speakers playing prerecorded music, which also shall not exceed a noise frequency of 68 decibels.

(Code 1989, § 836.03; Ord. No. 856, 5-6-1997)

Sec. 30-145. - Overtaking ice cream vending vehicles.

The driver of a vehicle overtaking or meeting any ice cream vending vehicle which is stopped and is displaying two alternately flashing amber lights shall bring his or her vehicle to a complete stop and then proceed with caution.

(Code 1989, § 836.04; Ord. No. 494, 4-9-1973)

Sec. 30-146. - Sales from illegally parked vehicles.

No person shall sell or offer for sale any ice cream, snow cones and/or similar confectionery products from a vehicle unless such vehicle is legally parked, or sell or offer for sale from other than the curbside. Such vehicle shall not park on the highway within 50 feet of any intersection or within 500 feet of any school entrance, between 9:00 a.m. and 5:00 p.m., when school is in session. Nothing in this chapter shall prohibit the parking of such vending vehicle upon school property or public park property where proper permission is granted.

(Code 1989, § 836.05)

Sec. 30-147. - Limitations on sale locations; hours of operation.

No person shall sell or offer for sale any products from any ice cream vending vehicle while operated on Kelly Road, Gratiot Avenue or any of the mile roads in the city. No person shall sell or offer for sale such products from any ice cream vending vehicle between 9:00 p.m. and 9:00 a.m. of the following day.

(Code 1989, § 836.06)

Sec. 30-148. - Annual vehicle safety inspection.

Before a license is issued, each applicant for a license to operate an ice cream vending vehicle must submit the vehicle to, and the vehicle must pass, an annual safety inspection performed by a licensed and certified motor vehicle mechanic. The mechanic must certify, on a form provided by the police department, no more than 30 days prior to receipt of the application, that the vehicle is in a safe and proper operating condition. Specifically, the mechanic must state and certify that the following parts of the vehicle are in a safe condition:

(1) Brakes;

(2) The frame and the suspension system;

(3) Fuel and exhaust systems;

(4) The steering;

(5) The transmission;

(6) The engine;

(7) Wheels, rims and tires;

(8) Windshield washers and wipers and the defroster;

(9) Headlights, taillights, brake lights and clearance and marker lamps; and

(10) The horn.

(Code 1989, § 836.07; Ord. No. 856, 5-6-1997)

Chapter 32 - SALES

ARTICLE I. - IN GENERAL

Secs. 32-1—32-18. - Reserved.

ARTICLE II. - AUCTIONEERS[1]

Footnotes:

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State Law reference— Closeout sales, MCL 442.211 et seq.; sales at public auction, new merchandise, MCL 446.51 et seq.; UCC sales at public auctions, MCL 440.2328; duties upon sales at auctions, MCL 446.26 et seq.

Sec. 32-19. - Definitions.

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

Down hill selling means the first offering of any article at a high price and then offering the same at successive lower prices until a buyer is secured.

Selling at auction means the offering for sale or selling of personal property to the highest bidder, or the offering for sale or selling of such property by the method known as down hill selling.

(Code 1973, § 7.142; Code 1989, § 806.05)

Sec. 32-20. - License required; bond; deposit.

Any person of good character may become an auctioneer and be licensed to sell personal property at public auction, at a place to be named in his or her license, upon making application, in writing, to the city clerk for a license, and upon paying to the director of finance a fee in an amount as adopted by the city council from time to time. No person shall sell any personal property at public auction without first obtaining a license therefor. Every licensee shall file a bond to the city with two sureties, who shall be freeholders, or surety company bond, in the sum as adopted by the city council from time to time, to be approved by the city manager. Such bond shall be conditioned for the faithful observance of this Code. Before a license is granted to any itinerant person or nonresident of the city, he or she shall deposit with the director of finance the sum as adopted by the city council from time to time. The same shall be held to secure the payment of all city taxes for the period of such license.

(Code 1989, § 806.01; Ord. No. 993, § 806.01, 9-12-2007)

Sec. 32-21. - License application.

Any person desiring to obtain a license as an auctioneer shall make application, in writing, to the city clerk, setting forth in such application his or her name, place of residence and place of business, and the names of his or her sureties.

(Code 1973, § 7.132; Code 1989, § 806.02)

Sec. 32-22. - Sale of jewelry; returns.

The purchaser at any auction sale of any watch, clock, jewelry, silver or silverplated ware or optical goods may return such item to the auctioneer at any time within five days from the date of the sale if the watch, clock, jewelry, silver or silverplated ware or optical goods are not of the quality represented to him or her. In such case, the auctioneer shall return to the purchaser the price of the article, and the bondsmen of such auctioneer shall be liable for the return to the purchaser of the purchase price. If the auctioneer refuses to do so, he or she shall forfeit his or her license and shall be subject to the penalty provided in section 1-15. If it is made to appear, to the satisfaction of the city manager, that the place of sale or the place of business of any such auctioneer has been closed at any time during such five days, for the purpose of avoiding an offer to return any such article so sold, the city manager shall revoke the license of such auctioneer.

(Code 1989, § 806.03)

State Law reference— Sterling or sterling marked articles, MCL 750.287.

Sec. 32-23. - Posting identification cards.

Every person licensed under this article shall post, in a conspicuous place so that it can be readily seen, a photocopy of the identification card issued by the clerk's office stating the date and time the auction is to be held. Every such licensee shall also post, together with such photocopy, for public inspection, a copy of this article. The place of posting shall be designated by the chief of police, and every auctioneer or his or her agents and employees shall maintain the photocopy of the identification card as herein provided in the place designated.

(Code 1989, § 806.04)

Sec. 32-24. - Substitution of articles.

Any auctioneer who offers for sale at auction any article and induces its purchase by any bidder, and afterward substitutes any article in lieu of that offered to and purchased by the bidder, shall forfeit his or her license and shall be subject to the penalty provided in section 1-15.

(Code 1989, § 806.06)

Sec. 32-25. - Fraud.

(a) No person operating a public auction by virtue of a license issued as herein provided shall permit or allow any person to remain in or upon the premises wherein the public auction is being conducted to engage in the practice of boosting or capping, or assist or take part in the practice of any fraud of any kind, nature or description, or misrepresent the quality or description of any article or thing offered to be sold.

(b) No auctioneer or person present when any personal property is offered for sale shall knowingly, with the intent to induce any person to purchase the same, or any part thereof, make any false representations or statement as to the ownership, character or quality of the property offered for sale, or as to the poverty or circumstances of the owner or pretended owner of such property. If such false representation is made by the auctioneer or by any other person with such auctioneer's knowledge and consent or connivance, the license of such auctioneer shall be revoked.

(c) No person shall sell or attempt to sell by auction, or advertise for sale, any goods, wares or merchandise falsely representing or pretending that such goods, wares or merchandise are, in whole or in part, a bankrupt or insolvent stock, damaged goods or goods saved from fire, or make any false

statement as to the previous history or character of such goods, wares or merchandise. Such person, in addition to the penalty provided in section 1-15, shall be further liable in an action of contract to any person purchasing any goods, wares or merchandise because of such representation or statement in an amount equal to three times the amount paid therefor. If such false representation is made by such auctioneer or by any person with such auctioneer's knowledge and consent or connivance, the license of such auctioneer shall be revoked.

(Code 1973, §§ 7.136, 7.137; Code 1989, § 806.07)

State Law reference— Frauds and cheats, MCL 750.271 et seq.

Sec. 32-26. - Purchases from minors.

No auctioneer shall receive for sale by auction any goods from a minor.

(Code 1973, § 7.138; Code 1989, § 806.08)

Sec. 32-27. - Foreclosure sales.

This article shall not apply to the sale of goods, wares and merchandise under legal process or upon foreclosure.

(Code 1973, § 7.139; Code 1989, § 806.09)

Sec. 32-28. - Hours of operation.

Any person doing business as a duly licensed auctioneer shall operate a public auc tion room or sell goods at public auction from Monday through Saturday of any week between the hours of 8:00 a.m. and 10:30 p.m.

(Code 1973, § 7.141; Code 1989, § 806.10; Ord. No. 993, § 806.10, 9-12-2007)

Sec. 32-29. - Sales on public property.

No personal property shall be sold at auction or exposed for sale by any auctioneer in any street, avenue, alley or public place in the city.

(Code 1973, § 7.143; Code 1989, § 806.11)

Secs. 32-30—32-46. - Reserved.

ARTICLE III. - CHRISTMAS TREES

Sec. 32-47. - License required.

No person shall sell, offer for sale or keep for sale any Christmas trees, without first obtaining a license therefor.

(Code 1973, § 7.441; Code 1989, § 820.01)

Sec. 32-48. - License application.

An application for a license required by this article shall be made in writing to the building department and shall give such information as may be deemed necessary for the proper enforcement of this article. If the applicant does not own the property to be used, then the application shall have attached the written approval of the property owner for the use of the property, and his or her permission for the city to clean up the property if the applicant fails to do so.

(Code 1989, § 820.02)

Sec. 32-49. - License fee; cash bond.

The building department shall issue the license required by this article upon payment to the director of finance of a license fee in an amount as adopted by the city council from time to time and upon deposit of a cash bond in the amount as adopted by the city council from time to time. Such cash bond shall be forfeited if the applicant fails to satisfactorily clean up the premises by January 1.

(Code 1989, § 820.03)

Sec. 32-50. - Exceptions to article.

Any local charitable organization and any local merchant operating a permanent related business in the city shall be exempt from the licensing and bond requirements of this article.

(Code 1973, § 7.444; Code 1989, § 820.04)

Sec. 32-51. - Lighting; wiring.

All lighting and electrical wiring necessary for the operation of a Christmas tree sales business shall be subject to the requirements of the city electrical code and shall be inspected and approved by the city electrical inspector.

(Code 1973, § 7.445; Code 1989, § 820.05)

Sec. 32-52. - Refund of cash bond; burning of trees.

Upon investigation and report by the proper inspector that a licensee has discontinued the use for a lot of the sale or storage of Christmas trees, the director of finance shall refund the cash bond to the licensee. However, such money shall not be refunded unless and until the licensee has removed all trees from the lot, including debris that may have accumulated as the result of such use. No licensee shall permit the burning of Christmas trees for the disposal thereof.

(Code 1973, § 7.446; Code 1989, § 820.06)

Sec. 32-53. - License expiration.

Licenses issued under this article shall expire on the December 31 following the issuance thereof.

(Code 1973, § 7.447; Code 1989, § 820.07)

Secs. 32-54—32-79. - Reserved.

ARTICLE IV. - GARAGE SALES

Sec. 32-80. - Definitions.

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

Garage sale means any sale of tangible personal property not otherwise regulated or licensed by these codified ordinances, to which sale the general public is invited. The term "garage sale" includes such events commonly referred to as attic sales, lawn sales, rummage sales, yard sales, moving sales and flea market sales. The term "garage sale" does not include any sale offering less than five items of tangible personal property.

Person means an individual, corporation or any other legal entity, and refers to all members of a household residing at the same address.

(Code 1989, § 826.01; Ord. No. 695, 2-24-1987)

Sec. 32-81. - Permit required; application; fee.

(a) No person shall hold a garage sale without first obtaining a permit therefor from the city clerk. The city clerk shall charge a fee, in an amount as adopted by the city council from time to time, for the issuance of such permit. The applicant for such permit shall provide the following information:

(1) The name, address and telephone number of the person conducting the sale;

(2) The location of the sale; and

(3) The dates and hours during which the sale is to be conducted.

(b) This subsection shall not apply to a person conducting a garage sale pursuant to and in accordance with a city sponsored event.

(Code 1989, § 826.02; Ord. No. 695, 2-24-1987; Ord. No. 1167, § 1(A), 5-21-2019)

Sec. 32-82. - Permit issuance.

A garage sale permit will be issued through the building department.

(Code 1989, § 826.03; Res. No. 1163, 2-24-1987)

Sec. 32-83. - Display of permit.

A garage sale permit shall be securely affixed to the sign advertising the sale. If there is no sign, the permit shall be displayed in the front window of the residence or in some other location so that the permit is readily observable from the public sidewalk.

(Code 1989, § 826.04; Ord. No. 695, 2-24-1987)

Sec. 32-84. - Hours and length of sales.

No garage sale shall be held between 8:00 p.m. and 8:00 a.m. of the following day. Garage sales of longer than three consecutive days are prohibited.

(Code 1989, § 826.05; Ord. No. 695, 2-24-1987)

Sec. 32-85. - Limitations on number.

No person shall hold more than two garage sales at any one address within any 12-month period. This subsection shall not apply to a city sponsored event and any garage sale conducted pursuant to and in accordance with such city sponsored event shall not count toward a property owner's annual limit as to the number of authorized garage sales.

(Code 1989, § 826.06; Ord. No. 695, 2-24-1987; Ord. No. 1167, § 1(B), 5-21-2019)

Sec. 32-86. - Display of merchandise.

No merchandise shall be displayed within the right-of-way of any street, between the sidewalk and the curb or within ten feet of any public sidewalk.

(Code 1989, § 826.07; Ord. No. 695, 2-24-1987)

Sec. 32-87. - Signs.

Signs for garage sales shall be subject to the conditions set forth in section 50-267(f)(20).

(Code 1989, § 826.08; Ord. No. 828, 4-25-1995)

Secs. 32-88—32-117. - Reserved.

ARTICLE V. - GOING OUT OF BUSINESS SALES[2]

Footnotes:

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State Law reference— Going out of business sales, MCL 442.211 et seq.

Sec. 32-118. - Definitions.

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

Going out of business sale means any sale, whether described by such name or by any other name, such as, but not limited to, "closing out sale," "liquidation sale," "lost our lease sale" or "forced to vacate sale," held in such a manner as to indicate a belief that upon disposal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted.

Goods means all goods, wares, merchandise and other personal property, except choses in action and money.

Removal sale means any sale held in such a manner as to induce a belief that upon disposal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted and thereafter will be moved to and occupy another location.

(Code 1989, § 828.01)

Sec. 32-119. - License required; fee.

(a) No person shall conduct a going out of business sale or a removal sale in the city without first obtaining a license therefor from the city clerk as provided in MCL 442.211 et seq.

(b) The fee for the license required by subsection (a) of this section shall be as adopted by the city council from time to time.

(Code 1989, § 828.02; Ord. No. 1034, 11-16-2010)

Sec. 32-120. - Compliance with state law.

No person shall conduct a going out of business sale or a removal sale in the city without complying with the provisions of MCL 442.211 et seq. in every particular.

(Code 1989, § 828.03)

Chapter 34 - SECONDHAND GOODS

ARTICLE I. - IN GENERAL

Secs. 34-1—34-18. - Reserved.

ARTICLE II. - PAWNBROKERS, SECONDHAND DEALERS AND JUNK DEALERS[1]

Footnotes:

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State Law reference— Licensing of secondhand and junk dealers, MCL 445.401 et seq.; junkyards near highways, MCL 252.201 et seq.; pawnbroker licensing, MCL 446.201 et seq.; Precious Metal and Gem Dealer Act, MCL 445.481 et seq.; sale of secondhand watches, MCL 445.551 et seq.

Sec. 34-19. - Definitions.

The terms in this article shall have the meanings ascribed to them in section 50-10.

(Code 1989, § 854.02; Ord. No. 796, 6-22-1993)

Sec. 34-20. - License required.

No owner or operator shall engage in or carry on the operation of a pawnbroker, secondhand dealer or junk dealer business, whether primary or secondary, without first obtaining a valid business license issued by the city pursuant to this article for each separate office or place of business conducted by such owner or operator. This article shall not apply to a business whose primary business is the resale of secondhand clothing or household items.

(Code 1989, § 854.03; Ord. No. 796, 6-22-1993; Ord. No. 1069, 6-19-2012)

Sec. 34-21. - License applications.

Any owner or operator desiring a pawnbroker, secondhand dealer or junk dealer business license shall file a written application with the city clerk, on a form to be furnished by the city clerk. The applicant shall accompany the application with the correct license fee, which fee shall not be refundable, and shall furnish the following information:

(1) Type of ownership of the business, i.e., whether individual, partnership, corporation, or otherwise, including copies of the most recent annual statement and most recent articles of incorporation, partnership agreement, articles of organization, or other applicable document;

(2) The name, style and designation under which the business or practice is to be conducted;

(3) A complete list of the names, residence addresses, birth dates, and driver licenses numbers, if applicable, of all owners, employees and persons, or entities lending, investing, or giving money to the business, identifying where applicable, any employees who will manage, or be in charge of the operation of the business at any time;

(4) The following personal information concerning the applicant, if an individual; concerning each stockholder holding more than ten percent of the stock, each officer and each director, if a corporation; concerning the partners, including limited partners, if a partnership; and concerning the manager or other person principally in charge of the operation of the business:

a. The name, complete residence address and residence telephone number, date of birth and driver license number, if applicable;

b. The two previous addresses immediately prior to the present address of the applicant;

c. Written proof showing date of birth;

d. Height, weight, color of hair and eyes, and sex;

e Two front-face portrait photographs taken within 30 days of the date of the application, at least two inches by two inches in size;

f. The similar business history and experience, including, but not limited to, whether or not such person, in previously operating in this or another city or state under a license or permit, has had such license or permit denied, revoked, or suspended, the reason therefor and the business activities or occupations subsequent to such action of denial, suspension or revocation;

g. All criminal convictions, other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted, the offense for which convicted and the circumstances thereof; and

h. A complete set of fingerprints taken and to be retained on file by the police chief or his or her authorized representative;

(5) Authorization for the city and its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit;

(6) A written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct. Such declaration shall be duly dated and signed in the city;

(7) Execution of any and all necessary documents and a statement indicating that proper equipment will be installed for the direct electronic entry into the city's computerized system, transaction information, or recording by electronic transmission pursuant to this article.

(Code 1989, § 854.04; Ord. No. 796, 6-22-1993; Ord. No. 1069, 6-19-2012)

Sec. 34-22. - Investigations by police chief; inspections.

(a) Upon receiving an application for a pawnbroker, secondhand dealer or junk dealer business license, the city clerk shall refer such application to the police chief, who shall conduct an investigation into the applicant's moral character and personal and criminal history. The police chief may, in his or her discretion, require a personal interview of the applicant and such further information, identification and physical examination of the person as shall bear on the investigation.

(b) In the case of an application for a pawnbroker, secondhand dealer or junk dealer business license, the police chief shall cause to be conducted an investigation of the premises where the business is to be carried on for the purpose of ensuring that such premises comply with all of the requirements set forth in this chapter and with ordinances of the city relating to public health, safety and welfare.

(c) An applicant for a pawnbroker, secondhand dealer or junk dealer business license shall submit to lawful inspections by the building department, police department, fire department, public health department and such other departments as may be necessary to ensure that the proposed business and applicant comply with all applicable ordinances and regulations of the city. The police chief may refuse to submit any application for approval to the council until he or she has a report from any department that he or she eels is necessary to make an inspection that the applicant or proposed premises comply with all ordinances and regulations.

(d) Before the city clerk shall issue any license under this article, the police chief shall first submit to the city clerk, within 45 days of the receipt of an application, a report of his or her investigations and inspections and his or her recommendation.

(Code 1989, § 854.05; Ord. No. 796, 6-22-1993)

Sec. 34-23. - Issuance of licenses; conditions for denial.

(a) The city clerk, upon receipt of an application for a license required by this article, and the reports and recommendations of the police chief, shall place such application upon the agenda for the next regularly scheduled council meeting, provided that such meeting is not less than six days from the date of receipt of such application by the city clerk. If it is less than six days from such receipt, such application shall be placed upon the agenda for the following meeting of the council.

(b) The council shall determine whether or not such license shall be issued after reviewing the reports of investigations and inspections and the recommendations of the police chief and other code enforcement officers. The council shall direct the city clerk to issue a pawnbroker, secondhand dealer or junk dealer business license within 14 days, unless it finds that:

(1) The correct license fee has not been tendered to the city, or, in the case of a check or bank draft, such check or draft has not been honored with payment upon presentation.

(2) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the city's building, fire, zoning and health ordinances.

(3) The applicant, if an individual; any of the stockholders holding more than ten percent of the stock, any officer and any director, if a corporation; any partner, including a limited partner, if a partnership; and the manager or other person principally in charge of the operation of the business, has been convicted of any crime involving moral turpitude, including, but not limited to, prostitution and pandering, gambling, extortion, fraud, criminal usury, controlled substances, weapons and assault, unless such conviction occurred at least 15 years prior to the date of the application.

(4) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith.

(5) The applicant has had a similar business license, or other similar permit or license, denied, revoked or suspended for any of the causes set forth in subsection (c) of this section by the city or any other state or local agency within 15 years prior to the date of the application.

(6) The applicant, if an individual; any officer or director, if a corporation; any partner, including a limited partner, if a partnership; and the manager or other person principally in charge of the operation of the business, is not over 18 years of age.

If the council denies any application, it shall specify the particular grounds for such denial and shall direct the city attorney to notify the applicant, by regular mail addressed to the applicant at the address shown on the application. Such notice shall specify the grounds for which the application is denied.

(Code 1989, § 854.06; Ord. No. 796, 6-22-1993; Ord. No. 953, 4-5-2005)

Sec. 34-24. - Hearings on appeals or variances.

(a) Within 20 days of the date of denial of an application for a pawnbroker, secondhand dealer or junk dealer business license, the applicant may request, in the form of a written application to the city clerk, a hearing before the council for reconsideration of his or her license application or for a variance of any of the provisions of this article, the violation of which provision constituted grounds for the original denial of the application. Such hearing shall be conducted as follows:

(1) At the hearing, the applicant and his or her attorney may present and submit evidence on the applicant's behalf to show that the grounds for the original denial no longer exist.

(2) After reviewing an applicant's evidence, the council shall determine whether to sustain the denial or grant the application for the license.

(3) At the hearing, the applicant and his or her attorney may present a statement and adequate evidence showing that:

a. There are exceptional or extraordinary circumstances or conditions applying to the proposed pawnbroker, secondhand dealer or junk dealer business referred to in the appeal application submitted to the city clerk, which circumstances or conditions do not apply generally to any proposed pawnbroker, secondhand dealer or junk dealer business; or

b. The granting of such pawnbroker, secondhand dealer or junk dealer business license will not, under circumstances of the particular case, materially affect adversely the health, safety or welfare of the persons residing or working in the neighborhood or attending any pawnbroker, secondhand dealer or junk dealer business, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to the immediate neighborhood or the city at large.

(b) In all cases where the council grants a variance of any provision of this article, the council shall find that:

(1) The granting of the variance, under such conditions as the council may deem necessary or desirable to apply thereto, will be in harmony with the general purpose and intent of this article; and

(2) It will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(Code 1989, § 854.07; Ord. No. 796, 6-22-1993)

Sec. 34-25. - Inspections of business premises; compliance with article; display of license; changes of information.

(a) Every licensee under this article shall permit all reasonable inspections of his or her business premises, including during regular business hours and otherwise after regular business hours and shall at all times comply with the laws and regulations applicable to such business premises, including after the expiration of the license and during the period the license may be revoked or suspended.

(b) The pawnbroker, secondhand dealer or junk dealer business licensee shall display his or her license in an open and conspicuous place on the premises of the pawnbroker, secondhand dealer or junk dealer business.

(c) If, while any application for a pawnbroker, secondhand dealer or junk dealer business license is pending, or during the term of any license granted hereunder, there is any change in fact, policy or method which would alter the information provided in such application, the applicant/licensee shall notify the police chief of such change, in writing, within 72 hours after such change.

(Code 1989, § 854.08; Ord. No. 796, 6-22-1993; Ord. No. 1069, 6-19-2012)

Sec. 34-26. - License fees; expiration; transfers.

(a) The fees for a pawnbroker, secondhand dealer or junk dealer business license shall be in an amount as adopted by the city council from time to time.

(b) All licenses granted under this article shall expire on June 30 of each year.

(c) No pawnbroker, secondhand dealer or junk dealer business license is transferable, separable or divisible, and the authority that a license confers shall be conferred only on the licensee named therein.

(Code 1989, § 854.09; Ord. No. 796, 6-22-1993)

Sec. 34-27. - Bonds.

Before any license required in this article is issued, the applicant therefor shall furnish a corporate security bond in the penal sum as currently established or as hereafter adopted by the city council from time to time with sufficient sureties to be approved by the city clerk, which bond shall be conditioned that the owner and/or operator shall, during the time of the license, comply with all of the laws of the state and the city in regard to pawnbrokers, secondhand dealers or junk dealers, the Precious Metal and Gem Dealer Act, Public Act No. 95 of 1981 (MCL 445.481 et seq.), and the sale of second hand watches act, Public Act No. 200 of 1937 (MCL 445.551 et seq.). Any person grieved by the action of such licensee shall have a right of action on the bond for the recovery of money, damages or both. Such bond shall remain in full force and effect for 90 days after the expiration or cancellation of any license or after the termination of any action upon such bond.

(Code 1989, § 854.10; Ord. No. 796, 6-22-1993)

Sec. 34-28. - Fingerprinting of sellers; disposition of fingerprints and statements of the nature of property received.

At the same time any pawnbroker, secondhand dealer or junk dealer in this city shall receive any article of personal property or other valuable thing, by way of pledge or pawn, or shall acquire or purchase any article of personal property, or other valuable thing, except new articles, wares or merchandise purchased at wholesale from manufacturers, wholesale distributors or jobbers for retail sale to customers, and also except motor vehicles, old rags, wastepaper, books, magazines, tapestries, antiques and household furniture, he or she shall take, in duplicate, the legible imprint of the right thumb of the person from whom such property was received, or if that is not possible, of the left thumb or some other finger of such person. Such fingerprint shall be taken under rules and regulations as prescribed by the commissioner of the state police. One copy shall be forwarded, within 48 hours, together with a statement of the nature of the property received, to the chief of police. The second copy shall be forwarded, within 48 hours, together with a statement of the nature of the property received, to the commissioner of the state police.

(Code 1989, § 854.11; Ord. No. 796, 6-22-1993)

Sec. 34-29. - Procedures and forms for fingerprinting and statements; recording of transactions; inspection of records.

(a) The city shall furnish forms for the taking of fingerprints and furnishing additional information as required by regulations of the police department. Every person licensed to conduct, maintain, or engage in a business of pawnbrokers, secondhand dealers or junk dealers, shall maintain in a form provided by the chief of police, or his or her designee, records in the manner and form as provided herein, which shall be subject to inspection by the chief of police upon request.

(b) Every licensee, owner and employee, shall keep a record of all persons and/or entities with whom business has transacted and all property coming into their possession. Reports must be electronically transmitted to the chief of police or his/her designee. Within 48 hours a report must be transmitted by means of electronic transmission through a modem, or similar device in a format that the data is capable of direct electronic entry into the police department's computerized system, as approved by the chief of police, or his or her designee for identifying property coming into the possession of a licensor, including but not limited to all pawn property, all transactions in which used goods have been received the preceding day by pawn, trade, purchase, or consignment and items received by junk dealers. A transaction report by electronic transmission under this sub section shall not be reported on paper forms, unless the chief of police, or his or her designee so requires. All secondhand dealers, junk dealers, and pawnbrokers must have the equipment installed in their place of business no later than August 1, 2012. Information must be reported electronically beginning August 1, 2012. If the volume of transactions does not exceed ten for a 90-day period, transactions taking place at that business may not be reported electronically, but shall be reported on paper forms approved by the chief of police, or his or her designee.

(c) A fee as adopted and subject to change periodically by the city council may be assessed per transaction. If a fee is assessed, the vendor will assess the property registration fee for each transaction the licensee reports either through batch file upload, or directly using the vendor's business interface, or on the vendor's automated reported service that involves transactions subject to the provision of this article.

(d) Transaction is defined as a single buy, or which may involve one or more items and does not include contract extensions, or claims. The per transaction registration fee, if assessed, is not a per item fee included in the transaction. It is within the sole discretion of the secondhand dealer whether to recover the fee, if assessed, from their customers for registering a transaction.

(e) If said fee is assessed, the licensee will be invoiced on a monthly basis. The city's vendor automated reporting service isolates and generates a list of the billable transactions that will be used for deriving invoiced amounts. The above fees, if assessed, are for the use of the standard vendor's automated recording service. Any custom programming completed for the secondhand dealer will be negotiated on a contract basis and may result in additional licensing arrangements between the vendor and the licensor. Sales tax will be added to the above amounts where applicable. Failure to timely pay as invoiced is a violation of this article.

(Code 1989, § 854.12; Ord. No. 796, 6-22-1993; Ord. No. 1069, 6-19-2012)

Sec. 34-30. - Restrictions on sales; prohibited sale or possession of items with serial numbers altered, removed; police order to hold property; retention of articles for specified periods; prohibited purchases; premises, enclosures and restrictions.

(a) A person who is not a licensed pawnbroker, secondhand dealer or junk dealer, shall not sell, offer for sale, advertise for sale or represent any article, personal property or other valuable thing as being sold out of pawn when such person has not received such article, personal property or valuable thing as a

licensed pawnbroker, secondhand dealer or junk dealer. No person shall sell, offer for sale, advertise for sale or represent an out of pawn article or personal thing as being out of pawn when the same has not been pawned or pledged with such person as a licensed pawnbroker, secondhand dealer or junk dealer. No pawnbroker, secondhand dealer or junk dealer shall purchase any secondhand furniture, metals, clothing or other articles or things, or sell, dispose or keep for sale any such secondhand articles or things, except as the same may have been pawned to him or her or have been sold at public auction to the highest bidder. Any articles sold to such pawnbroker, secondhand dealer or junk dealer, upon the understanding that such article is to be purchased from such pawnbroker, secondhand dealer or junk dealer by the seller thereof, or by any person acting for such seller, shall be deemed to be pawned within the meaning of this article.

(b) No licensee, or agent, or employee shall conceal or misrepresent the identity by removing, concealing, defacing, adding to, substituting, or altering, the serial number or manufacturer's number on any motor vehicle, motor, appliance, mechanical device, watch, clock, camera, precision instrument, outboard motor, radio, shotgun, or any other article or thing where the manufacturer has placed numbers for the purpose of identification; by altering or replacing any part of such article, or thing, baring the serial or manufacturer's number with a new or replaced part upon which the proper serial number, or manufacturer's number has not been stamped or placed.

(c) No person licensed under this article, or employee of such licensed person shall deal in, or possess, any item as described hereinabove from which the serial numbers have been removed, concealed, defaced, added, substituted, altered, or replaced.

(d) In all prosecutions under this article, possession by any dealer, licensor, person or entity of an item from which the serial numbers, or manufacturer's number, or identification number has been removed, concealed, defaced, added, substituted, altered, or replaced shall be prima facie evidence of violation of the provisions of this article.

(e) Whenever a law enforcement official from any agency notifies a pawnbroker, secondhand dealer, junk dealer or owner or employee of any of the foregoing, the item must not be sold, or removed from the premises. If the hold was conveyed verbally, the hold shall be confirmed by the investigating agency within 72 hours either in writing, or by electronic transmission. The order to hold the item shall expire 60 days from the date it is placed, unless the holding agency seizes the item of evidence, or obtains other court order to hold the item, or determines that the hold is still necessary and notifies the business in writing, or by electronic transmission to continue to hold the item for an additional 60 days. Each licensee and owner shall be jointly and severally liable for holding such property.

(f) Items, goods, articles and junk purchased or exchanged, shall be retained for not less than 15 days before disposal in an accessible place in the building where licensed activity occurs. A tag shall be attached to such item in some visible and conspicuous place with a number corresponding to the entry in the electronic record or other record provided. For items not recorded electronically, the purchaser shall prepare and deliver on Monday of each week, to the chief of police, or his or her designee, before noon, a legible and correct copy in the English language containing a description of each item and photograph purchased or received during the previous week, including the hour, day when purchased and a description of the person from whom it was purchased, including a copy of a photo identification. Such statement shall be verified by the affidavit of the licensee, employee, or owner who received the item.

(g) Any person engaged in the business of buying, exchanging, collecting, receiving, storing, or selling any used motor vehicles for the purpose of wrecking or salvaging parts therefrom, shall report each such transaction to the chief of police, or his or her designee within five business days, excluding Saturday and Sunday, from the date of the transaction. The report shall contain a description of each such motor vehicle inquired, including vehicle identification number, hour and date when purchased, a description of the person, including a copy of photo identification from whom it was acquired and a photo of the vehicle. Such reports shall be on forms approved by the chief of police, or his or her designee and made under oath. Such vehicles shall not be disposed of, or altered in any manner for a period of five days from the time the report is received by the city.

(h) No licensee, owner, or employee shall receive any item, goods, or junk from any person who at the time is intoxicated, or appears to be under the influence of a controlled substance, or is known to be a thief, or receiver of stolen property, or from any person who is suspected not to be the owner of the property, or from any minor under the age of 18 years.

(i) No licensee shall maintain a junk yard, junk shop, auto salvage yard, or scrap metal yard, or any other business unless the business is carried on entirely inside a building, or unless the premise is conducted within an enclosed area, except for gates, or doors for ingress and egress by a suitable enclosure such as a fence, or wall as approved with a special use approval by the planning commission.

(Code 1989, § 854.13; Ord. No. 796, 6-22-1993; Ord. No. 1069, 6-19-2012)

Sec. 34-31. - Merchandise displays.

No licensee under this article shall display merchandise or articles outside of the building or fail to change a window display at least twice monthly.

(Code 1989, § 854.14; Ord. No. 796, 6-22-1993)

Sec. 34-32. - Compliance with state laws and zoning ordinance.

(a) Each owner or operator of a pawnbroker, secondhand dealer or junk dealer business must comply with all terms of the state act regulating pawnbrokers, Public Act No. 273 of 1917 (MCL 446.201 et seq.). Further, each owner or operator of a pawnbroker, secondhand dealer or junk dealer business shall comply with the Precious Metal and Gem Dealer Act, Public Act No. 95 of 1981 (MCL 445.481 et seq.). Further, each owner or operator of a pawnbroker, secondhand dealer or junk dealer business must comply with the sale of secondhand watches act, Public Act No. 200 of 1937 (MCL 445.551 et seq.).

(b) Every licensee and employee shall comply with all requirements for business location at which work, pursuant to any license issued under this chapter, occurs as provided in any applicable zoning ordinances of the city.

(Code 1989, § 854.15; Ord. No. 796, 6-22-1993; Ord. No. 1069, 6-19-2012)

Sec. 34-33. - Presence of minors upon premises.

No licensee, dealer, employee, person or entity shall purchase or receive any item or property on the premises or otherwise off premises associated with the business conducted on the premises, from any person under the age of 18 years of age. Minors shall only be permitted upon the premises in the company of a parent, or legal guardian.

(Code 1989, § 854.17; Ord. No. 796, 6-22-1993; Ord. No. 1069, 6-19-2012)

Sec. 34-34. - Hours of operation.

No person engaged in the business of a pawnbroker, secondhand dealer or junk dealer shall receive, as pawn or pledge on any condition whatsoever, any article of personal property or other valuable thing between 7:00 p.m. and 9:00 a.m. of the following day. No person shall open or operate or cause to be opened or operated, in the city, any pawnbroker, secondhand dealer or junk dealer business between 7:00 p.m. and 9:00 a.m. of the following day.

(Code 1989, § 854.18; Ord. No. 796, 6-22-1993)

Sec. 34-35. - Violations; penalty.

Any licensee, dealer, employee, person, or entity who violates the terms and provisions of this chapter shall be guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not more than $500.00, or both, plus costs. Any violation may also result in a suspension or revocation of such license as prescribed by statute or ordinance and as otherwise imposed by the chief of police, or his or her designee, after notice of such proposed action at least seven days beforehand. The licensee shall be permitted a hearing before the chief of police or his or her designee, and a right of appeal as prescribed for denial of the issuance of a license.

(Ord. No. 1069, 6-19-2012)

Editor's note— Ord. No. 1069, adopted June 19, 2012, set out provisions intended for use as § 34-34. To avoid duplication of section numbers, these provisions have been included as § 34-35 at the editor's discretion.

Secs. 34-36—34-60. - Reserved.

ARTICLE III. - PRECIOUS METAL AND GEM DEALERS[2]

Footnotes:

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Editor's note— Ord. No. 1068, adopted June 19, 2012, set out provisions intended for use as §§ 34-35—34-48. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as §§ 34-61—34-74.

Sec. 34-61. - Definitions.

Definitions utilized under this article shall be the same definitions as provided in the Precious Metal and Gem Dealer Act, Public Act No. 95 of 1981 (MCL 445.482 et seq.), as amended.

(Ord. No. 1068, 6-19-2012)

Sec. 34-62. - Registration and transaction fee.

A registration fee and renewal fee shall be assessed to each licensee in a manner and amount as set from time to time by resolution of the city council. A transaction fee per transaction may be payable in an amount as set from time to time by the city council.

(Ord. No. 1068, 6-19-2012)

Sec. 34-63. - Records of transactions.

(a) A dealer shall maintain a permanent record of each transaction on record of transaction forms as provided for in Act 95 of 1981. Such record shall be legibly written, or otherwise printed in ink, in English. Each record of transaction form shall be filled out in quadruplicate by the dealer, agent or employee of the dealer. One copy of the form shall go to the police department pursuant to state law; one copy shall go to the customer; and one copy shall be retained by the dealer pursuant to state law.

(b) At the time a dealer receives or purchases a precious item, the dealer, agent or employee of the dealer shall insure that the following information is recorded accurately on a record of transaction form:

(1) The dealer certificate of registration number;

(2) A general description of the precious item or precious items received or purchased, including the type of metal or precious gem. In the case of watches, the description shall contain the name of the maker and the number of both the works and the case. In the case of jewelry, all letters and marks inscribed on the jewelry shall be included in the description;

(3) The date of the transaction;

(4) The name of the person conducting the transaction;

(5) The name, date of birth, driver's license number or State of Michigan personal identification card number, and street and house number of the customer, together with a legible imprint of the right thumb of the customer, or if that is not possible, of the left thumb or a finger of the customer. However, the thumbprint or fingerprint shall only be required on the record of transaction form retained by the dealer. The thumbprint or fingerprint shall be made available to a police agency during the course of a police investigation involving a precious item or items described on the record of transaction. After a period of one year from the date of the record of transaction, if a police investigation concerning a precious item or items described on the record of transaction has not occurred, the dealer and any police agency or sheriff's department holding a copy of the record of transaction shall destroy, and not keep a permanent record of, the record of transaction. A dealer who goes out of business or changes his or her business address to another local jurisdiction either within or out of this state shall transmit the records of all transactions made by the dealer within one year before his or her closing or moving, to the local police agency;

(6) The price paid by the dealer for the precious item or precious items;

(7) The form of payment to the customer; check, money order, bank draft, or cash. If the payment is by check, money order, or bank draft, the dealer shall indicate the number of the check, money order, or bank draft; and

(8) The customer's signature.

(c) The record of each transaction shall be numbered consecutively, commencing with the number one and the calendar year, i.e., 01-2011.

(d) The record of transaction forms of a dealer and each precious item received shall be open to an inspection by the county prosecuting attorney, the local police agency, the police agency or sheriff's department of the local governmental unit in which the customer resides, and the Michigan state police, at all times during the ordinary business hours of the dealer. As a condition of doing business, a dealer is considered to have given consent to the inspection prescribed by this subsection. The record of transaction forms of a dealer shall not be open to inspection by the general public.

(e) The items shall be photographed and any serial number or other markings provided, as well as any other information as required pursuant to the electronic transaction reporting processes utilized by the city.

(f) The form of the record of transaction shall have an 8½ by 11-inch size and shall be as follows:

RECORD OF TRANSACTION

Dealer Certificate # _____	# _____ (Transaction Number)

(1) Description of Property - _____ _____ _____ _____ _____	
(2) _____ , 20___ (Date)	(3) _____ (Name of Dealer/Employee)
(4) _____ Name of Customer)	_____ 20___ (Date of Birth)
_____	_____
(Driver's license No./(Street Address)	(Mich. Personal ID Number)
_____	_____
(City & State)	(Zip)
(5) _____ (Price Paid)	_____ County of Residence)
(6) _____ (Check no., bank draft no., money order no., or cash)	

_____
(Name of police agency of city, village, or township in which customer resides)

Thumbprint of Customer

_____
Signature of Customer

(Ord. No. 1068, 6-19-2012)

Sec. 34-64. - Retention of transaction and transmittal to police department.

(a) Except as otherwise provided by state law, each record of a transaction shall be retained by the dealer for not less than one year after the transaction to which the record pertains.

(b) Within 48 hours after receiving or purchasing a precious item, the dealer shall send a copy of the record of transaction form to the police department and, if the record of transaction form indicates that the customer resides outside the jurisdiction of the city, the dealer shall send a copy of the record of transaction form to the police agency of the city, village, or township in which the customer resides as set forth on the record of transaction, or, if that city, village, or township does not have a police agency, to the sheriff's department of the county in which the customer resides as set forth on the record of transaction.

(1) Every licensee, owner and employee, shall keep a record of all persons and/or entities with whom business has transacted and all property coming into their possession. Reports must be electronically transmitted to the chief of police or his or her designee. Within 48 hours a report must be transmitted by means of electronic transmission through a modem, or similar device in a format that the data is capable of direct electronic entry into the city's police department's computerized system, as approved by the chief of police, or his or her designee for identifying property coming into the possession of a licensor, including but not limited to all pawn property, all transactions in which used goods have been received the preceding day by pawn, trade, purchase, or consignment and items received by junk dealers. A transaction report by electronic transmission under this section shall not be reported on paper forms, unless the chief of police, or his or her designee so requires. All secondhand dealers, junk dealers, and pawnbrokers must have the equipment installed in their place of business no later than August 1, 2012. Information must be reported electronically beginning September 1, 2012. If the volume of transactions does not exceed ten for a 90-day period, transactions taking place at that business may not be reported electronically, but shall be reported on paper forms approved by the chief of police, or his or her designee.

(2) A fee may be assessed per transaction after being adopted and subject to change periodically by the city council. If a fee is assessed, the vendor will assess the property registration fee for each transaction, the licensee reports either through batch file upload, or directly using the

vendor's business interface, or on the vendor's automated reported service that involves transactions subject to the provision of this chapter.

(3) Transaction is defined as a single buy, of which may involve one or more items and does not include a contract extension or claim. The per transaction registration fee, if assessed, is not a per item fee, included in the transaction. It is within the sole discretion of the secondhand dealer whether to recover the fee, if assessed, from their customers for registering a transaction.

(4) If said fee is assessed, the licensee will be invoiced on a monthly basis. The city's vendor automated reporting service isolates and generates a list of the billable transactions will be used for deriving invoiced amounts. The above fees, if assessed, are for the use of the standard vendor's automated recording service. Any custom programming completed for the secondhand dealer will be negotiated on a contract basis and may result in additional licensing arrangements between the vendor and the licensor. Sales tax will be added to the above amounts where applicable. Failure to timely pay as invoiced shall constitute a violation of this chapter.

(c) The record of transaction forms received by a police agency or sheriff's department shall not be open to inspection by the general public. Each police agency or sheriff's department holding record of transaction forms shall be responsible for insuring the confidentiality of the record of transaction forms and insuring that the record of transaction forms are used only for the purpose for which they were received.

(Ord. No. 1068, 6-19-2012)

Sec. 34-65. - Certificate of registration.

No person shall carry on the business of a precious metal or gem dealer in the city without first having a certificate of registration issued by the city's police department authorizing such person or entity to carry on such business subject to the provisions of this article.

(Ord. No. 1068, 6-19-2012)

Sec. 34-66. - Application; prerequisites.

A dealer shall apply to the city for a certificate of registration, and pay a fee of $50.00, or other reasonable amount as set by the city council, to cover the cost of processing and issuing the certificate of registration, by disclosing the following information:

(1) The name, address, and thumbprint of the applicant(s);

(2) The name and address under which the applicant does business;

(3) The name, address, and thumbprint of all agents or employees of the dealer. Within 24 hours after hiring a new employee, the dealer shall forward to the police department the name, address, and thumbprint of the new employee.

(Ord. No. 1068, 6-19-2012)

Sec. 34-67. - Police department review.

The chief of police, or his or her designee shall review the application and determine whether the application complies with the provisions of this article and the Precious Metal and Gem Dealer Act, Public Act No. 95 of 1981 (MCL 445.482 et seq.). The chief of police, or his or her designee shall complete the examination and issue a determination within 45 days upon receipt of the application described herein.

(Ord. No. 1068, 6-19-2012)

Sec. 34-68. - Review by building inspector.

The building inspector shall, within 15 days of the submittal of an application, review the premises in order to determine whether the precious metal and gem dealer activities are compliant with the zoning ordinance. Such determination shall be issued to the city clerk.

(Ord. No. 1068, 6-19-2012)

Sec. 34-69. - Certificate of registration, duration; renewal; changes.

Not less than ten days before a dealer changes the name or address under which the dealer does business, the dealer shall notify the police department and city clerk in writing of the change.

(Ord. No. 1068, 6-19-2012)

Sec. 34-70. - Display of certificate of registration.

Upon receipt of the certificate of registration from the police department, the dealer shall post it in a conspicuous place in the dealer's place of business.

(Ord. No. 1068, 6-19-2012)

Sec. 34-71. - Precious item retention; alteration or defacing unlawful.

A precious item received by a dealer shall be retained by the dealer for 15 calendar days after it was received, without any form of alteration other than that required for an accurate appraisal of its value.

(Ord. No. 1068, 6-19-2012)

Sec. 34-72. - Precious items; acceptance prohibited and unlawful.

A dealer or an agent or employee of a dealer shall not:

(1) Knowingly receive or purchase a precious item from any person who is less than 18 years of age or any person known by the dealer or agent or employee of the dealer to have been convicted of theft or receipt of stolen property within the preceding five years, whether the person is acting in his or her own behalf or as the agent of another.

(2) Knowingly receive or purchase a precious item from a person unless that person presents a valid driver's license or a valid State of Michigan personal identification card.

(Ord. No. 1068, 6-19-2012)

Sec. 34-73. - Violations; penalty.

The violation of any provision of this article by any person shall be guilty of a misdemeanor which, upon conviction, shall be punished by a fine not to exceed $500.00 or imprisonment for a term not to exceed 93 days in jail, or both, plus costs and other sanctions for each violation.

(Ord. No. 1068, 6-19-2012)

Sec. 34-74. - License revocation.

Any dealer, agent, or employee of a dealer who is convicted of any misdemeanor pursuant to this article, or under section 535 of the Michigan Penal Code, Public Act No. 328 of 1931 (MCL 750.535), or a misdemeanor under the Precious Metal and Gem Dealer Act, Public Act No. 95 of 1981 (MCL 445.482 et seq.), shall not be permitted to operate as a dealer within this state for a period of one year after conviction. A dealer, agent, or employee of a dealer who is convicted of a felony under section 535 of the Michigan Penal Code, 1931 Public Act 328, (MCL 750.535) or a felony under Precious Metal and Gem Dealer Act, Public Act No. 95 of 1981 (MCL 445.482 et seq.), shall not be permitted to operate as a dealer within this state for a period of five years after conviction.

(Ord. No. 1068, 6-19-2012)

Chapter 36 - SOLID WASTE[1]

Footnotes:

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State Law reference— Garbage disposal act, MCL 123.361 et seq.; solid waste facilities, MCL 324.4301 et seq.; hazardous waste management act, MCL 324.11101 et seq.; hazardous materials transportation act, MCL 29.471 et seq.; solid waste management act, MCL 324.11501 et seq.; waste reduction assistance act, MCL 324.14501 et seq.; clean Michigan fund act, MCL 324.19101 et seq.; low-level radioactive waste authority act, MCL 333.26201 et seq.

ARTICLE I. - IN GENERAL

Secs. 36-1—36-18. - Reserved.

ARTICLE II. - COLLECTION AND DISPOSAL[2]

Footnotes:

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Editor's note— Ord. No. 1086, adopted June 18, 2013, repealed former Art. II, §§ 36-19—36-26, and enacted a new Art. II as set out herein. Former Art. II pertained to similar subject matter and derived from Ord. No. 1065, 6-5-2012.

Sec. 36-19. - 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:

Ashes means the residue from the burning of wood, coal, coke, solid waste, wastewater sludge, or other combustible materials.

Garbage means rejected food wastes, including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that results from the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetable matter.

Litter means any garbage, rubbish, ashes, waste material of any kind or other substance thrown, placed or allowed to remain on the ground, public streets, sidewalks or any public or private property, or in any other manner constituting a nuisance.

Rubbish means nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste, including paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, demolished building materials, or litter of any kind that may be a detriment to the public health and safety.

Solid waste means garbage, rubbish, ashes, refuse, 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. However, the term "solid waste" does not include those items excluded from the definition of the term "solid waste" in MCL 324.11506.

(Ord. No. 1086, 6-18-2013)

Sec. 36-20. - Collection and disposal generally.

All solid waste accumulated in the city shall be collected, conveyed and disposed of by the city or its designee. No person shall collect, convey over any of the streets or alleys of the city, or dispose of any solid waste accumulated in the city, except as follows:

(1) *Actual producers.* This article shall not prohibit the actual producers of solid waste, or the owners of premises upon which solid waste has accumulated, from personally collecting, conveying and disposing of such solid waste, or from contracting for the removal of the same, provided such producers, owners or contractors comply with the provisions of this article and with any other governing law or ordinance.

(2) *Outside collectors.* This article shall not prohibit collectors of solid waste from outside of the city from hauling such solid waste over city streets, provided such collectors comply with the provisions of this article and with any other governing law or ordinance.

(Ord. No. 1086, 6-18-2013)

Sec. 36-21. - Supervision by the director of public works and service; hours of collection.

(a) All solid waste accumulated in the city shall be collected, conveyed and disposed of under the supervision of the director of public works and service. The director of public works and service shall have the authority to make regulations concerning the days and times of collection, the type and location of waste containers and such other matters pertaining to the collection, conveyance and disposal as he or she shall find necessary, and to change and modify the same, provided that such regulations are not contrary to the provisions of this article. Any person aggrieved by a regulation of the director of public works and service shall have the right to appeal to the city manager, who shall have the authority to confirm, modify or revoke any such regulation.

(b) No collection of solid waste shall take place between 11:00 p.m. and 7:00 a.m. of the following day.

(Ord. No. 1086, 6-18-2013)

Sec. 36-22. - Precollection regulations.

Handling, preparation and storage of solid waste shall comply with the following regulations:

(1) *Preparation of solid waste.*

a. *Garbage.* Before garbage is placed in approved solid waste containers for collection, it shall have drained from it all free liquids and shall be placed in plastic bags and put in tote.

b. *Rubbish.* All rubbish shall be drained of liquid before being deposited for collection.

c. *Cans and bottles.* All cans and bottles that have contained food shall be thoroughly rinsed and drained before being deposited for collection.

d. *Tree removals, trimmings, shrubs and clippings.* Small tree trimmings, hedge clippings and similar material shall be cut to a length that shall not exceed four feet and shall be securely tied in bundles not more than 18 inches in diameter before being deposited for collection. Brush cuttings, shrubs, large tree trimmings and branches less than three inches in diameter that can be fed into a brush chipping machine will be picked up. All tree branches, brush cuttings and shrubs must be free from dirt, roots, wire and metal objects and must be stacked at the curb in an orderly manner with large ends in one direction. Tree stumps, trunks, logs and branches larger than three inches in diameter removed from private property will not be picked up by collectors and must be transported by the contractor, owner, tenant, lessee or occupant of the premises to a private disposal site or to any available site designated by the city for which a permit must be obtained.

e. *Newspapers, cardboard, etc.* All newspapers, magazines, cardboard, flattened cartons and other similar material shall be securely tied in compact bundles, not to exceed 60 pounds in weight, so that the same will not be blown or littered on either public or private property.

f. *Ashes.* Ashes shall be removed from the furnace or incinerator at least 24 hours before being placed at the street curb or alley for collection. Only cold ashes will be picked up because ashes containing burning coal or wood cause combustion and serious damage to refuse collection, storage and disposal equipment.

g. *Rocks, dirt, bricks, broken concrete, building material, etc.* No rocks, dirt, sod, bricks, broken concrete or other building construction, alteration or repair material shall be placed in solid waste containers. Such material, as well as gutters, downspouts, fence posts, fencing, old lumber and similar material, will not be picked up by collectors and must be transported by the contractor, owner, tenant, lessee or occupant of the premises to a private disposal site or to any available site designated by the city for which a permit must be obtained.

h. *Paint and oil products.* All paint containers and oil containers shall be completely drained of liquid before being deposited for collection.

(2) *Solid waste containers, specifications.*

a. The owner, agent, lessee, tenant and/or occupant of any house, building or apartment where solid waste is generated shall provide weatherproof containers in sufficient numbers and capacity for the proper storage of solid waste on the premises for one week.

b. The owner, agent, lessee, tenant and/or occupant of any house, building or apartment that qualifies for and uses city provided curbside refuse collection services, shall use the city approved and provided 96- to 105-gallon solid waste container for storage of solid waste on the premises between weekly curbside collections. The user of the city provided curbside refuse collection services shall place all solid waste set out for disposal in the city provided solid waste container and keep the container lid closed except when in the act of placing refuse in it. The user of the city curbside collection services shall not set items out for refuse disposal that do not qualify for refuse collection. The user of city provided curbside refuse collection services shall place the city provided solid waste container, unless empty, at the curb in front of the collection address by 7:00 a.m. on the city scheduled day of collection and not before 4:00 p.m. the day before the city scheduled collection day. The user of city provided curbside refuse collection services shall remove the city provided solid waste container from the curb by 7:00 p.m. on the day of collection and store it on the property behind/beyond the front building line of the main structure on the property where they shall not interfere with the healthful enjoyment of adjoining property. The user of city provided curbside refuse collection services shall keep the city provided solid waste container in a clean and sanitary condition. The user of the city provided solid waste container shall use it within the container user guidelines provided with container and avoid container damage that may result from user abuse or user misuse. Container repair/replacement costs resulting from user abuse, user misuse, fire, theft, or loss will be the property owner's responsibility.

Determination of responsibility for container repair/replacement costs will be made by a representative of the department of public works and service as assigned by the director. Except for containers purchased from the refuse collection service provider, issued containers remain the property of the refuse collection service provider. No person, except the container owner or owner's representative, shall remove the container from the property address where the cart was issued. Refuse collection service provider-owned containers that are set out at locations other than the issued location shall be considered a violation of this article. Determination of violation and responsible party for improperly relocated and set out containers, will be made by a representative of the department of public works and service as assigned by the director. Those improperly relocated and setout containers shall be reclaimed by the service provider as a violation abatement, emptied of any waste found in them, and returned to the properly issued location. This violation abatement service will be documented but no advance notice to the responsible party or to the property owner is required prior to the abatement service being performed. The cost of this violation abatement, as authorized under section 36-25, shall be assessed to the owner of the property where the container was issued and/or to the responsible party who moved the container and/or to the owner of the property where the cart was set out, discovered, and reclaimed. Charges to any responsible party, in addition to any other penalties imposed by law, ordinance, or regulation, shall be determined on a case by case basis but shall not exceed $75.00 per occurrence.

1. *Exception.* Owners, agents, lessees, tenants and/or occupants of any house, building or apartment shall be permitted to use plastic garbage bags of suitable quality and durability in lieu of using city-provided containers to dispose of solid waste for a period of 12 months from the effective date of this chapter without penalty. Thereafter, this exception shall expire unless otherwise extended by action of the city council.

c. The owner, agent, lessee, tenant and/or occupant of any house, building or apartment where yard waste is generated, shall provide containers no less than ten-gallon or more than 35-gallon in capacity, of the type approved by the city council, in sufficient numbers for the proper storage of yard waste on the premises for one week.

d. The owner, agent, lessee, tenant and/or occupant of any house, building or apartment that qualifies for and uses city provided curbside yard waste collection services shall not set items out for yard waste disposal that do not qualify for yard waste collection. The user of city provided yard waste collection services shall not set out yard waste for collection that does not meet the yard waste set out containment, weight, and quantity restrictions approved by the city council. The user of city provided yard waste collection services shall set yard waste out in approved containers for collection at the curb in front of the collection address by 7:00 a.m. on the city scheduled day of collection and not before 4:00 p.m. the day before the city scheduled collection day. The user of the city provided yard waste collection services shall remove the yard waste containers from the curb by 7:00 p.m. on the day of collection and store them on the property behind/beyond the front building line of the main structure on the property where they shall not interfere with the healthful enjoyment of adjoining property. The user of city provided yard waste collection services shall maintain the yard waste containers in a good, safe, clean, and sanitary condition.

(3) *Commercial solid waste containers.* In every case where the owner, occupant or user of any premises accumulates more than one cubic yard of solid waste in any one-week period, it shall be mandatory to provide a container of the type designed to be handled mechanically by solid waste collection trucks in place of the portable solid waste containers provided for in the preceding subsection. Such container shall be of substantial metal construction having a capacity not exceeding two cubic yards, and shall have caster wheels, tightly fitting covers and handles so that such container may be unloaded into the solid waste collection truck by mechanical means provided by the truck. Such container shall be kept clean, in place with covers closed and in good condition at all times. A concrete pad for such container shall be provided on the premises of the owner, occupant or user of the premises, which pad shall be in a convenient and accessible place

and be large enough and situated so that such containers may be rolled to the rear of refuse trucks for collection.

(4) *Unapproved containers.* Stationary receptacles, large steel drums, paint pails, cardboard barrels, paper bags and other containers of a like nature are not approved containers and collection will not be made when such containers are used. All unapproved containers or deteriorated receptacles may be collected as rubbish without notice. The collector will not be responsible for damage to solid waste containers wherein the contents are frozen or for collection of frozen waste materials. The city or its designee shall have the authority to refuse collection services for failure to comply with the provisions of this article.

(5) *Storing and disposal of solid waste.* No person shall place any solid waste in any street, alley or other public place, or upon any private property, whether owned by such person or not, within the city, unless such solid waste is in proper containers as specified in this article for collection, nor shall any person throw or deposit any solid waste, gasoline, oil, paint, chemicals, grease, flammable or explosive liquids or other liquids of a like nature into city sewers, catch basins or manholes.

a. *Unauthorized accumulation.* Any unauthorized accumulation of solid waste on any premises is hereby declared to be a nuisance and is prohibited.

b. *Scattering of solid waste.* No person shall cast, place, sweep, sort, deposit or leave any solid waste or other offensive material anywhere within the city in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway, playground or other public place, or upon any vacant property or occupied premises within the city.

c. *Prohibition of burying garbage or burning solid waste.* No person shall bury garbage or burn garbage, rubbish or other solid waste, grass or weeds or combustible building construction, alteration or repair material in the open air or in barrels or other containers within the city. Burning of leaves from trees, bushes and shrubbery, either in public streets or on private property, is also prohibited. The burning of solid waste in incinerators will not be permitted anywhere in the city if such burning causes offensive smoke, objectionable odors, spreading of fly ash or other nuisance.

d. *Points of collection.* Solid waste containers shall be placed for collection at the side of the street curb or alley, but not on the street or alley pavement. Solid waste containers must be placed at a location where they will be readily visible and accessible, and if collection cannot be made from a street or alley, proper ingress and egress must be provided for the passage of collection vehicles.

(Ord. No. 1086, 6-18-2013; Ord. No. 1094, 9-3-2013)

Sec. 36-23. - Collection regulations.

The following regulations shall apply to the collection of solid waste:

(1) *Frequency of collection.*

a. *Residential.* Solid waste accumulated by residences shall be collected at least once each week.

b. *Commercial.* Solid waste accumulated by commercial establishments shall be collected at least once each week. Business establishments and institutions that deem it necessary may enter into an agreement for a greater frequency of collection. Where necessary to protect the public health, the director of public works and service shall have the authority to require that more frequent collections be made.

(2) *Limitation of quantity.*

a. *Residential.* The city shall collect a reasonable accumulation of solid waste from each family during a collection period at a fair charge, but shall have the authority to refuse to collect unreasonable amounts or to make an additional charge for such amounts.

b. *Commercial.* The city shall collect a reasonable accumulation of solid waste from business establishments and institutions during the collection period at a fair charge based upon the average number of 20-gallon containers. The city shall have the authority to refuse to collect unreasonable amounts or to make an additional charge for such amounts.

(3) *Special solid waste problems.*

a. *Contagious disease solid waste.* The removal of wearing apparel, bedding or other solid waste from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and direction of the county health officer. Such solid waste shall not be placed in containers for regular collections.

b. *Inflammable or explosive solid waste.* Highly inflammable or explosive materials shall not be placed in containers for regular collection but shall be disposed of as directed by the director of public works and service at the expense of the owner or possessor thereof.

(4) *Collection by actual producers and outside collectors.*

a. *Requirements for vehicles.* The actual producers of solid waste or the owners of premises upon which solid waste is accumulated who desire personally to collect and dispose of such solid waste, persons who desire to dispose of waste material not included in the definition of the term "solid waste," and collectors of solid waste from outside of the city who desire to haul over the streets of the city, shall use a watertight vehicle provided with a tight cover and so operated as to prevent offensive odors escaping therefrom and so as to prevent solid waste from being blown, dropped or spilled.

b. *Disposal.* Disposal of solid waste by persons so permitted under subsection (4)a. of this section shall be made outside the city limits, unless otherwise specifically authorized by the director of public works and service.

c. *Rules and regulations.* The director of public works and service shall have the authority to make such other reasonable regulations concerning individual collection and disposal, and relating to the hauling of solid waste over city streets by outside collectors, as he or she shall find necessary, subject to the right of appeal as set forth in section 36-21.

(5) *Solid waste to be property of city.* Ownership of solid waste material set out for collection or deposited on the city disposal site shall be vested in the city.

(Ord. No. 1086, 6-18-2013)

Sec. 36-24. - User fee charges.

(a) User fee charges for the collection of solid waste to residential and commercial customers shall be determined from time to time by resolution of the council and shall be collected from each residential and commercial customer receiving such services under the terms of this article.

(b) User fee charges shall be assessed by the director of finance, as fixed by resolution of the council, and added to the monthly water bill for each residential and commercial customer. Fees for collection shall be paid by residential and commercial customers to the city. The city's designated waste hauler shall be paid by the city pursuant to the terms of the contract then in effect.

(c) A ten percent penalty shall be added if the user fee charge is not paid by the designated due date on the water bill. The penalty assessed shall be retained by the city and not paid to the city's designated waste hauler.

(Ord. No. 1086, 6-18-2013)

Sec. 36-25. - Nonpayment of charges; remedy of city.

The charges and penalties for solid waste collection service are hereby made a lien on all premises served thereby. Whenever any such charge against a parcel of property is delinquent for three months, the director of finance shall prepare a report of such parcel, upon which such charges and penalties have not been paid, whereupon such charges and penalties, together with a further penalty of five percent, shall be 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 special assessment taxes against such premises are collected and the lien thereof enforced. However, whenever notice in writing is given to the director of public works and service that a tenant under a written lease is responsible for such charges and penalties, no further service shall be rendered to the parcel of property leased by such tenant until a cash deposit of not less than two quarters has been paid in advance as security for payment of such charges and services.

(Ord. No. 1086, 6-18-2013)

Sec. 36-26. - Enforcement.

The director of public works and service, through his or her authorized deputies, inspectors or employees, shall be charged with the responsibility of enforcing this article, and, together with the police department or the city attorney, shall institute any appropriate action or proceeding in law or equity to prevent, restrain, correct or abate any violation of any of the provisions of this article. Should the city be required to enter upon any property or perform any special services to alleviate any violation of the provisions of this article including but not limited to violation abatement as provided in section 36-22, it shall keep an accurate account of all expenses incurred with respect to such parcel of property, and such costs, together with overhead charges and penalties, shall constitute a lien upon such property as provided in section 36-25.

(Ord. No. 1086, 6-18-2013)

Chapter 38 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES[1]

Footnotes:

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Charter reference— Use of streets by franchisees, ch. VIII, § 11; streets and sidewalks generally, ch. X.

State Law reference— City control of highways, Mich. Const. 1963, art. VII, § 29; city authority to acquire, own, establish and maintain boulevards, Mich. Const. 1963, art. VII, § 23; obstructions and encroachments on public highways, MCL 247.171 et seq.; closing of highway for repairs, MCL 247.291 et seq.; driveways, banners, events and parades, MCL 247.321 et seq.; liability of local government for injury from the result of not keeping highway in reasonable repair, MCL 691.1402.

ARTICLE I. - IN GENERAL

Secs. 38-1—38-18. - Reserved.

ARTICLE II. - STREETS

Sec. 38-19. - 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:

Street means all of the land lying between property lines on either side of all streets, alleys and boulevards in the city, and includes lawn extensions and sidewalks and the area reserved therefor where the same are not yet constructed.

(Code 1973, § 4.1; Code 1989, § 1020.01; Ord. No. 788, 8-25-1992)

Sec. 38-20. - Damage and obstruction prohibited.

No person shall make any excavation in, or cause any damage to, any street in the city, except under the conditions and in the manner permitted in this article. No person shall place any article, thing or obstruction in any street, except under the conditions and in the manner permitted in this article, but this provision shall not be deemed to prohibit such temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises, to the lawful parking of vehicles within the part of the street reserved for vehicular traffic, nor to any sign or other material object erected or maintained for public health and safety purposes by the city.

(Code 1973, § 4.2; Code 1989, § 1020.02)

Sec. 38-21. - Permits, fees and bonds.

(a) Where permits are required by this article, they shall be obtained upon application to the city clerk, upon such forms as he or she shall prescribe, and there shall be a charge as adopted by the city council from time to time for each such permit, except as otherwise provided by the council. Such permit shall be revocable by the city clerk for failure to comply with this article, the rules and regulations adopted pursuant thereto and the lawful orders of the city clerk or his or her duly authorized representative. The permit shall be valid only for the period of time endorsed thereon. An application for a permit under the provisions of this article shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the city in connection therewith, repair all damage done to the street surface and installations on, over or within such street, including trees, and protect and save harmless the city from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith. Where liability insurance policies are required to be filed in making application for a permit, they shall be in not less than the minimum amounts as currently established or as hereafter adopted by the city council from time to time.

(b) A duplicate executed copy or photostatic copy of the original of such insurance policy, approved as to form by the city attorney, shall be filed with the city clerk. Where cash deposits are required with the application for any permit hereunder, such deposit shall be in the amount as currently established or as hereafter adopted by the city council from time to time, except as otherwise specified in this article, and such deposit shall be used to defray all expenses to the city arising out of the granting of the permit and work done under the permit or in connection therewith. Six months after the completion of the work done under the permit, any balance of such cash deposit that remains unexpended shall be refunded. In any case where the deposit does not cover all costs and expenses of the city, the deficit shall be paid by the applicant.

(Code 1989, § 1020.03)

Sec. 38-22. - Excavations.

(a) *Permit required; deposit and insurance.* No person shall make any excavation or opening in or under any street without first obtaining a written permit therefor from the city. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by section 38-21.

(b) *Emergency openings.* The city clerk or his or her designee may, if the public safety requires immediate action, grant permission to make a necessary street opening in an emergency, provided that a permit shall be obtained on the following business day and the provisions of this article shall be complied with.

(c) *Backfilling.* All trenches in a public street or other public place, except by special permission, shall be backfilled in accordance with regulations adopted pursuant to this article. Any settlement shall be corrected within four hours after notification to do so.

(d) *Safeguards.* All openings, excavations and obstructions shall be properly and substantially barricaded and railed off, and at night shall be provided with prescribed warning lights. Warning lights perpendicular to the flow of traffic shall not be more than three feet apart, and those parallel to the flow of traffic not over 15 feet apart.

(e) *Shoring.* All openings and excavations shall, where necessary, be properly and substantially sheeted and braced as a safeguard to workers and to prevent cave-ins or washouts which would tend to injure the thoroughfare or subsurface structure of the street.

(Code 1973, §§ 4.6, 4.28, 4.29; Code 1989, § 1020.04)

Sec. 38-23. - Lawn extension improvements.

(a) No person shall install any improvements between the public sidewalk and the street curb in the public right-of-way, other than sod, lawn, trees and/or courtesy walks, not exceeding three feet in width, without first having obtained a permit therefor from the city.

(b) Before any permit is issued as required under this section, proposed installations and/or improvements must first be reviewed and approved by all the appropriate departments, including the department of public works and service, the building department, the department of parks and recreation and the police department.

(c) The fee for all permits issued under this section shall be in an amount as adopted by the city council from time to time.

(d) All improved areas between the public sidewalk and the street curb shall be reasonably maintained by the abutting property owner. Any owner failing to properly maintain the public right-of-way area shall be so notified in writing, and upon his or her failure to comply with the written notice within 72 hours, the city may perform the necessary maintenance required and charge the cost thereof to the abutting property.

(Code 1989, § 1020.05)

Sec. 38-24. - Utility poles.

Utility poles may be placed in such streets as the city clerk shall prescribe and shall be located thereon in accordance with the directions of the city clerk. Such poles shall be removed or relocated as the city clerk shall, from time to time, direct. Where utility easements exist at the rear of lots, poles shall be located in such easements, if feasible, in the opinion of the city clerk.

(Code 1973, § 4.12; Code 1989, § 1020.06)

Sec. 38-25. - Maintenance of installations.

Every owner of, and every person in control of, any property hereafter maintaining a sidewalk vault, coal hole, manhole or other excavation, or any post, pole, sign, awning, wire, pipe, conduit or other structure, in, under, over or upon any street which is adjacent to or part of his or her property, shall do so

only on condition that such maintenance shall be considered as an agreement on his or her part with the city to keep the same and the covers thereof, and any gas and electric boxes and tubes thereon, in good repair and condition at all times during his or her ownership or control thereof, and to indemnify and save harmless the city against all damages or actions at law that may arise or be brought by reason of such excavation or structure being under, over, in or upon the street, or being unfastened, out of repair or defective during such ownership or control.

(Code 1973, § 4.13; Code 1989, § 1020.07)

Sec. 38-26. - Curb cuts.

No person shall make any opening in or through any curb or any street without first obtaining a written permit therefor from the city. Driveway approach curb cuts to provide access to private property shall comply with the following:

(1) No single driveway approach curb cut shall be less than ten feet.

(2) The minimum distance between any driveway approach curb cut and a public crosswalk shall be five feet.

(3) The minimum distance between driveway approach curb cuts, except those serving residential property, shall be 25 feet.

(4) The necessary adjustments to utility poles, light standards, fire hydrants, catchbasins, street or railway signs, signals or other public improvements or installations shall be accomplished without cost to the city.

(5) Driveway approach curb chipping shall not be allowed. Approach replacement/extensions shall be sawcut 18 inches from the back of the curb, j-bolted and crack sealed as per the direction of the superintendent of public works and service or his or her designee.

(Code 1989, § 1020.08)

Sec. 38-27. - Temporary street closings.

The superintendent of public works and service shall have authority to temporarily close any street, or portion thereof, when he or she deems such street to be unsafe or temporarily unsuitable for use for any reason. He or she shall cause suitable barriers and signs to be erected on such street, indicating that the same is closed to public travel. When any street or portion thereof has been closed to public travel, no person shall drive any vehicle upon or over such street except as the same may be necessary incidentally to any street repair or construction work being done in the area closed to public travel. No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the superintendent.

(Code 1973, § 4.53; Code 1989, § 1020.09)

Sec. 38-28. - Street and alley vacations.

(a) If an adjoining property owner or other interested party wishes to have a street, alley or public ground, or any part thereof, vacated, discontinued or abolished, he or she shall file a written petition thereof with the city manager, setting forth a description of the public property to be vacated, and upon the filing of such petition, the petitioner shall pay to the city a sum as adopted by the city council from time to time.

(b) The city manager shall forthwith forward such petition to the council which shall act on the same in accordance with chapter X, section 2, of the city Charter.

(Code 1989, § 1020.10)

Sec. 38-29. - Street widths.

(a) *Minimum improved widths.* The minimum improved width, concrete pavement and curb and gutter construction width, and designation of the streets of the city shall be as follows:

(1) *Trunk line streets.* Nine Mile Road and Ten Mile Road shall be classified as trunk line streets and shall have a minimum width of 45 feet.

(2) *Arterial streets and fire lanes.* The following streets shall be classified as arterial streets or fire lanes and shall have a minimum width of 37 feet:

a. Stephens Drive.

b. Toepfer Drive.

c. Kelly.

d. Hayes (north of Crescentwood).

e. Grove.

f. Virginia.

g. Redmond.

h. Cushing.

i. Crescentwood.

j. Beaconsfield.

k. Schroeder (Nine Mile to Ten Mile).

l. Normandy (Toepfer to Nine Mile).

(3) *Side streets.* Any street or complete block within a street that has no houses or lots facing such streets shall be considered a side street and shall have a minimum width of 25 feet and parking shall be prohibited on such streets.

(4) *Residential streets.* All streets not classified in subsections (a)(1) through (3) of this section shall be classified as residential streets and shall have a minimum width of 31 feet.

(b) *Variances.* The council may, at its discretion, reduce the minimum widths herein prescribed for any street where it is a matter of public convenience and safety.

(Code 1973, §§ 4.131, 4.132; Code 1989, § 1020.11)

Sec. 38-30. - Repairs; name and date.

All concrete street repairs constructed by anyone other than the city shall have the name of the contractor, together with the year the same is constructed, stamped in the surface near each end at the immediately adjacent lot lines. Intersections shall be separately stamped.

(Code 1989, § 1020.12)

Sec. 38-31. - Obstructing street with building materials or machinery.

No person shall occupy any street with any materials or machinery incidental to the construction, demolition or repair of any building adjacent to such street, or for any other purpose, without first obtaining a permit therefor from the city clerk and paying the fee in an amount as adopted by the city

council from time to time, posting a cash deposit in an amount as adopted by the city council from time to time and filing an insurance policy as required by section 38-21.

(Code 1989, § 1020.13)

Sec. 38-32. - Additional rules and regulations.

The superintendent of public works and service is hereby authorized to promulgate reasonable rules and regulations relative to openings and excavations in the streets, curb cuts and street obstructions, so long as such rules and regulations are not in conflict with any of the provisions of this article or general law. Such rules and regulations are subject to approval of the council. No person shall violate or fail to comply with any such rule or regulation.

(Code 1989, § 1020.14)

Sec. 38-33. - Violations; remedy of city.

Encroachments and obstructions in the street may be removed and excavations refilled by the city, and the expense of such removal or refilling may be charged to the abutting land owner when any such encroachment, obstruction or excavation is made or permitted by him or her or suffered to remain by him or her otherwise than in accordance with the terms and conditions of this article. The procedure for collection of such expenses shall be as prescribed in the city Charter.

(Code 1973, § 4.52; Code 1989, § 1020.15)

Secs. 38-34—38-54. - Reserved.

ARTICLE III. - SIDEWALKS AND DRIVEWAY APPROACHES

Sec. 38-55. - 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:

Contractor means the party or parties performing the work.

Courtesy walk means that portion of pavement between a sidewalk and a curb other than a driveway approach.

Debris means the accumulation of waste material, rubble, animal matter, discarded refuse, litter, rubbish, trash, stones or other obstructions or encumbrances.

Driveway means a road, especially a private one, leading from a street or other public way to a building, house, garage or similar structure, and includes the driveway approach.

Driveway approach means that portion of a driveway lying between the sidewalk or the sidewalk line, and the curb.

Engineer means the city engineer or his or her property authorized agents.

Inspector means any representative of the city designated to act as an inspector.

Owner means the party or parties holding title to the private property abutting upon the public property.

Public property means the municipal property of the city and its public highways.

Sidewalk means a paved footpath, usually beside a street or roadway for the use of pedestrians.

(Code 1989, § 1022.01; Ord. No. 1008, § 1022.01, 2-17-2009)

Sec. 38-56. - Construction; permit required; fee; application; time factors.

(a) Prior to commencing any work for the construction of walks and driveways, a permit must be obtained therefor from the building department of the city by the owner or the contractor. An individual permit is required for each separate job.

(b) The fee for a sidewalk permit or a driveway permit shall be in an amount as adopted by the city council from time to time.

(c) Work contemplated under any permit must be completed within 30 days of the issuance of the permit. The department of public works and service must be notified at least 24 hours in advance of the commencement of any construction under the permit.

(Code 1989, § 1022.02)

Sec. 38-57. - Supervision and inspection.

(a) The city shall, at all times, have access to any work done under authority of a permit issued pursuant to this article, whether it is in preparation or in progress, and the contractor shall provide proper facilities for such inspection.

(b) The contractor shall have a representative in responsible charge of the work on the site at all times, which person shall have the necessary qualifications and authority to execute, adhere to and carry out the requirements of the specifications. Orders or instructions from the city given to this representative shall be as authoritative as though given to the contractor or owner. Should any person employed on the work refuse or neglect to comply with the direction of the city in the interpretation of the specifications and direction of the work, or be judged by the city to be incompetent, disorderly or unfaithful, he or she shall be immediately discharged and not again employed on any part of the work.

(c) The city shall assign inspectors to the work or such part thereof as may be necessary to see that the provisions of the specifications are carried out in full. The presence of an inspector will not in any way relieve the contractor from any responsibility for complying with the specifications. Any work constructed or performed contrary to the specifications shall, upon direction of the city, be made good or removed as directed.

(Code 1973, § 4.73; Code 1989, § 1022.03)

Sec. 38-58. - Engineer's stakes.

(a) The city engineer shall furnish such line and grade stakes as may be necessary for the proper control of the work, but this shall not relieve the contractor of responsibility for making careful and accurate measurements in constructing the work to the lines furnished by the engineer. The contractor shall preserve the points furnished by the engineer.

(b) Engineer's stakes for a line and/or grade disturbed or destroyed through carelessness of the contractor shall be replaced by the engineer, upon the contractor's request, at a reasonable charge to be determined by the engineer, payable to the building department, made against the contractor for the replacement of such stakes.

(Code 1989, § 1022.04)

Sec. 38-59. - Weather.

The contractor shall suspend all work when notified by the city that the weather is unsuitable for carrying it on. If work is allowed during cold or freezing weather, the contractor shall take such additional precaution as the city requires. No work shall be done between November 15 and the following April 15 without special permission from the city.

(Code 1973, § 4.75; Code 1989, § 1022.05)

Sec. 38-60. - Name and date in surface.

All concrete walks and drives constructed by other than the owner shall have the name of the contractor, together with the year the same is constructed, stamped in the surface near each end, at the lot lines. Intersections shall be separately stamped.

(Code 1989, § 1022.06)

Sec. 38-61. - Materials; testing; safe storage; protection of surrounding area.

(a) All materials used for the construction of walks and driveways shall be subject to test, at the discretion of the city, for quality, strength, soundness, durability, etc., to meet with the requirements of city specifications.

(b) Materials delivered on the street shall be neatly and compactly piled up along the side of the roadway in such a manner as to cause the least inconvenience to adjacent property owners and the general public. Street crossings and private drives are to be kept open as far as practicable.

(c) Access to fire hydrants must be provided at all times. No dirt or material shall be piled within 15 feet of a hydrant. Gutters and catch basins must be open and drainage maintained.

(d) Shade trees, lawns and other improvements shall be protected by the contractor from all damage by stone or otherwise, and the work will not be accepted until the street is cleaned to the satisfaction of the city.

(e) Sufficient and suitable lights and torches shall be provided at night to clearly indicate all equipment, materials and any other hazard that might cause an accident.

(Code 1973, § 4.77; Code 1989, § 1022.07)

Sec. 38-62. - Cross slope; grades.

All walks shall be constructed with a cross slope of three-eighths of an inch in each foot of width upwards from the curb side of the walk toward the property line. However, at intersections of streets and junctions with existing work, and because of other special conditions, where it is not practicable and reasonable to follow this cross slope, the walks shall be constructed as directed by the city engineer. Driveways across public property shall be constructed at such grades as are established by the engineer. On unpaved streets, the established line and grade shall be obtained from the engineer before walks are built.

(Code 1973, § 4.78; Code 1989, § 1022.08)

Sec. 38-63. - Excavation and grading.

Where the bottom of the concrete slab is below the natural surface of the ground, the ground shall be excavated accurately to the required grade. Vegetable matter below the subgrade shall be removed and the space so excavated shall be backfilled with sand or other approved materials. Where the ground level

is below the established subgrade, the vegetable matter shall be removed within the area of the walk or drive to be paved and the natural ground level brought up to subgrade elevation with sand or other approved materials, firmly tamped into place. Such fill sand shall extend at least 14 inches beyond the outer edges of the walks or driveway and shall be continued to natural grade on a minimum slope of 1½ to one. Fills exceeding two feet in depth shall be made of such materials and in such manner as directed by the city engineer, so as to provide an adequate and stable foundation for the concrete slab.

(Code 1973, § 4.79; Code 1989, § 1022.09)

Sec. 38-64. - Forms; subgrade check.

Forms or rails extending the full thickness of the slab shall be set firm, true to line and grade, and substantially held in place by stakes or other approved form of bracing. A template of proper thickness shall be provided to check the subgrade over the entire area of the slab.

(Code 1973, § 4.80; Code 1989, § 1022.10)

Sec. 38-65. - Thickness.

Walks shall be not less than four inches in thickness, private driveways shall be not less than six inches in thickness and commercial driveways shall be not less than eight inches in thickness. Special cases shall be as approved by the city engineer.

(Code 1973, § 4.81; Code 1989, § 1022.11)

Sec. 38-66. - Concrete composition.

Concrete shall conform to the state department of transportation (MDOT) standard specifications for grade 35 P concrete. Minimum cement content shall be six sacks per cubic yard. Entrained air shall be 6.5 ;pm; 1.5 in accordance with MDOT specifications. All concrete, residential and commercial, shall be class A 6 sack mix.

(Code 1989, § 1022.12; Ord. No. 702, 5-5-1987)

Sec. 38-67. - Placing concrete; requirements.

All concrete walks and drives shall be poured or placed monolithic, that is, the slabs shall be poured in one operation of a homogeneous concrete. Regardless of the method of transporting, handling, placing and working, the concrete, when deposited in the forms, shall be free from segregation, shall have a slump not to exceed three inches and shall contain not less than three percent of the entrained air. The concrete shall be laid and tamped to the required thickness until mortar appears on the surface.

(Code 1973, § 4.83; Code 1989, § 1022.13)

Sec. 38-68. - Concrete finishings.

(a) As soon as the free mortar appears, a straight edge template shall be used as a strike-off across the two rails to ensure a true surface. While the concrete is still plastic, the surface shall be finished with wood or steel floats bringing the surface to true grade. Precautions should be taken not to overwork the concrete and bring an excess of water and mortar to the surface. The surface may be scored by means of brooming with a brush having fine bristles. The brooming should be done after the concrete

is hard enough so that it will retain the scoring. The edges of the flags shall be turned down with an edger having a radius of not to exceed one-fourth inch.

(b) Curing of all concrete shall be done by the application of white membrane curing compound in accordance with state department of transportation specifications.

(Code 1989, § 1022.14; Ord. No. 702, 5-5-1987)

Sec. 38-69. - Expansion and contraction joints.

(a) All concrete sidewalks shall have expansion joints at lot lines, placed at right angles to the rails and extending to the bottom of the concrete, except that where the distance between lot lines exceeds 50 feet, additional expansion joints shall be placed so that in no case does the distance between expansion joints exceed 50 feet. All expansion joints shall be of prepared expansion paper strips and shall be one-half inch in thickness and full depth, as set forth in section 38-65.

(b) Construction joints shall be placed at intervals of not less than five feet at right angles to the rails and extending to a depth of not less than one-half inch. Contraction joints may be constructed by the use of divider plates, one-quarter inch in thickness, or by the use of prepared joint paper. The dividers must not be removed until the concrete is sufficiently set to prevent slumping. The dividers shall then be removed and a double edger used to finish the joint. Prepared joint fillers are not to be removed but the joint shall be edged on each side of the filler.

(c) Driveways and full width walks exceeding seven feet in width, street curb line to building, shall have expansion joints at the curb and at the building or the property line. Arrangements of contraction joints at intervals other than those specified above must receive the approval of the city engineer.

(d) One-inch expansion shall be used at the end of walks abutting street curbs.

(e) All approaches replaced shall have an expansion joint of one-half inch in thickness and shall be full depth, as set forth in section 38-65. This expansion joint shall be placed at the top of the approach adjacent to the sidewalk and at the bottom of the approach adjacent to the street.

(Code 1989, § 1022.15)

Sec. 38-70. - Protection of work.

All completed concrete must be protected by suitable barricades provided with lights during darkness. The concrete shall be protected against the elements and cured by keeping it moist for not less than three days. All inserts and other fixtures shall be set to the true grade of the walk before the concrete is poured. In no case shall anyone be allowed to walk on the surface of the walk before the concrete is thoroughly set.

(Code 1973, § 4.86; Code 1989, § 1022.16)

Sec. 38-71. - Finished grading; completion of work.

Upon completion of concrete pouring and finishing, rails or forms and stakes, or wooden supports, shall be carefully removed without injury to the finished concrete, and the remaining public area between the curb property line shall be finish graded to meet the established street grade and cross slope. Surplus excavation and materials shall be removed from the site and the job left in a neat and workmanlike manner.

(Code 1973, § 4.87; Code 1989, § 1022.17)

Sec. 38-72. - Repair of defects before acceptance.

All settlement, defects or damage in any portion of the sidewalk, by public travel, rain, snow, ice, frost, improper curing or other causes, before the final acceptance of the work by the city, shall be repaired or replaced at the contractor's expense.

(Code 1973, § 4.88; Code 1989, § 1022.18)

Sec. 38-73. - Contractors' bond.

In order to ensure the quality and guarantee the maintenance of sidewalks or driveway approaches hereafter laid within the city, every person engaged in the business of constructing, reconstructing or replacing sidewalks or driveway approaches in the city shall be required to execute a good and sufficient surety bond to the city in the penal sum as currently established or as hereafter adopted by the city council from time to time.

(Code 1973, § 4.89; Code 1989, § 1022.19)

Sec. 38-74. - Conditions of bond; five-year maintenance.

The bond required by section 38-73 shall be conditioned upon the faithful observance of the terms and conditions of this Code with reference to the construction, reconstruction or replacing of sidewalks or driveway approaches within the city and shall be further conditioned that the person executing such bond shall keep and maintain the sidewalk or driveway approach which he or she constructs in good condition or repair and fit for public travel for a period of five years after date of completion of construction, reconstruction or replacement of such sidewalk or driveway approach. The bond shall be approved by the city attorney.

(Code 1973, § 4.90; Code 1989, § 1022.20)

Sec. 38-75. - Prosecution of bond; recovery.

(a) The bond required by section 38-73 may be prosecuted and recovery had by any person who has suffered any injury or damage by reason of the inferior quality of material used in the construction of a sidewalk or driveway approach on public property, or for any injury or damage suffered by any person because such sidewalk, crosswalk or driveway came out of repair within five years from the date of completion of the construction of such sidewalk, crosswalk or driveway approach.

(b) The prosecution shall be made in the name of the city for the use or benefit of such person, provided that the city shall not be liable for costs in any litigation brought under this article.

(Code 1973, § 4.91; Code 1989, § 1022.21)

Sec. 38-76. - Protection during construction.

All persons engaged in sidewalk or driveway construction shall suitably barricade and light any excavated area on public property, and any such person shall be personally liable for any injury or damage that results from the negligent failure to properly barricade or light excavated areas on public property.

(Code 1973, § 4.92; Code 1989, § 1022.22)

Sec. 38-77. - Permits to owners of real estate for construction on public property.

The building department is hereby authorized to grant a permit to any owner of real estate in the city to construct a sidewalk, crosswalk or driveway approach on public property in front of or adjacent to the real estate owned by him or her. The conditions of such permit are that such owner is personally skilled and competent to construct such sidewalk, crosswalk or driveway approach, and to maintain the same thereafter, and that such owner will comply with the specifications set forth in this article.

(Code 1989, § 1022.23)

Sec. 38-78. - Advertising and artwork prohibited; exception.

No person shall construct or maintain any mosaic, art marble, tiling or any colored material, name, numbers or advertising in any sidewalk space (that portion of the sidewalk between the lot line of the property and the street curb line) except the stamp of the contractor and except within the boundaries of the downtown district as set forth in section 14-52.

(Code 1989, § 1022.24; Ord. No. 732, 10-4-1988)

Sec. 38-79. - Notice to construct.

(a) Whenever the council, by resolution, declares the necessity for and directs the construction, repair or reconstruction of any sidewalk or driveway approach in any street in front of or adjoining private property, it shall be the duty of the city manager to give notice by November 1 of the year prior to construction, repair or reconstruction by mailing a copy of such notice, by first class mail, to the property owner at the address shown on the last current assessment or tax roll.

(b) This notice shall state:

Date of Notice:

Dear Property Owner:

RE: (current year) SIDEWALK/DRIVEWAY APPROACH REPLACEMENT PROGRAM

In the spring of ___, the City of Eastpointe will be inspecting the driveway approach and/or sidewalk and/or courtesy walk in front of and/or adjacent to your property for damaged or hazardous conditions that are in need of replacement. This letter is to inform you now that this program will be beginning in (date to be determined) .

As a homeowner you have THREE options to choose from. They are listed below for your review.

Option #1: The City will assign a licensed contractor to perform any necessary work on your property.

The estimated cost for these repairs will vary from property to property. The cost could range from APPROXIMATELY $_____ to $_____ depending on the amount of concrete replaced. The AVERAGE cost per home has been around $_____ to $_____ in the past years. A more accurate estimate will be sent to you a minimum of 30 days prior to the work being done.

Work performed by the City will be charged as follows:

Installation charges invoiced are payable within 30 days of invoice. (NO PARTIAL PAYMENTS) After due date, ½% per month interest will be added until paid. Unpaid sidewalk invoices are compiled into a Special Assessment Roll at which time an additional 5% is added to cover the expense of preparing the roll as well as the cost of publication and/or mailing of hearing on the roll.

After the assessment roll is confirmed, properties whose square footage exceeds 80 square feet will have their unpaid balance divided into two equal parts payable in annual installments with 6% interest added on the balance.

OPTION #2: You may hire your own private contractor to do the work.

The contractor MUST obtain a permit from the Building Department at City Hall before any work begins. The cost for permits is determined by the fee schedule.

In addition, all forms must be checked by the City Inspector prior to pouring cement in order that the proper grade, pitch and other provisions of the City Sidewalk Ordinance are complied with.

Inspection is also necessary to assure satisfactory construction and to prevent irresponsible contractors from using inferior material and performing poor workmanship at your expense. The City Inspector should be contacted by you or your contractor at least one day in advance of the required inspection at (586) 445-5010.

OPTION #3: You may elect to install your own sidewalk/driveway. Similar in procedure to Option #2, you must obtain a permit from City Hall, call for site inspection and complete the work within 21 days from the date of letter.

If you wish to do your own work, all broken concrete must be removed by you or at your expense.

In the event we do not hear from you, then OPTION #1 will be assigned and the work completed assessed against the property.

In conclusion, we all take pride in the appearance of your property and do everything possible to preserve its value. Through the City's Sidewalk/Driveway Approach Replacement Program we are striving not only to improve the appearances of our property but also to provide safer sidewalks for pedestrian traffic. For any additional information concerning this program feel free to contact the Building Department.

(c) On or before July 1 of the year following the November 1 notice, as set forth in subsection (b) hereof, the city manager shall give final notice of the construction, repair or reconstruction by mailing a copy of such notice, by first class mail, to the property owner at the address shown on the last current assessment or tax roll.

(Code 1989, § 1022.25; Ord. No. 742, 11-13-1989; Ord. No. 788, 8-25-1992; Ord. No. 976, § 1022.25, 9-5-2006; Ord. No. 1053, 9-20-2011)

Sec. 38-80. - Construction by city; costs.

If any person notified as provided in section 38-79 has not constructed such sidewalk and/or driveway approach within the time mentioned, it shall be the duty of the city manager through the proper department or agency of the city, to construct such sidewalk and/or driveway approach in front of or adjoining the premises of the person so in default and, upon its completion, to prepare a report, in triplicate, and attach thereto the affidavits of publication of notice ordering such sidewalks and/or driveway approaches constructed and an affidavit of the mailing of the aforesaid notice. Such report shall contain the cost of construction of such sidewalks and/or driveway approaches, together with the cost of the publication and mailing of the aforesaid notice and a description of the parcels of land in front of or adjoining which such sidewalk and/or driveway approach has been constructed, one copy of which the city manager shall retain, and two copies of which shall be transmitted to the director of finance. Within ten days after the receipt of the report, the director shall notify each of the persons who have had sidewalks and/or driveway approaches constructed in front of or adjoining their premises, as shown by such report, of the fact that he or she, the director, will receive payments of assessments so made for a period of 30 days from the date of such notice without further or additional cost. The director shall further notify such persons that unless the assessments are paid within the 30 days, additional costs will necessarily be incurred by the city in perfecting and completing the assessments and assessment roll. The director shall, within 40 days after receipt of such report, transmit a copy thereof, upon which

payments received on each respective description have been shown, to the board of special assessors, together with the affidavits attached thereto.

(Code 1973, § 4.96; Code 1989, § 1022.26)

Sec. 38-81. - Recovery of costs.

Upon receiving the report mentioned in section 38-80, the board of special assessors shall prepare a special assessment roll and shall levy, as a special assessment therein, the amounts so reported as unpaid within the time mentioned upon each lot or parcel of land fronting on or adjoining the sidewalk and/or driveway approach so constructed. In addition to the costs of construction, publication, mailing of notices and other costs incurred, an overhead charge of five percent shall be added to cover the expense of preparing the special assessment roll as well as the costs of publication and/or mailing of notices of the hearing to be held on such roll. When completed, the board shall report the special assessment to the council and thereafter the same proceedings shall be had and with like effect as are provided for other special assessments by chapter XVI, sections 12 through 16, of the city Charter, except that notice of filing of the special assessment roll and of the reviewing of the same may be given by registered or certified mail to the persons named in such roll at their last known addresses, respectively, instead of giving such notice by publication.

(Code 1973, § 4.97; Code 1989, § 1022.27)

Sec. 38-82. - Payment of assessments.

The special assessment roll shall be divided into two equal parts if the area of sidewalk and/or driveway approaches constructed or reconstructed exceeds 80 square feet. If the construction consists of less than 80 square feet, the assessment shall be payable only in one part. The first part shall be due and paid within 60 days after the date of confirmation of such roll and the remaining installment shall be due and paid one year thereafter upon the same day of the year as that upon which the roll was confirmed.

(Code 1973, § 4.98; Code 1989, § 1022.28)

Sec. 38-83. - Snow and ice removal required; debris.

(a) *Snow and ice removal.*

(1) The owner and/or occupant of any premises or lot, or the owner of any unoccupied premises or lot, is required to keep the sidewalks in front of or adjacent to such premises cleared from snow and ice to prevent a nuisance and facilitate pedestrian use. Whenever any snow or ice has fallen or naturally accumulated, it shall be cleared so as to make the sidewalk safe for pedestrian passage within 24 hours after it has fallen or naturally accumulated.

(2) If any occupant or owner shall neglect or fail to clear ice or snow from the sidewalk adjoining their premises, within 24 hours after it has fallen or naturally accumulated, so as to make the sidewalk safe for pedestrian travel, they shall be guilty of a violation of this section and, in addition, the city or its contractor will leave written notice at the property in violation stating that if the sidewalk is not cleared of snow or ice within 24 hours so as to make the sidewalk safe for pedestrian passage, the city or its contractor will do so and assess the cost and an administrative fee as set forth in the fee schedule to the property owner or occupant which shall become a debt to the city and shall be collected as any other debt to the city, including, but not limited to a lien upon the premises. Written notice may be in the form of a sticker to be placed on or near the front door, or other written notice affixed to the property on or near the front door. Notices to commercial businesses shall be placed in an envelope placed at or near the front door.

(3) In the event the owner or occupant has not removed the snow or ice from the sidewalk in front of or adjacent to such premises within 24 hours after the issuance of the notice detailed in subsection (2) above, the city or its contractor may remove the snow and ice, and assess the cost and administrative fee to the owner or occupant. Upon the city or its contractor abating the nuisance, it shall provide notice to the owner or occupant in the same manner detailed in subsection (2) above, that the city has abated the nuisance and that the cost and assessment for said abatement will be billed to the owner or occupant and shall become a lien upon the premises.

(4) No person shall deposit or place snow or ice from private property onto any sidewalk, street, neighboring property or right-of-way, nor shall any person deposit or place snow or ice from a sidewalk or driveway approach onto a street, neighboring property or right-of-way.

(5) The city shall give public notice in October and November that snow and ice not removed by the homeowner or occupant within 24 hours after it has fallen or naturally accumulated so as to make the sidewalk safe for pedestrian passage may be removed by the city and the cost charged to the landowner.

(b) *Debris.*

(1) The owner and/or occupant of any premises or lot, or the owner of any unoccupied premises or lot, is required to keep the sidewalks in the front of or adjacent to such premises cleared from debris to facilitate pedestrian use. Whenever any debris has accumulated, it shall be cleared within 24 hours after it has accumulated.

(2) If any occupant or owner shall neglect or fail to clear debris from the sidewalk adjoining the premises within the time limit or shall otherwise permit debris to accumulate on such sidewalk, they shall be guilty of a violation of this section and, in addition, the city may cause the same to be cleared and the expense of removal and an administrative fee as set forth in the fee schedule shall become a debt to the city and shall be collected as any other debt to the city including, but not limited to a lien upon the premises.

(Code 1973, §§ 4.99, 4.100; Code 1989, § 1022.29; Ord. No. 1008, § 1022.29, 2-17-2009; Ord. No. 1054, 11-1-2011; Ord. No. 1112, 10-21-2014)

Sec. 38-84. - Repair and maintenance of sidewalks, driveway approaches and alleys.

(a) All sidewalks, courtesy walks, areas between the curb and sidewalk, and driveway approaches between the lot line and the street curb, except crosswalks at intersections, shall be repaired and maintained by the abutting property owner and shall comply with all requirements set forth in this article. Every commercial property owner of land which abuts on an alley is responsible to maintain the alley adjacent to the commercial property free from garbage, trash, debris, rubbish and waste, wood, scrap metal, and weeds. Repair of alleys shall be the responsibility of the city.

(b) However, any sidewalk section or sections damaged by tree roots from trees located in the city right-of-way, between the city sidewalk and street, shall be the responsibility of the city to replace for a period of 12 years from the date of replacement of the sidewalk section. Any damage to a sidewalk section from tree roots in the right-of-way subsequent to such 12-year period shall be the responsibility of the abutting property owner to replace. The city's financial responsibility for replacing a sidewalk section or sections damaged by tree roots from trees located in the city right-of-way shall be retroactive for sidewalks replaced after May 1, 1987.

(Code 1989, § 1022.30; Ord. No. 887, 4-20-1999; Ord. No. 1175, § 1, 9-17-2019)

Sec. 38-85. - Noncompliance with maintenance requirements; liability to city.

All sidewalks, courtesy walks, areas between the curb and sidewalk, and driveway approaches between the lot line and the street curb, within the city, shall be kept and maintained in good repair by the

owner of the land adjacent to and abutting upon such sidewalks. If any owner neglects to keep and maintain the sidewalk along the front, rear or side of the land owned by him or her in good repair and safe for the use of the public, the owner shall be liable to the city for any damages recovered against the city because of injury sustained by any person by reason of such sidewalk being unsafe and out of repair.

(Code 1989, § 1022.31)

Sec. 38-86. - Prohibited sidewalk surfaces; openings.

No door shall be placed in any sidewalk unless the design and specifications therefor are approved by the building department. No open iron grating or other open device, nor any device containing glass, shall be placed in or used as the surface of any sidewalk.

(Code 1973, § 4.7; Code 1989, § 1022.32)

Sec. 38-87. - Pedestrian passage.

At least five feet of sidewalk space shall be kept clean and clear for the free passage of pedestrians. If any building operations are such that such free passageway is impracticable, a temporary plank sidewalk with substantial railings or a sidewalk shelter built in accordance with the state construction code shall be provided around such obstruction.

(Code 1973, § 4.27; Code 1989, § 1022.33)

Sec. 38-88. - Ramps for disabled persons.

Ramps for disabled persons are to be constructed in accordance with state department of transportation (MDOT) specifications. Expansion paper shall be utilized in the same manner as in driveway approach construction. Additionally, one j-bolt (hook-bolt) per ramp shall be installed at street level.

(Code 1989, § 1022.34)

Sec. 38-89. - Additional rules and regulations.

The building official is hereby authorized to promulgate reasonable rules and regulations relative to the replacement and/or repair of sidewalks, driveways, driveway approaches and courtesy walks, so long as such rules and regulations are not in conflict with any of the provisions of this chapter or general law. Such rules and regulations are subject to the approval of the council. No person shall violate or fail to comply with any such regulation.

(Code 1989, § 1022.35; Ord. No. 976, § 1022.35, 9-5-2006)

Secs. 38-90—38-106. - Reserved.

ARTICLE IV. - STREET OBSTRUCTIONS AND SPECIAL USES

Sec. 38-107. - Block parties.

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

Applicant means the individual applying for a permit.

Block means both sides of a given street, from intersection to intersection. The term "block" is not limited to through streets, but shall include courts and dead-end streets.

(b) *Permit required; application.*

(1) No person shall hold a block party without first obtaining a permit therefor from the city. A permit may be obtained for a block party with the limitation of one permit, per block, per year. All applications shall be submitted by May 1 for approval.

(2) A written petition requesting the block party must be submitted with the application and it must be signed by 75 percent of persons owning or occupying premises on the block. The applicant shall attempt to contact all premises on the block and must obtain a list of all addresses in which no contact was made. Signatures will be spot-checked for authenticity.

(c) *Regulations.*

(1) Block parties may only be held between Memorial Day and Labor Day, inclusive.

(2) No block party shall be held at any time other than between the hours of 4:00 p.m. and 8:00 p.m., Monday through Friday, or between the hours of 12:00 p.m. and 11:00 p.m., Saturday and Sunday.

(3) The applicant shall not block the travel portion of the street between the end barricades.

(4) The applicant shall be responsible for any damage to city property.

(5) The applicant shall be responsible for removal of litter, debris, and other materials from the street or portion thereof used for the party, which is attributable to or caused by the party.

(d) *Bonds.* The applicant must post a cash, personal or surety bond in the amount as currently established or as hereafter adopted by the city council from time to time at the time the permit is issued, to recover any expenses incurred by the city in connection with the block party.

(e) *Major streets excluded.* All residents of designated major streets, under the major street program, and designated as such with the state or county, are excluded from applying for block parties.

(Code 1989, § 440.01; Res. No. 1059, 8-31-1982; Ord. No. 1089, 7-2-2013)

Sec. 38-108. - Authority to restrict blocking of streets.

The traffic safety officer is hereby authorized to determine and designate those heavily traveled streets on which no utility or construction firm shall erect barricades or otherwise restrict the traveled portion of the roadway without first having obtained a permit authorizing such barricades or other restrictions. The permit shall designate days and hours of such use.

(Code 1973, § 10.64; Code 1989, § 440.02)

Secs. 38-109—38-129. - Reserved.

ARTICLE V. - SNOW REMOVAL[2]

Footnotes:

Charter reference— Snow and ice assessments, ch. XVI, § 24.

Sec. 38-130. - Equipment specifications.

(a) No person shall operate upon the sidewalks of the city any snow removal equipment:

(1) Operated by a motor-driven vehicle of a gross weight in excess of 4,000 pounds;

(2) Not equipped with pneumatic tires;

(3) Of an overall width greater than the width of the public sidewalk or wider than six feet, whichever is less; or

(4) Not equipped with a revolving-type brush.

(b) No person shall use any snow removal equipment of a scraper or plow-type operated by a motor-driven vehicle upon the sidewalks of the city only.

(Code 1973, § 4.111; Code 1989, § 870.01; Ord. No. 587, 12-27-1978)

Sec. 38-131. - Permit—Required.

(a) No person shall, for hire, gain or reward, operate any snow removal equipment as described in section 38-130 upon the sidewalks of the city without first obtaining an annual permit therefor from the office of the city clerk.

(b) No person shall, for hire, gain or reward, operate any snow removal equipment of a scraper or plow-type operated by a motor-driven vehicle in the city without first obtaining an annual permit therefor from the office of the city clerk.

(Code 1973, § 4.112; Code 1989, § 870.02; Ord. No. 587, 12-27-1978)

Sec. 38-132. - Same—Expiration; transferability.

All permits granted under this chapter shall expire on September 30 of each year and shall not be transferable during the permit time.

(Code 1973, § 4.113; Code 1989, § 870.03)

Sec. 38-133. - Same—Fee.

The city clerk is hereby authorized to grant a permit required by this article to any person of good moral character to engage in the business of snow removal by the operation of a motor-driven vehicle upon the payment of a permit fee in an amount as adopted by the city council from time to time.

(Code 1989, § 870.04)

Sec. 38-134. - Same—Issuance.

All applications for permits required by this article shall be approved by the city clerk's office. If it appears from the application that the applicant was a bona fide operator of snow removal equipment within the territory for which the application is made, such applicant shall receive consideration over other

applicants for the territory. However, any applicant whose application for a permit is denied may appeal to the council.

(Code 1973, § 4.115; Code 1989, § 870.05)

Sec. 38-135. - Duties of occupants, owners and lessees regarding snow and ice removal.

This article shall in no way abrogate the duties of an occupant, owner or lessee of property to remove snow or ice from the sidewalks contiguous to the premises of which he or she is the occupant, owner or lessee, as provided by this Code.

(Code 1973, § 4.116; Code 1989, § 870.06)

Sec. 38-136. - Exception to article.

This article shall not be applicable to an owner, occupant or lessee who, by means of a motor-driven device, removes snow from the sidewalks contiguous to his or her premises.

(Code 1973, § 4.117; Code 1989, § 870.07)

Sec. 38-137. - Enforcement.

The department of public works and the police department shall enforce this article.

(Code 1989, § 870.08)

Sec. 38-138. - Depositing snow or ice in streets.

(a) No owner of private property, lessor, lessee, landlord, tenant or employee or agent of the aforementioned persons shall remove snow or ice from such private property and throw, place, deposit or leave such snow or ice in any public street, highway, alley or public place.

(b) The city manager may grant exceptions in cases of particular hardship to persons who may be affected by subsection (a) of this section and may withdraw such exceptions.

(c) No removed snow shall be deposited or allowed to accumulate in such a manner as to obstruct the view of drivers or pedestrians.

(Code 1973, § 10.178; Code 1989, § 870.09; Ord. No. 566, 11-28-1977)

State Law reference— Obstruction of safety vision by removal or deposit of snow, ice, or slush prohibited, MCL 257.677a.

Chapter 40 - TAXATION[1]

Footnotes:

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Charter reference— Department of finance, ch. XII; taxation, ch. XIV.

ARTICLE I. - IN GENERAL

Secs. 40-1—40-18. - Reserved.

ARTICLE II. - PROPERTY TAX[2]

Footnotes:

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State Law reference— General property tax act, MCL 211.1 et seq.

Sec. 40-19. - Assessment roll.

The city assessor shall, on or before the first Monday in March of each year, make and complete an assessment roll of all persons and property liable under the laws of the state to taxation in the city, and in so doing he or she shall conform to and be governed by the provisions of the general laws of the state governing assessing officers performing like duties in the assessment of persons and property for state, county and school taxes.

(Code 1973, § 1.82; Code 1989, § 206.02)

Charter reference— Assessment of property, ch. XII, § 10.

Sec. 40-20. - Membership; quorum.

Pursuant to section 28(2) of the general property tax act, Public Act No. 206 of 1893 (MCL 211.28(2)), chapter XIV, section 1, of the City Charter shall be amended only as to the membership of the board of review. The board shall consist of three electors of the city. Two of the three members shall constitute a quorum for the transaction of the business of the board. The composition and manner of appointment of the board will be as prescribed by the City Charter. A majority of the entire board membership shall endorse the assessment roll. The duties and responsibilities of the board shall be carried out by the entire membership of the board and a majority of the membership shall constitute a quorum for such purposes.

(Code 1989, § 268.01; Ord. No. 723, 5-3-1988; Ord. No. 1171, § 1, 7-2-2019)

Charter reference— Board of review, ch. XIV, § 1 et seq.

Sec. 40-21. - Alternate members.

The city council may appoint not more than two alternate members for the same term as the regular members of the board of review. Each alternate member shall be a property taxpayer of the city. Alternate members shall qualify by taking the constitutional oath of office within ten days after the appointment. The city council may fill any vacancy that occurs in the alternate members of the board of review. A member of the city council is not eligible to serve as an alternate member or fill any vacancy. A spouse, mother, father, sister, brother, son or daughter, including an adopted child, of the assessor is not eligible to serve as an alternate member or fill any vacancy. An alternate member may be called to perform the duties of a regular member of the board of review in the absence of a regular member. An alternate member may also be called to perform the duties of a regular member of the board of review for the purpose of reaching a decision in issues protested in which a regular member has abstained for reasons of conflict of interest.

(Code 1989, § 268.02; Ord. No. 982, 2-20-2007)

Sec. 40-22. - Review and correction of roll by board of review.

Pursuant to sections 29, 30 and 30a of the general property tax act (MCL 211.29, 211.30, 211.30a), in each year on the Tuesday immediately following the first Monday in March, the board of review shall meet at city hall, at which time the assessment roll shall be submitted to the board for examination, review and certification. The board shall also meet at city hall on the Tuesday following the second Monday in March and on the Wednesday following. The board shall be in session from 9:00 a.m. to 5:00 p.m. on Tuesday and from 3:00 p.m. to 9:00 p.m. on Wednesday. If necessary to complete its work, the board may continue in session on one or more following secular days. However, the review of assessments shall be completed not later than the first Monday in April. The board shall have the same powers and perform like duties in all respects as are by the general tax law conferred upon and required of boards of review in townships, in reviewing assessments in townships for state, county and school taxes. It shall hear the complaints of all persons considering themselves aggrieved by such assessment, and if it appears that any person has been wrongfully assessed or omitted from the roll, the board shall correct the roll in such manner as it deems just.

(Code 1989, § 206.03; Ord. No. 884, 9-1-1998; Ord. No. 996, § 206.03, 11-13-2007)

Sec. 40-23. - Notice of meetings.

The city assessor shall give notice of the meetings referred to in section 40-22 by publishing such notice at least once in the official newspaper of the city, at least seven days before the first day of review. Failure to give the notice herein specified shall not invalidate the assessment roll or any assessment therein contained.

(Code 1973, § 1.84; Code 1989, § 206.04)

Secs. 40-24—40-49. - Reserved.

ARTICLE III. - PUBLIC IMPROVEMENT TAX[3]

Footnotes:

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State Law reference— Public improvement funds, MCL 141.261 et seq.

Sec. 40-50. - Levy of tax.

The council shall order an additional levy of one-half mill for each one $1,000.00 of the assessed valuation of the city to be spread and collected each year under Public Act No. 177 of 1943 (MCL 141.261 et seq.).

(Code 1973, § 1.91; Code 1989, § 882.01)

Sec. 40-51. - Use of funds.

(a) Funds raised under this article shall be used for acquiring, extending, altering or repairing public improvements which the city may, by the city Charter or general law, be authorized to acquire, alter or enlarge.

(b) Funds raised under this article shall not be used for any other purpose or thing than that set forth in subsection (a) of this section.

(Code 1973, §§ 1.92, 1.93; Code 1989, § 882.02)

Sec. 40-52. - Annual levy.

The proper officers of the city are hereby authorized to levy the mill provided in section 40-50 annually.

(Code 1973, § 1.94; Code 1989, § 882.03)

Secs. 40-53—40-70. - Reserved.

ARTICLE IV. - MODERATE INCOME SENIOR HOUSING TAX EXEMPTION

Sec. 40-71. - Short title.

This article shall be known and cited as the "City of Eastpointe Moderate Income Senior Housing Tax Exemption Ordinance."

(Ord. No. 1039, 2-22-2011; Ord. No. 1051, 8-16-2011; Ord. No. 1060, § 1, 4-3-2012)

Sec. 40-72. - Preamble.

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for moderate income citizens and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCL 125.1401 et seq., MSA 116.114(1) et seq.). The city is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this act at any amount it chooses, not to exceed the taxes that would otherwise be paid except for this act. It is further acknowledged that such housing for persons of moderate income is a public necessity, and as the city will be benefited and improved by such housing, the encouragement of the same by providing that certain real estate tax exemption for such housing is a valid public purpose; further that the continuance of the provisions of this article for tax exemption and the service charge in lieu of taxes during the period contemplated in this article are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance upon such tax exemption.

The city acknowledges that Oakwood Manor Senior Living/MHT Limited Dividend Housing Association, LLC ("sponsor") has offered, subject to receipt of funding through the Macomb County NSP/HOME programs or other similar or comparable funding, to erect, own and operate a housing development identified as Oakwood Manor Senior Living on certain property located at 14825 Nehls, Eastpointe, Michigan, and to pay an annual service charge for public services in lieu of all taxes.

(Ord. No. 1039, 2-22-2011; Ord. No. 1051, 8-16-2011; Ord. No. 1060, § 2, 4-3-2012)

Sec. 40-73. - Definitions.

All terms shall be defined as set forth in the State Housing Development Authority Act of 1966, being Public Act 346 of 1966 of the State of Michigan, as amended, except as follows:

Act means the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.

Annual shelter rent means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for water and sewer utilities furnished to the occupants by the sponsor.

County means Macomb County.

Housing development means a development which contains a significant element of housing for persons of moderate income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the authority determines improve the quality of the development as it relates to housing for persons of moderate income.

NSP/HOME means Neighborhood Stabilization and HOME program funding allocated by Macomb County.

Moderate income means 80 percent or less of the Macomb County area income.

Elderly or *senior* means a single person 55 years of age or older, or a household in which at least one member is 55 years of age or older and all other members are 50 years of age or older.

Utilities mean electric, gas, water and sanitary sewer services which are paid by the housing development.

Sponsor means a nonprofit housing corporation, consumer housing cooperative or limited dividend housing corporation, or otherwise eligible entity.

(Ord. No. 1039, 2-22-2011; Ord. No. 1051, 8-16-2011; Ord. No. 1060, § 3, 4-3-2012)

Sec. 40-74. - Class of housing developments.

It is determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be moderate income senior rental housing developments, which are assisted pursuant to the act. It is further determined that Oakwood Manor Senior Living is of this class provided sponsor rents units to seniors, as defined, with moderate income who will reside in the rental units.

(Ord. No. 1039, 2-22-2011; Ord. No. 1051, 8-16-2011; Ord. No. 1060, § 4, 4-3-2012)

Sec. 40-75. - Establishment of annual service charge.

The housing development identified as Oakwood Manor Senior Living comprised of 40 units and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the sponsor and the county have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this article and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes (PILOT) as established in this article, and in consideration of the sponsor's offer, subject to receipt of an allocation under the NSP/HOME program from the county, to construct, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to seven percent of the annual shelter rent, which is computed by subtracting utilities as defined from all rents actually collected. Acceptance of this annual service charge shall not preclude sponsor and city from entering into a separate municipal services agreement to defray city's costs of providing police, fire and EMS services as determined in the sole discretion of the city.

(Ord. No. 1039, 2-22-2011; Ord. No. 1051, 8-16-2011; Ord. No. 1060, § 5, 4-3-2012)

Sec. 40-76. - Contractual effect of article.

Notwithstanding the provision of section 15(a)(5) of the act to the contrary, a contract between the city and the sponsor, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this article.

(Ord. No. 1039, 2-22-2011; Ord. No. 1051, 8-16-2011; Ord. No. 1060, § 6, 4-3-2012)

Sec. 40-77. - Delivery of municipal services.

The nature and extent and delivery of police, fire, EMS and other municipal services provided shall be in the sole, final, and absolute discretion of the city.

(Ord. No. 1039, 2-22-2011; Ord. No. 1051, 8-16-2011; Ord. No. 1060, § 7, 4-3-2012)

Sec. 40-78. - Payment of service charge.

The annual service charge in lieu of taxes as determined under this article shall be payable in the same manner as city property taxes which are payable to the city on or before September 1st of each year without penalty.

A default with respect to performance of any obligation owed by sponsor to the city under the municipal services agreement shall constitute a default under the terms of this article and vice versa, entitling the city to take any enforcement action authorized by this article, the municipal services agreement, or by law.

(Ord. No. 1039, 2-22-2011; Ord. No. 1051, 8-16-2011; Ord. No. 1060, § 8, 4-3-2012)

Sec. 40-79. - Limitation on the payment of annual service charge.

Notwithstanding the provision of section 40-75, the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and occupied by persons who are not seniors or not of moderate income shall be equal to the full amount of the taxes which would be paid for such occupied units if the housing development were not tax exempt.

(Ord. No. 1039, 2-22-2011; Ord. No. 1051, 8-16-2011; Ord. No. 1060, § 9, 4-3-2012)

Sec. 40-80. - Attorney fees reimbursement.

The sponsor shall reimburse the city for attorney fees incurred by the city in the preparation and negotiation of this article or the municipal services agreement and/or enforcing this article or municipal services agreement as a result of sponsor's default.

(Ord. No. 1039, 2-22-2011; Ord. No. 1051, 8-16-2011; Ord. No. 1060, § 10, 4-3-2012)

Sec. 40-81. - Satisfaction of conditions.

This article shall be effective upon sponsor satisfying the following conditions precedent:

(1) Obtaining title to the property;

(2) Obtaining required approvals from the Michigan Department of Natural Resources and Environmental;

(3) Obtaining approval for land division of the property from the parent parcel;

(4) Obtaining all required variances, site plan approval, and other referenced approvals from the city.

This article shall remain in effect and shall not terminate so long as the housing development remains subject to income and rent restrictions and that construction of the first phase of the housing development comprised of 40 units begins within three years from the effective date of this article.

(Ord. No. 1039, 2-22-2011; Ord. No. 1051, 8-16-2011; Ord. No. 1060, § 11, 4-3-2012)

Sec. 40-82. - Modification or rescission.

Notwithstanding the provisions of this section, the city reserves the right to subsequently revise ordinances which may modify the tax exemption program, provided that such changes are acceptable to the county and/or HUD and consistent with Act 346 of 1966, as amended.

(Ord. No. 1039, 2-22-2011; Ord. No. 1051, 8-16-2011; Ord. No. 1060, § 12, 4-3-2012)

Sec. 40-83. - Maintenance.

The housing development shall be maintained in accordance with this Code.

(Ord. No. 1039, 2-22-2011; Ord. No. 1051, 8-16-2011; Ord. No. 1060, § 13, 4-3-2012)

Secs. 40-84—40-100. - Reserved.

ARTICLE V. - MODERATE INCOME FAMILY HOUSING TAX EXEMPTIONS

Sec. 40-101. - Short title.

This article shall be known and cited as the "City of Eastpointe Moderate Income Family Housing Tax Exemption Ordinance—Grafton Village Townhomes."

(Ord. No. 1098, § 1, 2-4-2014)

Sec. 40-102. - Preamble.

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for moderate income citizens and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCL 125.1401 et seq., MSA 116.114(1) et seq.). The city is authorized by this act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this act at any amount it chooses, not to exceed the taxes that would otherwise be paid except for this act. It is further acknowledged that such housing for persons of moderate income is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing that certain real estate tax exemption for such housing is a valid public purpose; further that the continuance of the provisions of this article for tax exemption and the service charge in lieu of all ad valorem taxes during the period

contemplated in this article are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance upon such tax exemption.

The city acknowledges that Community Housing Network, Inc., a domestic nonprofit corporation ("sponsor") has offered, subject to receipt of funding through the MSHDA LIHTC program or other similar or comparable funding, to erect, own and operate a housing development identified as Grafton Village Townhomes on certain property located at 9 Mile Road, Eastpointe, Michigan, and to pay an annual service charge for public services in lieu of all taxes.

(Ord. No. 1098, § 2, 2-4-2014)

Sec. 40-103. - Definitions.

All terms shall be defined as set forth in the State Housing Development Authority Act of 1966, being Public Act 346 of 1966 of the State of Michigan, as amended, except as follows:

Act means the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.

Annual shelter rent means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for water and sewer utilities furnished to the occupants by the sponsor.

County means Macomb County.

Housing development means a development which contains a significant element of housing for persons of moderate income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the authority determines improve the quality of the development as it relates to housing for persons of moderate income.

LIHTC program means the low income housing tax credit program administered by the authority under Section 42 of the Internal Revenue Code of 1986, as amended.

Moderate income means 60 percent or less of the Macomb County area median income.

MSHDA means the Michigan State Housing Development Authority.

Utilities means electric, gas, water and sanitary sewer services which are paid by the housing development.

Sponsor means a nonprofit housing corporation, consumer housing cooperative or limited dividend housing association limited partnership corporation, or otherwise eligible entity.

(Ord. No. 1098, § 3, 2-4-2014)

Sec. 40-104. - Class of housing developments.

It is determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be moderate income family rental housing developments, which are assisted pursuant to the act. It is further determined that Grafton Townhomes is of this class provided sponsor rents units to individuals and families with moderate income as defined, who will reside in the rental units.

(Ord. No. 1098, § 4, 2-4-2014)

Sec. 40-105. - Establishment of annual service charge.

The housing development identified as Grafton Village Townhomes comprised of 48 units and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the sponsor and the county have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this article and the qualification of the housing development for exemption from all ad valorem property taxes and a payment in lieu of taxes (PILOT) as established in this article, and in consideration of the sponsor's offer, subject to receipt of an allocation under the LIHTC program from MSHDA, to construct, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes. The annual service charge shall be equal to seven percent of the annual shelter rent, which is computed by subtracting utilities as defined from all rents actually collected. Acceptance of this annual service charge shall not preclude sponsor and city from entering into a separate municipal services agreement to defray city's costs of providing police, fire and EMS services as determined in the sole discretion of the city.

(Ord. No. 1098, § 5, 2-4-2014)

Sec. 40-106. - Contractual effect of article.

Notwithstanding the provision of section 15(a)(5) of the act to the contrary, a contract between the city and the sponsor, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this article.

(Ord. No. 1098, § 6, 2-4-2014)

Sec. 40-107. - Delivery of municipal services.

The nature and extent and delivery of police, fire, EMS and other municipal services provided shall be in the sole, final, and absolute discretion of the city.

(Ord. No. 1098, § 7, 2-4-2014)

Sec. 40-108. - Payment of service charge.

The annual service charge in lieu of taxes as determined under the article shall be payable in the same manner as city property taxes which are payable to the city on or before September 18 of each year without penalty. A default with respect to performance of any obligation owed by sponsor to the city under the municipal services agreement shall constitute a default under the terms of this article and vice versa, entitling the city to take any enforcement action authorized by this article, the municipal services agreement, or by law.

(Ord. No. 1098, § 8, 2-4-2014)

Sec. 40-109. - Limitation on payment of annual service charge.

Notwithstanding the provision of section 40-105, the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and occupied by persons who are not of moderate income shall be equal to the full amount of the taxes which would be paid for such occupied units if the housing development were not tax exempt.

(Ord. No. 1098, § 9, 2-4-2014)

Sec. 40-110. - Attorney fees reimbursement.

Sponsor shall reimburse the city for attorney fees incurred by the city in the preparation and negotiation of this article or the municipal services agreement and/or enforcing the article or municipal services agreement as a result of sponsor's default.

(Ord. No. 1098, § 10, 2-4-2014)

Sec. 40-111. - Satisfaction of conditions.

This article shall be effective upon sponsor satisfying the following conditions precedent.

(1) Obtaining title to the property;

(2) Obtaining required approvals from the Michigan Department of Natural Resources and Environmental;

(3) Obtaining approval for land division of the property from the parent parcel;

(4) Obtaining all required variances, site plan approval, and other referenced approvals from the city.

This article shall remain in effect and shall not terminate so long as the housing development remains subject to income and rent restrictions and that construction of the housing development comprised of 48 units begins within three years from the effective date of this article.

(Ord. No. 1098, § 11, 2-4-2014)

Sec. 40-112. - Modification or rescission.

Notwithstanding the provisions of this section, the city reserves the right to subsequently revise ordinances which may modify the tax exemption program, provided that such changes are acceptable to MSHDA and consistent with Act 346 of 1966, as amended.

(Ord. No. 1098, § 12, 2-4-2014; Ord. No. 1132, 11-1-2016)

Sec. 40-113. - Maintenance.

The housing development shall be maintained in accordance with all City of Eastpointe municipal codes.

(Ord. No. 1098, § 13, 2-4-2014)

Secs. 40-114—40-120. - Reserved.

ARTICLE VI. - MODERATE INCOME FAMILY HOUSING TAX EXEMPTION-ERIN PARK RESIDENCES[4]

Footnotes:

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Editor's note— Ord. No. 1164, § 1, adopted Mar. 26, 2019, amended Art. VI in its entirety to read as herein set out. Former Art. VI, §§ 40-121—40-133, pertained to similar subject matter and derived from Ord. No. 1135, §§ 1—13, 3-28-2017.

Sec. 40-121. - Short title.

This article shall be known as cited as the "City of Eastpointe Moderate Income Family Housing Tax Exemption Ordinance-Erin Park Residences."

(Ord. No. 1164, § 1, 3-26-2019)

Sec. 40-122. - Preamble.

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for moderate income citizens and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCL 125.1401, et seq, MSA 116.1 14(1), et seq). The city is authorized by this act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this act at any amount it chooses, not to exceed the taxes that would otherwise be paid except for this act. It is further acknowledged that such housing for persons of moderate income is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by provided that certain real estate tax exemption for such housing is a valid public purpose; further that the continuance of the provisions of this article for tax exemption and the service charge in lieu of all ad valorem taxes during the period contemplated in this article are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance upon such tax exemption.

The city acknowledges the Community Housing Network Inc., a domestic nonprofit corporation ("sponsor") has offered, subject to receipt of an allocation of low-income housing tax credits from the Michigan State Housing Development Authority ("MSHDA"), to erect, own, and operate a housing development identified as Erin Park Residences on certain property located at Deerfield Street, Eastpointe, Michigan, and to pay an annual service charge for public services in lieu of all ad valorem property taxes.

(Ord. No. 1164, § 1, 3-26-2019)

Sec. 40-123. - Definitions.

All terms shall be defined as set forth in the State Housing Development Authority Act of 1966, being Public Act 346 of 1966 of the State of Michigan, as amended, except as follows:

Act means the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.

Annual shelter rent means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for water and sewer utilities furnished to the occupants by the sponsor.

County means Macomb County.

Federally-aided mortgage means any of the following:

(1) A below market interest rate mortgage insured, purchased or held by the Secretary of the Department of Housing and Urban Development ("HUD");

(2) A market interest rate mortgage insured by HUD and augmented by a program of rent supplements;

(3) A mortgage receiving interest reduction payments provided by HUD;

(4) A mortgage on a housing development to which the authority allocates low income housing tax credits under section 22b of the act; or

(5) A mortgage receiving special benefits under other federal law designated specifically to develop low and moderate-income housing, consistent with the act.

Housing development means a development which contains a significant element of housing for persons of moderate income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as MSHDA determines improve the quality of the development as it relates to housing for persons of moderate income. For purposes of this ordinance, "housing development" means Erin Park Residences located at 15115 Deerfield, Eastpointe, Michigan, which will occupy the parcel with ID numbered as 14-30-301-031. This description will be further supported by survey information as an attachment when available.

Mortgage loan means a loan that is federally-aided or a loan or grant made or to be made by the authority to the sponsor for the construction, rehabilitation, acquisition and/or permanent financing of a housing development, and secured by a mortgage on the housing development.

MSHDA means the Michigan State Housing Development Authority.

Sponsor means MIDG II, Inc. and any entity that receives or assumes a mortgage loan.

Tax credits means the low income housing tax credits made available by the authority to the sponsor for rehabilitation of the housing development by the sponsor in accordance with the Low Income Housing Tax Credit Program administered by the authority under section 42 of the Internal Revenue Code of 1986, as amended.

Utilities means charges for gas, electric, water, sanitary sewer, and other utilities furnished to the occupants that are paid by the housing project.

(Ord. No. 1164, § 1, 3-26-2019)

Sec. 40-124. - Class of housing developments.

It is determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be moderate income family rental housing developments, which are financed with a federally-aided mortgage. It is further determined that Erin Park Residences is of this class provided sponsor rents units to individuals and families with moderate income as defined, who will reside in the rental units.

(Ord. No. 1164, § 1, 3-26-2019)

Sec. 40-125. - Establishment of annual service charge.

The housing development identified as Erin Park Residences comprised of 52 units and the property on which it shall be constructed shall be exempt from all ad valorem property taxes from and after the commencement of construction. The city, acknowledging that the sponsor and the county have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this article and the qualification of the housing development for exemption from all ad valorem property taxes and a payment on lieu of taxes (PILOT) as established in this article, and in consideration of the sponsor's offer, subject to receipt of an allocation under the LIHTC Program from MSHDA, to construct, own, and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes. The annual service charge shall be equal to seven percent of the annual shelter rent, which is computed by subtracting utilities as defined from all rents actually collected.

(Ord. No. 1164, § 1, 3-26-2019)

Sec. 40-126. - Contractual effect of article.

Notwithstanding the provisions of section 15(a)(5) of the act to the contrary, a contract between the city and the sponsor with MSHDA as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this article.

(Ord. No. 1164, § 1, 3-26-2019)

Sec. 40-127. - Delivery of municipal services.

The nature and extent of delivery of police, fire, EMS, and other municipal services provided shall be in the sole, final and absolute discretion of the city.

(Ord. No. 1164, § 1, 3-26-2019)

Sec. 40-128. - Payment of service charge.

The annual service charge in lieu of taxes as determined under this article shall be payable in the same manner as general property taxes are payable to the city and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before September 1 of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, et seq).

(Ord. No. 1164, § 1, 3-26-2019)

Sec. 40-129. - Limitation on the payment of annual service charge.

Notwithstanding section 40-125, the service charge to be paid each year in lieu of taxes for the part of the housing project that is tax exempt but which is occupied by other than low income persons or families shall be equal to the full amount of taxes which would be paid on that portion of the housing project if the housing project were not exempt.

(Ord. No. 1164, § 1, 3-26-2019)

Sec. 40-130. - Satisfaction of conditions.

This article shall be effective upon sponsor satisfying the following conditions precedent:

(1) Obtaining title to the property;

(2) Obtaining required approvals from the Michigan Department of Natural Resources;

(3) Obtaining all required variances, site plan approval, and other referenced approvals from the city.

This article shall remain in effect and shall not terminate so long as the housing development remains subject to income and rent restrictions and that construction of the housing development comprising 52 units begins within three years from the effective date of this article.

(Ord. No. 1164, § 1, 3-26-2019)

Sec. 40-131. - Modification or rescission.

Notwithstanding the provisions of this section, the city reserves the right to subsequently revise ordinances which may modify the tax exemption program, provided that such changes are acceptable to MSHDA and consistent with Act 346 of 1966, as amended.

(Ord. No. 1164, § 1, 3-26-2019)

Sec. 40-132. - Maintenance.

The housing development shall be maintained in accordance with all City of Eastpointe municipal codes.

(Ord. No. 1164, § 1, 3-26-2019)

Chapter 42 - TELECOMMUNICATIONS[1]

Footnotes:

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State Law reference— Michigan telecommunications act, MCL 484.2101 et seq.; metropolitan extension telecommunications rights-of-way oversight act, MCL 484.3101 et seq.; Michigan broadband development authority act, MCL 484.3201 et seq.; uniform video services local franchise act, MCL 484.3301 et seq.

ARTICLE I. - IN GENERAL

Secs. 42-1—42-17. - Reserved.

ARTICLE II. - USE OF PUBLIC RIGHTS-OF-WAY BY TELECOMMUNICATIONS PROVIDERS[2]

Footnotes:

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State Law reference— Metropolitan extension telecommunications rights-of-way oversight act, MCL 484.3101 et seq.

Sec. 42-18. - 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, Public Act No. 48 of 2002 (MCL 484.3101 et seq.) (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.

(Code 1989, § 1026.01; Ord. No. 921, 11-19-2002)

Sec. 42-19. - Conflict.

Nothing in this article shall be construed in such a manner as to conflict with the act or other applicable law.

(Code 1989, § 1026.02; Ord. No. 921, 11-19-2002)

Sec. 42-20. - Definitions.

(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:

Act means the metropolitan extension telecommunications rights-of-way oversight act, Public Act No. 48 of 2002 (MCL 484.3101 et seq.).

City council means the city council of the City of Eastpointe 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 nonexclusive 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.

(b) All other terms used in this article shall have the same meaning as defined or as provided in the act, including without limitation the following:

Authority means the metropolitan extension telecommunications rights-of-way oversight authority created pursuant to section 3 of the act (MCL 484.3103).

MPSC means the state public service commission in the department of consumer and industry services and shall have the same meaning as the term "commission" in the act.

Public right-of-way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state or private right-of-way.

Telecommunications facilities or *facilities* means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide 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 USC 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications provider, provider and*telecommunications services* mean those terms as defined in section 102 of the Michigan telecommunications act, Public Act No. 179 of 1991(MCL 484.2102). The term "telecommunication provider" does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in section 332(d) of part I of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 USC 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the act and this article only, the term "provider" also includes all of the following:

(1) A cable television operator that provides a telecommunication 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.

(Code 1989, § 1026.03; Ord. No. 921, 11-19-2002)

Sec. 42-21. - 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. 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.

(Code 1989, § 1026.20; Ord. No. 921, 11-19-2002)

Sec. 42-22. - Permit.

(a) *Required.* Except as otherwise provided in the act, a telecommunications provider using or seeking to use public rights-of-way in the city for its telecommunications facilities shall apply for and obtain a permit pursuant to this article.

(b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with section 6(1) of the act (MCL 484.3106(1)). A telecommunications provider shall file one copy of the application with the city clerk, one copy with the city manager and one copy with the city attorney. Upon receipt, the city clerk shall make additional copies of the application and distribute them to the city engineer and other city department heads. 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 (MCL 484.3106(5)).

(c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the freedom of information act, Public Act No. 442 of 1976 (MCL 15.231 et seq.), pursuant to section 6(5) of the act (MCL 484.3106(5)), the telecommunications provider shall prominently so indicate on the face of each map.

(d) *Application fee.* Except as otherwise provided by the act, the application shall be accompanied by a one-time nonrefundable application fee in an amount as adopted by the city council from time to time.

(e) *Additional information.* The city manager may request an applicant to submit such additional information which the city manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the city manager. If the city and the applicant cannot agree on the requirement of additional information requested by the city, the city or the applicant shall notify the MPSC as provided in section 6(2) of the act (MCL 484.3106(2)).

(f) *Previously issued permits.* Pursuant to section 5(1) of the act (MCL 484.3105(1)), authorizations or permits previously issued by the city under section 251 of the Michigan telecommunications act, Public Act No. 179 of 1991 (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 (MCL 484.3105(3)), within 180 days from November 1, 2002, the effective date of the act, a telecommunications provider with facilities located in a public right-of-way in the city as of such date, that has not previously obtained authorization or a permit under section 251 of the Michigan telecommunications act, Public Act No. 179 of 1991 (MCL 484.2251), shall submit to the city an application for a permit in accordance with the requirements of this article. Pursuant to section 5(3) of the act (MCL 484.3105(3)), a telecommunications provider submitting an application under this section is not required to pay the $500.00 application fee required under subsection (d) of this section. A provider under this section shall be given up to an additional 180 days to submit the permit application if allowed by the authority, as provided in section 5(4) of the act (MCL 484.3105(4)).

(Code 1989, § 1026.04; Ord. No. 921, 11-19-2002)

Sec. 42-23. - Issuance of permit.

(a) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the city manager. Pursuant to section 15(3) of the act (MCL 484.3115(3)), the city manager shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under section 1026.04(b) of this article for access to a public right-of-way within the city. Pursuant to section 6(6) of the act (MCL 484.3106(6)), the city manager shall notify the MPSC when the city manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The city manager shall not unreasonably deny an application for a permit.

(b) *Form of permit.* If an application for permit is approved, the city manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with sections 6(1), 6(2) and 15 of the act (MCL 484.3106(1), (2), 484.3115).

(c) *Conditions.* Pursuant to section 15(4) of the act (MCL 484.3115(4)), the city manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(d) *Bond requirements.* Pursuant to section 15(3) of the act (MCL 484.3115(3)) and without limitation on subsection (c) of this section, the city manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Code 1989, § 1026.05; Ord. No. 921, 11-19-2002)

Sec. 42-24. - Construction/engineering permit.

A telecommunications provider shall not commence construction upon, over, across or under the public rights-of-way in the city without first obtaining a construction or engineering permit as required under chapter 10, pertaining to buildings and building regulations, as amended, for construction within the public rights-of-way. No fee shall be charged for a construction or engineering permit.

(Code 1989, § 1026.06; Ord. No. 921, 11-19-2002)

Sec. 42-25. - Conduit or utility poles.

Pursuant to section 4(3) of the act (MCL 484.3104(3)), obtaining a permit or paying the fees required under the act or under this article does not give a telecommunications provider a right to use conduit or utility poles.

(Code 1989, § 1026.07; Ord. No. 921, 11-19-2002)

Sec. 42-26. - Route maps.

Pursuant to section 6(7) of the act (MCL 484.3106(7)), a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the city, submit route maps showing the location of the telecommunications facilities to both the MPSC and 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 (MCL 484.3106(8)).

(Code 1989, § 1026.08; Ord. No. 921, 11-19-2002)

Sec. 42-27. - Repair of damage.

Pursuant to section 15(5) of the act (MCL 484.3115(5)), 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.

(Code 1989, § 1026.09; Ord. No. 921, 11-19-2002)

Sec. 42-28. - Establishment and payment of maintenance fee.

In addition to the nonrefundable application fee paid to the city set forth in section 42-22(d), a telecommunications provider with telecommunications facilities in the city's public rights-of-way shall pay an annual maintenance fee to the authority pursuant to section 8 of the act (MCL 484.3108).

(Code 1989, § 1026.10; Ord. No. 921, 11-19-2002)

Sec. 42-29. - Modification of existing fees.

In compliance with the requirements of section 13(1) of the act (MCL 484.3113(1)), the city hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the act, which shall be paid to the authority. In compliance with the requirements of section 13(4) of the act (MCL 484.3113(4)), the city also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the city's boundaries, so that those providers pay only those fees required under section 8 of the act (MCL 484.3108). The city shall provide each telecommunications provider affected by the fee with a copy of this article, in compliance with the requirement of section 13(4) of the act (MCL 484.3113(4)). To the extent any fees are charged 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.

(Code 1989, § 1026.11; Ord. No. 921, 11-19-2002)

Sec. 42-30. - Savings clause.

Pursuant to section 13(5) of the act (MCL 484.3113(5)), if section 8 of the act is found to be invalid or unconstitutional, the modification of fees under section 42-29 shall be void from the date the modification was made.

(Code 1989, § 1026.12; Ord. No. 921, 11-19-2002)

Sec. 42-31. - Use of funds.

Pursuant to section 10(4) of the act (MCL 484.3110(4)), all amounts received by the city from the authority shall be used by the city solely for 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 Public Act No. 51 of 1951 (MCL 247.651 et seq.).

(Code 1989, § 1026.13; Ord. No. 921, 11-19-2002)

Sec. 42-32. - Annual report.

Pursuant to section 10(5) of the act (MCL 484.3110(5)), the city manager shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.

(Code 1989, § 1026.14; Ord. No. 921, 11-19-2002)

Sec. 42-33. - Cable television operators.

Pursuant to section 13(6) of the act (MCL 484.3113(6)), the city shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of 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.

(Code 1989, § 1026.15; Ord. No. 921, 11-19-2002)

Sec. 42-34. - Existing rights.

Pursuant to section 4(2) of the act (MCL 484.3104(2)), 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.

(Code 1989, § 1026.16)

Sec. 42-35. - Compliance.

The city hereby declares that its policy and intent in adopting this article is to fully comply with the requirements of the act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The city shall comply in all respects with the requirements of the act, including but not limited to the following:

(1) Exempting certain route maps from the freedom of information act, Public Act No. 442 of 1976 (MCL 15.231 et seq.), as provided in section 42-22(c);

(2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with section 42-22(f);

(3) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the $500.00 application fee, in accordance with section 42-22(g);

(4) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the city, in accordance with section 42-23(a);

(5) Notifying the MPSC when the city has granted or denied a permit, in accordance with section 42-23(a);

(6) Not unreasonably denying an application for a permit, in accordance with section 42-23(a);

(7) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in section 42-23(b);

(8) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with section 42-23(c);

(9) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with section 42-23(d);

(10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with section 42-24;

(11) Providing each telecommunications provider affected by the city's right-of-way fees with a copy of this article, in accordance with section 42-29;

(12) Submitting an annual report to the authority, in accordance with section 42-32; and

(13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 42-33.

(Code 1989, § 1026.17; Ord. No. 921, 11-19-2002)

Sec. 42-36. - Reservation of police powers.

Pursuant to section 15(2) of the act (MCL 484.3115(2)), this article shall not limit the city's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the city's authority to ensure and protect the health, safety and welfare of the public.

(Code 1989, § 1026.18; Ord. No. 921, 11-19-2002)

Sec. 42-37. - Authorized city officials.

The city manager or his or her designee is hereby designated as the authorized city official to issue municipal civil infraction citations, directing alleged violators to appear in court, or municipal civil infraction violation notices, directing alleged violators to appear at the municipal chapter violations bureau, for violations under this article as provided by this Code.

(Code 1989, § 1026.19; Ord. No. 921, 11-19-2002)

Chapter 44 - TRAFFIC AND VEHICLES[1]

Footnotes:

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State Law reference— Michigan vehicle code, MCL 257.1 et seq.; regulation by local authorities, MCL 257.605, 257.606, 257.610.

ARTICLE I. - IN GENERAL

Sec. 44-1. - Operation on driveways and parking lots of drive-in restaurants.

No operator of a motor vehicle shall drive through or upon any driveway or parking lot, used in conjunction with a drive-in restaurant, for purposes other than those for which such driveway and parking lot were constructed.

(Code 1973, § 10.94; Code 1989, § 460.01)

Secs. 44-2—44-20. - Reserved.

ARTICLE II. - TRAFFIC CODE

Sec. 44-21. - Michigan vehicle code adopted.

Public Act No. 300 of 1949 (MCL 257.1 et seq.) is adopted by reference. Section 625(1)(c) of the Michigan vehicle code is adopted by reference and penalties for a violation of that section are pursuant to Public Act 7 of 2012.

(Code 1989, § 424.01; Ord. No. 923, 12-3-2002; Ord. No. 1063, § 2, 5-1-2012)

Sec. 44-22. - Michigan vehicle code penalties adopted.

The penalties provided by the Michigan vehicle code are adopted by reference, provided, however, that the city may not enforce any provision of the Michigan vehicle code for which the maximum period of imprisonment is greater than 93 days; provided, however, that a violation of section 625(1)(c) of the Michigan vehicle code is punishable by one or more of the following:

(1) Community service for not more than 360 hours;

(2) Imprisonment for not more than 180 days;

(3) A fine of not less than $200.00 or more than $700.00.

(Code 1989, § 424.99; Ord. No. 923, 12-3-2002; Ord. No. 1063, § 2, 5-1-2012)

Sec. 44-23. - Uniform traffic code penalties adopted.

The penalties provided by the uniform traffic code for cities, townships and villages are adopted by reference.

(Code 1989, § 420.99; Ord. No. 924, 12-3-2002)

State Law reference— Authority to adopt the Uniform Traffic Code by reference, MCL 257.951.

Sec. 44-24. - References in code.

References in the Michigan vehicle code to local authorities shall mean the City of Eastpointe.

(Code 1989, § 424.02; Ord. No. 923, 12-3-2002)

State Law reference— Authority to adopt the Michigan vehicle code by reference, MCL 117.3(k).

Sec. 44-25. - Uniform traffic code adopted.

The Uniform Traffic Code for Cities, Townships and Villages as promulgated by the director of the state department of state police pursuant to the administrative procedures act of 1969, Public Act No. 306 of 1969 (MCL 24.201 et seq.) and made effective October 30, 2002, is incorporated by reference.

(Code 1989, § 420.01; Ord. No. 924, 12-3-2002)

Sec. 44-26. - References in code.

References in the Uniform Traffic Code for Cities, Townships and Villages to a governmental unit shall mean the City of Eastpointe.

(Code 1989, § 420.02; Ord. No. 924, 12-3-2002)

Sec. 44-27. - Application of article to school property.

All provisions of this article shall apply with equal force and effect to the operation of a motor vehicle upon the property of a school district for the city.

(Code 1973, § 10.95; Code 1989, § 422.02)

State Law reference— Regulation of motor vehicles on school grounds, MCL 257.961.

Secs. 44-28—44-57. - Reserved.

ARTICLE III. - PARKING, STOPPING AND STANDING[2]

Footnotes:

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State Law reference— Authority to regulate standing or parking of vehicles, MCL 257.606(1)(a); stopping, standing and parking of vehicles, MCL 257.672 et seq.

DIVISION 1. - GENERALLY

Sec. 44-58. - Parking of commercial vehicles in residential areas.

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

Commercial vehicle means a vehicle that is used for the transportation of persons for compensation or profit; or is designed or used primarily for the transportation of property, or used directly or indirectly in connection with any business.

Panel truck means a small or medium delivery truck with a fully enclosed body.

Used for commercial purposes means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

(b) *Prohibited.* It shall be unlawful for any operator or owner to park or cause to be parked a commercial vehicle; a junk or wrecked vehicle; a house trailer; a truck trailer; a truck tractor, or construction equipment upon any street, roadway, or property in a residential area of the city, although temporary parking upon any street, roadway, or property in a residential area by any commercial vehicle, truck tractor, truck trailer, construction equipment or any combination thereof shall be permitted for the purpose of delivering merchandise to residences upon such street or roadway, or for the purpose of rendering or providing other services to residences upon such street or roadway which requires the presence of such vehicle, or for the purpose of making emergency road repairs to such vehicle. The term "temporary parking" shall not include overnight parking.

(c) *Exceptions.* This section does not prohibit the owner, occupier, or tenant of a residential premises from parking certain commercial vehicles thereon subject to the following conditions:

(1) The parking of no more than two regularly manufactured pick-up trucks, panel trucks, or vans, used for commercial purposes; or two trailers used for commercial purposes; or a combination of one regularly manufactured pick-up truck, panel truck, or van, used for commercial purposes, and one trailer used for commercial purpose, shall be permitted.

(2) Permitted pick-up trucks, panel trucks, and vans shall be parked either in the driveway or street in front of the residential premises; however, permitted trailers shall only be parked in the driveway.

(Code 1973, § 10.321; Code 1989, § 480.01; Ord. No. 1018, 1-5-2010)

Sec. 44-59. - Parking in front yards.

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

Improved means concrete or asphalt.

(b) *Prohibited.* No person shall park a vehicle in the front setback area, or that area between the front of a building and the city sidewalk of any residential lot, except on an improved driveway. Driveways constructed of grass, cinders, dirt, slag or gravel are prohibited.

(c) *Waiver.* Exceptions to subsection (b) of this section may be obtained by filing a petition for waiver with the council. Each petition shall contain the following:

(1) The street address and legal description of the property;

(2) The zoning of the property;

(3) The signature of the owner or owners;

(4) The purpose for which the exception is being requested;

(5) A sketch of the entire lot, including street access, locating all buildings thereon and designating the side yard and front yard setback, with the proposed parking area located on the sketch, which shall be drawn to scale; and

(6) Letters from adjoining neighbors indicating their approval or opposition to such petition.

(d) *Factors regarding waiver.* In making its determination concerning whether or not to grant the request for a waiver, as provided in subsection (c) of this section, the council shall consider the following factors:

(1) Whether or not it is compatible with existing surrounding uses;

(2) Whether or not the proposed parking area will have an adverse effect on open front space requirements; and

(3) Whether or not there is another area available on the lot other than the front setback area for parking use.

(Code 1989, § 480.02; Ord. No. 617, 1-20-1981)

Sec. 44-60. - Parking on private property without consent.

No person shall park any motor vehicle on any private property without the express or implied consent, authorization or ratification of the owner, holder, occupant, lessee, agent or trustee of such property. Complaint for the violation of this section may be made by the owner, holder, occupant, lessee, agent or trustee of such property or by those charged with the enforcement of this article.

(Code 1973, § 10.342; Code 1989, § 480.03)

Sec. 44-61. - Parking of house trailers.

(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:

House trailer means any vehicle used or intended for use as a dwelling, regardless of whether such vehicle is self-propelled or is moved by other agencies.

(b) The following restrictions shall be applicable to house trailers:

(1) No person shall park overnight or permit the parking overnight of any house trailer upon any public highway, street, alley, park or other public place in the city.

(2) No person shall park or permit the parking of a house trailer for occupancy on any private property in the city, except in an authorized trailer camp licensed under the provisions of Public Act No. 96 of 1987 (MCL 125.2301 et seq.).

(3) No person shall park or permit the parking of any unoccupied house trailer outside of a duly licensed trailer coach park, except that the parking of an unoccupied trailer in an accessory private garage building, or in a rear yard, is permitted, provided that no living quarters are maintained or any business practiced in such trailer. However, nothing herein contained shall be construed to hinder or prevent any person from engaging in the business of handling trailer coaches for sale or resale or for storage, subject to such regulations as may be prescribed in this Code relative to zoning or other regulation of such business.

(4) Emergency or temporary parking or stopping is permitted on any street, alley or highway for not longer than one hour, subject to any other and further prohibitions, regulations or limitations imposed by this article for that street, alley or highway.

(Code 1973, § 6.131; Code 1989, § 480.04)

Sec. 44-62. - Parking for sale of motor vehicle.

(a) *Prohibited conduct.* No person shall stand or park a motor vehicle on public property or on property used for or zoned for commercial or industrial use, for the purpose of advertising the same "for sale" or "for trade," when such person or property is not licensed for such a use at the particular location.

(b) *Presumption of violation.* For purposes of this section, proof that a sign was in or on a parked motor vehicle, which sign drew attention to such motor vehicle and was clearly visible to any person not on the property, shall constitute in evidence a presumption that such sign was for the purpose of offering the vehicle for sale or for trade.

(c) *Presumption of liability.* For purposes of this section, proof that the vehicle described in the complaint was parked in violation of this section, together with proof that the defendant named in the complaint was, at the time of the parking, the registered owner of such vehicle, shall constitute in evidence a presumption that the registered owner was the person who parked or placed the vehicle at the point where and for the time during which the violation occurred.

(d) *Exemptions.* This section shall not apply to properly licensed automobile dealerships and properly licensed car lots.

(Code 1989, § 480.05; Ord. No. 718, 2-9-1988)

Sec. 44-63. - Fire lanes.

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

Fire lane means a lane, on either private or public property, which is posted at regular intervals with signs designating it as a fire lane, which signs, when located on private property, shall be provided at the expense of the property owner.

(b) *Authority of fire chief.* The fire chief may require and designate public or private fire lanes as deemed necessary for the efficient and effective use of fire apparatus.

(c) *Prohibited parking.* No person shall stop, stand or park a motor vehicle in a fire lane.

(Code 1989, § 480.06; Ord. No. 630, 3-16-1982)

Sec. 44-64. - Enforcement.

(a) Whenever any vehicle is parked in violation of any provision of this Code, a police officer or a parking enforcement officer shall have the authority to enforce all provisions of this Code relative to the unlawful parking of motor vehicles, and it shall be the duty of the police officer or parking enforcement officer noting such unlawful parking to serve upon the owner or operator of such vehicle, or attach to such vehicle, an appearance ticket, as defined in section 24-2(d), which appearance ticket shall show the state license number of such vehicle and the time during which such vehicle was parked in violation of this Code. Such appearance ticket shall also specify that the violation can be settled at the parking violations bureau within 48 hours, Sundays and holidays excepted, upon the payment of a fine as prescribed by the court and that the failure to make such payment within the time specified shall subject the owner or operator of the motor vehicle to the penalties provided for in the Michigan vehicle code.

(b) The police officer or parking enforcement officer may, in lieu of serving such appearance ticket, remove and convey such vehicle to the designated impound lot, and such removal shall be at the risk of the owner. Before an owner or person in charge of such vehicle shall be permitted to remove the same from the custody of the police department, he or she shall furnish evidence of his or her identity and ownership or right of possession, shall sign a receipt for such vehicle and shall pay an impounding fee and storage charges in an amount as adopted by the city council from time to time.

(Code 1989, § 480.07)

Sec. 44-65. - Presumption of culpability of registered owner.

In any prosecution or proceeding under this article, there shall be prima facie presumption that the registered owner, as ascertained from the registration plate displayed on the vehicle, was the person who parked the vehicle at the place where the violation occurred.

(Code 1973, § 10.373; Code 1989, § 480.08)

Sec. 44-66. - Parking of semi-trailer trucks on public roadways.

(a) No person shall park a semi-trailer truck, tractor, or trailer on any public road, street, highway, or right-of-way within the city which meets any of the following criteria:

(1) Vehicle or load height exceeds seven feet;

(2) Vehicle or load width exceeds 7.5 feet, as measured from the widest portion of the vehicle or load, but not including mirrors;

(3) Vehicle or load length exceeds 20 feet (in combination with any attached trailers); or

(4) Manufacturer's gross vehicle weight rating exceeds 10,000 pounds.

(b) This section shall not prohibit the parking of semi-trailer trucks, tractors, or trailers if they are at the time engaged in any of the following activities:

(1) Loading or unloading of persons and/or property; or

(2) Parked or left standing as a result of a mechanical breakdown so as to allow for the performance of emergency repairs on the semi-trailer truck, tractor, or trailer, or while waiting for a tow operator for a period not to exceed one hour.

(c) The city shall place appropriate signs on all public roads, streets, highways, or right-of-ways, within the city as deemed appropriate, to give notice of this section.

(Ord. No. 1059, 2-21-2012)

Secs. 44-67—44-88. - Reserved.

DIVISION 2. - SNOW EMERGENCIES[3]

Footnotes:

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Charter reference— Snow and ice assessments, ch. XVI, § 24.

Sec. 44-89. - Parking prohibited.

Except as otherwise provided in this article no person shall park a motor vehicle on any street during a declared snow emergency.

(Code 1989, § 482.01; Ord. No. 719, 2-25-1988; Ord. No. 957, 6-21-2005)

Sec. 44-90. - Declaration of emergency; procedure.

(a) In the interest of the public health, safety and welfare, the mayor or his or her designated representative may declare a snow emergency whenever, in his or her judgment, ice or snow has accumulated or is significantly likely to accumulate to such an extent as to impede safe travel upon the streets of the city.

(b) A declaration of emergency shall be made in writing and filed with the city clerk. During the regular business hours of the municipal offices, the snow emergency shall take effect one hour after such filing and time-stamping by the city clerk. At all other times, the declaration shall be filed at the beginning of the next business day at the municipal offices, but the snow emergency shall take effect one hour after its first publication to the public.

(c) Upon declaration of a snow emergency, the mayor or his or her designated representative shall immediately publicize the snow emergency and the parking prohibition in a manner reasonably calculated to inform a city resident of his or her responsibilities. The proposed methods of publication shall be filed in writing with the city clerk within a reasonable time after the adoption of the ordinance from which this section is derived.

(Code 1989, § 482.02; Ord. No. 687, 11-18-1986)

Sec. 44-91. - Duration of no parking ban.

(a) The parking prohibition shall begin one hour after the mayor or his or her designated representative has declared a snow emergency. The prohibition shall end on any individual street when both of the following conditions have been satisfied:

(1) The snow or sleet has stopped.

(2) The city has completed snow plowing on that street.

(b) The parking prohibition shall, in general, expire 48 hours after the weather conditions creating the emergency have stopped, unless the state of emergency is extended by action of the mayor or his or her designated representative. Such an extension shall require that the procedures outlined in section 44-90 be repeated.

(c) Despite expiration of the no parking ban of a declared snow emergency, a parked vehicle covered with snow and/or ice and having been surrounded or partially surrounded by plowed snow, shall constitute in evidence a presumption that the vehicle was parked in violation of said no parking ban of the declared snow emergency.

(Code 1989, § 482.03; Ord. No. 687, 11-18-1986; Ord. No. 957, 6-21-2005)

Sec. 44-92. - Abandoning disabled vehicles.

Whenever a vehicle becomes disabled for any reason on any street during a parking prohibition for snow emergency, the owner or person operating the vehicle shall take immediate action to have the vehicle towed or pushed off the street. No person shall abandon or leave such a vehicle on the street except for the purpose of securing immediate assistance, and in such cases the person securing assistance shall leave the vehicle only for the time actually necessary to make contact for assistance and shall return to the vehicle thereafter without delay.

(Code 1989, § 482.04; Ord. No. 687, 11-18-1986)

Sec. 44-93. - Impounding of vehicles.

The police department is hereby authorized to remove a vehicle which is parked on any street during a declared snow emergency and to transport the same to an impound facility designated by the city. Towing and impound fees shall be charged to the owner of the vehicle impounded.

(Code 1989, § 482.05; Ord. No. 687, 11-18-1986)

Sec. 44-94. - Presumption of ownership; failure to receive notice.

Proof that the particular vehicle described in a complaint was parked in violation of this article, together with proof that the defendant named in the complaint was, at the time of such parking, the registered owner of such vehicle, shall constitute in evidence a presumption that the registered owner of such vehicle was the person who parked or placed such vehicle in violation of this article. The failure of a defendant to receive notice of a snow emergency shall not be a defense.

(Code 1989, § 482.06; Ord. No. 687, 11-18-1986)

Sec. 44-95. - Exception for hardship.

(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:

Hardship means the number of vehicles necessary to accommodate the licensed drivers residing at a given address exceeds the parking capacity of that location, as defined in this section.

Necessary vehicles means trucks and/or automobiles which are owned or leased by a tenant or homeowner and his or her spouses and children residing on the premises which are necessary for the purpose of providing basic transportation for the licensed drivers. Only one vehicle per licensed driver in the immediate family will be deemed to be a necessary vehicle.

Parking capacity means the number of vehicles which the garage on the lot, if any, is designed to accommodate and one parking space for every full 20 feet of driveway as measured from the sidewalk.

(b) The chief of police or his or her designated representative shall have the authority to issue an annual permit for on-street parking during a declared snow emergency upon the applicant's compliance with the requirements of this article and proof of hardship as specified in subsection (a) of this section.

(Code 1989, § 482.07; Ord. No. 719, 2-25-1988)

Sec. 44-96. - Permit required; application information.

A permit is required for each vehicle parked on the street during a designated snow emergency. Permits shall be nontransferable and valid for not more than one year. All permits shall expire on March 31 of each year in any event. Application for a permit shall be accompanied by the following:

(1) Copies of the titles, registrations or lease agreements for all vehicles at the location;

(2) Copies of the drivers' licenses of the immediate family members residing at the location at the time of application; and

(3) Fee for each permit in an amount as adopted by the city council from time to time.

(Code 1989, § 482.08; Ord. No. 719, 2-25-1988; Ord. No. 1033, 11-16-2010)

Sec. 44-97. - Permit display; authorized parking.

In the event the chief of police or his or her designated representative grants a permit pursuant to this article, such permit shall be in the form of a sticker which the applicant shall affix to the driver's side, inside front, lower left window, of the permitted vehicle. The application shall contain the year, model and license plate number of the vehicle. A vehicle properly bearing such a sticker shall be permitted to park on the street on the same side as and directly in front of the residence to which the permit applies. If such a vehicle cannot be so parked for reasons not created by the applicant, then such a vehicle may be parked within 50 feet of the residence.

(Code 1989, § 482.09; Ord. No. 734, 11-1-1988)

Sec. 44-98. - Additional criteria for permit issuance; permit transfer.

In addition to the criteria set forth in section 44-95, the following conditions shall apply to the issuance of permits on the basis of hardship:

(1) A garage or driveway space used for storage purposes of any kind, including the storage of boats, motor homes, campers, motorcycles or any other recreational vehicle, shall not be exempt from the calculation required to determine parking capacity as set forth in section 44-95(a). The lack of on-site parking due to such storage shall be deemed to be self-created and not a hardship.

(2) A permit shall be issued only where the number of licensed drivers in a tenant's or homeowner's immediate family residing on the premises exceeds the parking capacity for necessary vehicles.

(3) Where, for whatever purpose, more vehicles are owned or leased than the number of licensed drivers in the immediate family residing with the tenant or homeowner, and the number of vehicles exceeds the parking capacity, the lack of on-site parking in a snow emergency shall be deemed self-created and not a hardship.

(4) No permit shall be transferred to another vehicle.

(Code 1989, § 482.10; Ord. No. 719, 2-25-1988)

Sec. 44-99. - Violations.

No person shall:

(1) Park a vehicle on a street during a declared snow emergency without a permit or with a permit improperly displayed;

(2) Transfer a permit to a vehicle other than the one for which it was issued;

(3) Falsify any information or documentation required by this article for issuance of a permit; or

(4) Park a permitted vehicle farther than 50 feet from the applicable residence.

(Code 1989, § 482.11; Ord. No. 719, 2-25-1988)

Secs. 44-100—44-126. - Reserved.

DIVISION 3. - OPEN PARKING AREAS

Sec. 44-127. - Nuisances prohibited in business establishment parking areas.

No licensee, manager or person in charge of any business establishment shall cause, create, allow or maintain any nuisance on its parking area whereby the peace, good order or sanitation of the neighborhood is disturbed, or whereby persons owning or occupying property in the neighborhood are disturbed or annoyed.

(Code 1973, § 7.321; Code 1989, § 484.01)

Sec. 44-128. - Waste material on business premises and adjacent areas.

The licensee, manager or person in charge of any business establishment shall keep the premises whereon such business establishment is located, together with the parking area and that portion of any alley adjoining such business establishment, free from its own rubbish, waste products and debris, including napkins, straws, paper cups and plates and other waste material.

(Code 1973, § 7.322; Code 1989, § 484.02)

Sec. 44-129. - Retaining wall required.

The owner or person charged with the management of any business establishment shall construct a retaining wall of masonry or other approved type of materials adjacent to all streets and alleys. Such wall shall be a minimum of 18 inches in height and shall be extended on each side of all entrances and exits at right angles to such streets or alleys a minimum of three feet in order to prevent debris, such as

napkins, straws, paper cups, plates and other waste material, from blowing off the premises onto public property.

(Code 1973, § 7.323; Code 1989, § 484.03)

Sec. 44-130. - Cruising prohibited.

No operator of a motor vehicle shall drive through or upon any driveway or parking lot, used in conjunction with a business establishment, for purposes other than those for which such driveway and parking lot were constructed.

(Code 1973, § 7.324; Code 1989, § 484.04)

Sec. 44-131. - Littering.

No person shall put, deposit or throw any food, beverage, paper cup, napkin, paper plate, dish, bottle, container, straw, scrap paper, handbill, shavings, dirt, trash, hulls, shells, stalks or other kind of refuse or waste materials in or upon any driveway, sidewalk, street, alley, parking lot or parking area on the premises or in the vicinity of any business establishment in such manner and to such extent as to render the same unclean, unsightly, unsanitary or unsafe.

(Code 1973, § 7.325; Code 1989, § 484.05)

Sec. 44-132. - Report of violations.

The licensee, manager or person in charge of any business establishment shall immediately report a violation of any of the provisions of this article to the police department.

(Code 1973, § 7.326; Code 1989, § 484.06)

Secs. 44-133—44-162. - Reserved.

ARTICLE IV. - BICYCLES[4]

Footnotes:

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State Law reference— Authority to regulate bicycles, MCL 257.606(1)(i).

Sec. 44-163. - License required; exception.

No person shall operate or use a bicycle propelled wholly or in part by muscular power, upon any street, alley or public highway of the city, without first obtaining a license therefor, except that bicycles under 20 inches in size are exempt from this requirement.

(Code 1973, § 10.275; Code 1989, § 464.01)

Sec. 44-164. - License application.

Written application for a bicycle license shall be made to the city clerk, which application shall state the name and address of the owner of such bicycle, the make and description of the bicycle to be licensed, the serial number thereof and such other information as may be required.

(Code 1973, § 10.276; Code 1989, § 464.02)

Sec. 44-165. - Responsibility of parents and guardians.

The parents or legal guardians of children under the age of 17 years shall see that such children make application as provided for in section 44-164. Failure to do so shall constitute a violation of this article.

(Code 1973, § 10.277; Code 1989, § 464.03)

Sec. 44-166. - License fees.

Upon receipt of the application for a bicycle license, and upon payment of a fee in an amount as adopted by the city council from time to time, the city clerk shall issue a license to the applicant.

(Code 1989, § 464.04)

Sec. 44-167. - Attachment of license.

The license provided for in this article shall be securely attached to the bicycle on the frame below the seat so as to be visible at all times, and shall remain permanently attached thereto.

(Code 1973, § 10.279; Code 1989, § 464.05)

Sec. 44-168. - License removal or destruction.

No person shall willfully or maliciously remove, mutilate or alter the number on any bicycle frame or remove, destroy, mutilate or alter any bicycle license during the time such license is operative.

(Code 1973, § 10.280; Code 1989, § 464.06)

Secs. 44-169—44-189. - Reserved.

ARTICLE V. - MOTOR CARRIER SAFETY RULES

Sec. 44-190. - 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:

Trailer means a vehicle, with or without motive power, designed for carrying property and for being drawn by a motor vehicle.

Truck means a motor vehicle designed, used or maintained primarily for the transportation of property.

Truck tractor means a motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(Code 1989, § 468.01; Ord. No. 731, 10-4-1988)

Sec. 44-191. - Violations; detention and inspection; citations.

(a) Any driver or operator who violates any of the provisions of this article, or any owner or user of any truck, truck tractor or trailer, or any officer or agent of any individual, partnership, corporation or association, or their lessees or receivers appointed by any court, who or which is the owner or user of any vehicle, who requires or permits a driver or operator to operate or drive any truck, truck tractor or trailer in violation of this article, is guilty of a misdemeanor for each violation.

(b) A police officer of the city, or an officer of the motor carrier division of the state department of state police, upon reasonable cause to believe that a motor vehicle is being operated in violation of this article, may stop and inspect the motor vehicle. If a violation is found, the officer may issue a notice to appear for the violation.

(Code 1989, § 468.04; Ord. No. 731, 10-4-1988)

Sec. 44-192. - Qualifications and rules for operations; safety standards for equipment, facilities, loading and unloading.

(a) No person shall drive, and no individual, partnership, association, corporation or their lessees or receivers appointed by any court shall employ, engage, hire or contract for hire any person to operate, drive or maintain, any truck, truck tractor or trailer unless the person meets the qualifications set forth in section 44-193.

(b) No individual, partnership, association, corporation or their lessees or receivers appointed by any court shall operate any truck, truck tractor or trailer, or permit any person to drive any truck or truck tractor, which does not meet safety standards for drivers or operators, for equipment and devices on trucks, truck tractors or trailers, and for the loading and unloading thereof, as set forth in section 44-193.

(c) No individual, partnership, association, corporation or their lessees or receivers appointed by any court shall operate or maintain any facility used in connection with the transportation of property by any truck, truck tractor or trailer, which facility does not meet safety standards for the operation and maintenance of such facility as set forth in section 44-193.

(Code 1989, § 468.02; Ord. No. 731, 10-4-1988)

Sec. 44-193. - Adoption of motor carrier safety rules.

The department of state police motor carrier safety rules, promulgated pursuant to the motor carrier safety act of 1963, Public Act No. 181 of 1963 (MCL 480.11 et seq.) are hereby adopted.

(Code 1989, § 468.03)

Chapter 46 - UTILITIES[1]

Footnotes:

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Charter reference— Regulation of utilities, ch. VIII, § 15; bonds for public utilities, ch. XV, § 13.

State Law reference— Ownership and operation of water supply or sewage disposal facility by city, Mich. Const. 1963, art. 7, § 24; local authority to provide and regulate sewer and water service, MCL 324.4301 et seq.; water and sewer authorities, MCL 124.281 et seq.

ARTICLE I. - IN GENERAL

Secs. 46-1—46-18. - Reserved.

ARTICLE II. - WATER[2]

Footnotes:

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Charter reference— Water supply, ch. X, § 11 et seq.

DIVISION 1. - GENERALLY

Sec. 46-19. - 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:

Cross connection means a connection or arrangement of piping or appurtenances through which water of questionable quality, wastes or other contaminates can enter the public water supply system.

Water connection means that part of the water distribution system connecting the water main with the premises served.

Water main means that part of the water distribution system located within the easement lines of streets designed to supply more than one water connection.

(Code 1973, § 2.31; Code 1989, § 1040.01; Ord. No. 990, § 1040.01, 6-5-2007)

Sec. 46-20. - Installation of service connections and meters.

An application for a water connection shall be made to the department of water and sewers on forms prescribed and furnished by it. Water connections and water meters shall be installed in accordance with rules and regulations of the department of public works and service and upon payment of the required connection fee and meter installation fee. All meters and water connections shall be the property of the city. Connection fees shall not be less than the cost of materials, installation and overhead attributable to such installations.

(Code 1973, § 2.32; Code 1989, § 1040.02)

Sec. 46-21. - Turning water service on or off.

No person, other than an authorized employee of the department of water and sewers, shall turn on or off any water service, except that a licensed plumber may turn on water service for testing his or her work, after which it must be immediately turned off, or upon receiving a written order from the department to do so; provided, however, that upon the issuance of a written permit from the department, water may be turned on for construction purposes only, prior to the granting of a certificate of occupancy for the premises, and upon payment of the charges applicable thereto.

(Code 1973, § 2.33; Code 1989, § 1040.03)

Sec. 46-22. - Meters.

(a) *Required.* All premises using water shall be metered, except as otherwise provided in this Code. No person, except an employee of the department of water and sewers, shall break or injure the seal or change the location of, alter or interfere in any way with any water meter.

(b) *Access.* The department shall have the right to shut off the supply of water to any premises where the department is not able to obtain access to the meter. Any qualified employee of the department shall at all reasonable hours have the right to enter the premises where such meters are installed for the purpose of reading, testing, removing or inspecting the same and no person shall hinder, obstruct or interfere with such employee in the lawful discharge of his or her duties in relation to the maintenance and reading of such water meter.

(c) *Reimbursement for damage.* Any damage which a meter may sustain resulting from the carelessness of the owner, agent or tenant or from neglect of any of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water or steam backing from a boiler, shall be paid by the owner of the property to the city on presentation of a bill therefor. In cases where the bill is not paid, the water shall be shut off and shall not be turned on until all charges have been paid to the city.

(d) *Failure.* If any meter fails to register properly, the department shall estimate the consumption on the basis of the former consumption and bill accordingly.

(e) *Testing.* A consumer may require that the meter be tested. If the meter is found accurate, a charge in an amount as adopted by the city council from time to time will be made. If the meter is found defective, it shall be repaired or an accurate meter installed and no charge shall be made.

(f) *Standard of accuracy.* A meter shall be considered accurate if, when tested, it registers not more than two percent more or two percent less than the actual quantity of water passing through it. If a meter registers in excess of two percent more than the actual quantity of water passing through it, it shall be considered fast to that extent. If a meter registers in excess of two percent less than the actual quantity of water passing through it, it shall be considered slow to that extent.

(g) *Bill adjustment.* If a meter has been tested at the request of a consumer and has been determined to register fast, the city shall credit the consumer with a sum equal to the percentage that it is fast multiplied by the amount of all bills incurred by such consumer within the six months prior to the test. If a meter so tested is determined to register slow, the department may collect from the consumer a sum equal to the percentage that it is slow multiplied by the amount of all the bills incurred by the consumer for the prior six months. When the department, on its own initiative, makes a test of a water meter, it shall be done without cost to the consumer, other than his or her paying the amount due the city for water used by him or her, as herein provided, if the meter is found to be slow.

(h) *Relocation.* No person shall relocate a meter on his or her premises without first obtaining a permit therefor from the department and paying a fee therefor in an amount as adopted by the city council from time to time. Such work shall be done only by a licensed plumber, but the homeowner shall have the responsibility of obtaining the permit and paying the fee therefor.

(Code 1973, §§ 2.34, 2.40; Code 1989, § 1040.04)

Sec. 46-23. - Use of fire hydrants.

No person, except an employee of the city in the performance of his or her duties, shall open or use any fire hydrant except in case of emergency, without first obtaining a written permit therefor from the water department and paying such charges as may be prescribed therefor.

(Code 1973, § 2.41; Code 1989, § 1040.05)

Sec. 46-24. - Water restrictions.

(a) *Water supply emergency.* The city manager, or his designee, is hereby authorized to declare a water supply emergency whenever he determines any of the following conditions exist:

(1) An existing or anticipated drought condition;

(2) Loss or reduction in volume and/or pressure in water supply from the Detroit Water and Sewerage Department (DWSD);

(3) Failure of one or more parts of the supply system;

(4) Any condition that may result in a threat to the public health due to potential or documented contamination associated with low water pressure;

(5) Any condition that may reduce the fire department's available water supply to fight fires;

(6) Requests by the Detroit Water and Sewerage Department or state department of environmental quality to place use restrictions on the system;

(7) Any use by system customers that adversely impacts peak water use between the hours of 5:00 a.m. and 11:00 p.m. which could adversely affect future water supply charges and fees;

(8) Any use by system customers that adversely impacts the city's compliance with terms of its DWSD water contract.

(b) *Method of declaration.* A water supply emergency shall exist when the city manager has caused a declaration of such emergency to be publicly announced by broadcast from one or more radio or television stations with normal operating range covering the city. When practical, such declaration shall also be made over the appropriate cable television channel, on the city hall telephone message machine, on the city website, on the median signs on Gratiot Avenue and Kelly Road and in the local newspaper, if the anticipated duration of the emergency warrants it. The city manager shall make a record of each time and date and methods of such declaration. Irrespective of such methods of declaration, a water supply emergency shall be deemed to exist for any person who has received a direct written notice of such declaration.

(c) *Content of declaration.* A declaration of water supply emergency shall include the effective date and time of such emergency, which may be immediate; the period of time during which such emergency shall be in effect, which may be for 24 hours per day and until further notice; and the types of outside water usage which are prohibited, which may include all outside uses except fire protection; and may permit certain uses on alternating days or during restricted hours.

(d) *Water use restricted.* Whenever a water supply emergency exists, it shall be unlawful for any person to utilize water from the city water supply system for any type of outdoor use which is in violation of the terms of the declaration.

(e) *Restrictions.* A property which is connected to the municipal water system is hereby permanently restricted from irrigating during the following days and times between May 15 and October 1:

(1) A property with an even-numbered address shall only be allowed to irrigate on even-numbered dates within a month.

(2) A property with an odd-numbered address shall only be allowed to irrigate odd-numbered dates within a month.

(3) If a property has a mixed odd-numbered and even-numbered addresses or an undetermined address, the city manager, or his or her designee, may assign an odd/even designation for compliance with this section.

(4) A property with a newly seeded or sodded lawn may, for the first 21 days after planting, irrigate said new lawn as often as required for growth.

(Code 1989, § 1040.06; Ord. No. 847, 10-22-1996; Ord. No. 998, § 1040.06, 8-12-2008)

Sec. 46-25. - Injury to facilities.

No person, except an employee of the city in the performance of his or her duties, shall willfully or carelessly break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the city water distribution system.

(Code 1973, § 2.44; Code 1989, § 1040.07)

Sec. 46-26. - Cross connections.

(a) *Adoption of rules.* The city adopts by reference the Water Supply Cross Connection Rules of the State Department of Environmental Quality, being R 321.11401 to R 325.11407 of the Michigan Administration Code, as amended. The city also will use their Cross Connection Control Plan as an outline of enforcement of their program.

(b) *Inspection.* It shall be the duty of the city 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 city and as approved by the state department of environmental quality.

(c) *Right of entry.* The representative of the city shall have the right to enter at any reasonable time upon any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.

(d) *Notice to discontinue.* The city is hereby authorized and directed to discontinue water service, after reasonable notice, to any property wherein any connection in violation of this article exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with this article.

(e) *Device testing.* All testable backflow prevention assemblies shall be tested initially upon installation, after the assembly has been relocated, at the time of any repairs, and at an interval the city has set forth in their cross connection control plan, to ensure that the device is working properly. Only individuals who possess an American Society of Sanitary Engineering 5110 Certification shall be qualified to perform such testing. Only individuals who possess either a State of Michigan Journeymen's Plumbing License or State of Michigan Master Plumbing License shall be qualified to repair any backflow preventer. The individual shall certify the results of the testing to the city department of public works and service.

(f) *Protection from contamination.* The potable water supply made available on the property served by the public water supply shall be protected from possible contamination as specified by this article and by the state construction code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as: Water Unsafe For Drinking.

(g) *Supplemental.* This article does not supersede the state plumbing code and article II of chapter 10, but is supplementary to them.

(Code 1989, § 1040.08; Ord. No. 509, 7-16-1973; Ord. No. 990, § 1040.08, 6-5-2007; Ord. No. 1170, §§ 1(A), 1(B), 7-2-2019)

Sec. 46-27. - Additional regulations.

The city manager may make and issue additional rules and regulations concerning the water distribution system, connections thereto, meter installations and maintenance, connection and meter installation fees, hydrants and water mains and the appurtenances thereto, not inconsistent with this article. Such rules and regulations shall be effective upon approval by the council. The rules and regulations now in effect shall continue until changed in accordance with this section. No person shall violate or fail to comply with any such rule or regulation.

(Code 1973, § 2.43; Code 1989, § 1040.09)

Secs. 46-28—46-48. - Reserved.

DIVISION 2. - WATER RATES

Sec. 46-49. - 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:

Premises means each lot or parcel of land, building or premises having any connection to the water distribution system of the city or to leave the sewage disposal system of the city.

(Code 1989, § 1042.01)

Sec. 46-50. - Fixing rates.

The rates to be charged for water service for consumers shall be as follows:

(1) A charge of $4.18 for each 100 cubic feet of water consumed;

(2) A charge of $10.97 per month for each fire service line connected to premises as defined in section 46-49 of this chapter.

This section shall be effective with meter readings after July 1, 2017.

(Code 1973, § 2.122; Code 1989, § 1042.02; Ord. No. 1013, 9-1-2009; Ord. No. 1072, 7-3-2012; Ord. No. 1091, 7-16-2013; Ord. No. 1104, 6-17-2014; Ord. No. 1124, 6-16-2015; Ord. No. 1140, § 3, 6-20-2017)

Sec. 46-51. - Service to city; payment.

(a) The city shall pay the same water rates for service to it as would be payable by a private customer for the same service.

(b) All such charges for service shall be payable quarterly from the current funds of the city, or from the proceeds of taxes which the city, within constitutional limits, is hereby authorized and required to levy in amounts sufficient for that purpose.

(Code 1973, § 2.125; Code 1989, § 1042.04)

Sec. 46-52. - Meter reading; billing and collection.

All meters shall be read at least quarterly. Bills for water service shall be due and payable when rendered. There shall be added to all bills not paid on or before the 21st day of the month following the billing a penalty of five percent of the amount of the bill. An additional penalty of one percent per month

shall be added for each additional month that the bill has not been paid. The director of the department of public works and service shall have charge of the reading of all meters. He or she shall keep a record of all meter readings, shall keep accounts of the charges for water and sewer service furnished to all premises and shall render bills for the same. All water service charges shall be collected by the director of finance, who shall credit the same to the proper account.

(Code 1989, § 1042.06; Ord. No. 826, 10-11-1994)

Sec. 46-53. - Collection of charges.

The department of public works and service is hereby authorized to enforce the payment of charges for water service to any premises by discontinuing the water service to such premises, and the payment of charges for sewage disposal service to any premises may be enforced by discontinuing either the water service or the sewage disposal service to such premises, or both. In addition, collection proceedings may be instituted by the city against the customer. The charges for water service are made a lien on the premises to which furnished, are hereby recognized to constitute such lien, and the city shall certify all unpaid charges for such service furnished to any premises which remain unpaid to the city treasurer who shall place the same on the next tax roll of the city. Such charges so assessed shall be collected in the same manner as general city taxes or as otherwise authorized by city council. Where the water service to any premises is turned off to enforce the payment of water service charges or sewage disposal service charges, the water service shall not be recommenced until all delinquent charges have been paid and there shall be a water turn-on charge in an amount as adopted by the city council from time to time.

(Code 1989, § 1042.07; Ord. No. 1056, 11-1-2011; Ord. No. 1097, 12-17-2014)

Sec. 46-54. - Findings.

(a) *Necessity for potable water.* The city council has previously found, and currently reaffirms that the businesses, industries, governmental and charitable agencies and residents located in the city need to have potable and otherwise usable water.

(b) *Availability of potable water.* The city council further has previously found, and currently reaffirms, that the supply of potable water available from private wells within the city is insufficient to ensure that all businesses, industries, governmental and charitable agencies, and residents will have sufficient potable water available for their use and other water necessary for industrial and fire prevention and control unless the city offers water to all properties located within the city.

(c) *Method for measuring use of water supply system.* Based on advice of its engineers, the city council has previously found, and currently reaffirms, that the most precise method, given available technology, of measuring the use of the water supply from the system by any user is by a meter or meters installed and controlled by the city.

(d) *Continuation of service.* The city council has previously found, and further currently reaffirms that, in order to provide and continue to provide clean potable and other usable water to all customers of the system, in quantities necessary for all varieties of use, it is necessary from time to time to install improvements, enlargements, extensions and repairs to the system.

(e) *Purpose of charges.* The charges and fees for the use of and connection to the system are hereby established for the purpose of recovering the cost of construction, reconstruction, maintenance, repair, and operation of the system and to comply with federal and state safe drinking water acts and related regulations, to provide for the payment principal of and interest on any bonds authorized to be issued as and when the same become due and payable, to create a bond and interest redemption fund therefor, to provide a fund for reasonable and necessary improvements to the system and to provide for such other funds as are necessary to meet contractual obligations of the issuer. Such charges and fees shall be made in accordance with the purposes herein described as well as the following:

(1) All premises connected directly or indirectly to the system, except as hereinafter provided, shall be charged and shall make payments to the city in amounts computed on the basis of this section.

(2) The charges, rates and fees for water service by the system are established herein to adequately provide for bond requirements and to ensure that the system does not operate at a deficit.

(3) The system staff or designated parties shall periodically review the charges, rates, fees, rules and regulations of the system, which review shall be completed not less than one time per fiscal year. Results of the review shall be reported to the city council with recommendations for any adjustments.

(4) The charges, rates and fees shall be set so as to recover costs from users in reasonable proportion to the cost of serving those users.

(f) *Proportionality, fairness, and benefits of charges, rates and fees.*

(1) The city council has previously found and further currently reaffirms that the fairest and most reasonable method of providing for the operation, maintenance, repair, replacement and improvement of the system is to charge each user, based in all cases on amount of use, for the costs of:

a. Retiring debt secured by the net revenues of the system issued to pay for improvements and replacements to the system;

b. Ongoing repair, replacement and improvement budgeted as part of the annual costs of the system; and

c. Operation, administration and maintenance costs of the system.

(2) The city has investigated several methods of apportioning the costs of the water service provided by the system. Based on its investigation and on the advice of its engineers, the city council has previously found, and currently reaffirms, that to ensure the stability and viability of the system for the benefit of its users, the fairest and most accurate way to apportion the costs of operation, maintenance, replacement and improvement of the system is to charge each user:

a. A separate capital connection charge for water service when such user's property is first connected to the system;

b. A monthly service charge for water service, which varies depending on the size of the water intake pipe and meter, which charge reflects each user's proportionate share of the fixed costs of the system; and

c. A commodity charge for water usage which is based on the user's actual use of water supplied by the system. The city council has previously found, and currently reaffirms that the rates and charges currently in effect accurately apportion the fixed and variable costs of the system among the users of the system and that capital connection charge, the monthly service charge and the commodity charge each provide actual benefits to such users in the form of ready access to water service that would be unavailable if such charges were not charged.

(3) In addition to the findings set forth in this section, the city council has previously found and currently reaffirms that the capital connection charges reflect the proportional capital costs of the system, previously paid by the city and the system, attributable to each new user and that the opportunity to connect to the system provides actual benefits to each new user equal to or greater than the amount of such charges.

(Code 1989, § 1042.08; Ord. No. 912, 6-19-2001)

Sec. 46-55. - Establishment of water supply system.

Based on the findings and for the purposes set forth in section 46-54, the city has previously established and hereby reestablishes the water supply system, consisting of all water mains, pumping and storage facilities, pressure systems, wells, connections, service pipes, meters, and all other appurtenances to the system.

(Code 1989, § 1042.09; Ord. No. 912, 6-19-2001)

Secs. 46-56—46-76. - Reserved.

ARTICLE III. - SEWERS[3]

Footnotes:

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Charter reference— Sewer and drains, ch. X, § 7 et seq.

DIVISION 1. - GENERALLY

Secs. 46-77—46-96. - Reserved.

DIVISION 2. - SANITARY SEWERS

Sec. 46-97. - Enabling authority.

This division is adopted pursuant to, and in accordance with, Public Act No. 94 of 1933 (MCL 141.101 et seq.).

(Code 1989, § 1046.01; Ord. No. 604, 6-10-1980)

Sec. 46-98. - 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:

Agent means the county health department.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building means any structure, including a mobile home, that requires a supply of potable water and/or a means of disposal of wastewater.

Building drain means the drainage water pipes in a building which convey roof drainage, footing drainage water or stormwater to the building service drain, located five feet (1.52 m) outside the outer face of the building.

Building service drain means any drainage water pipe extension from a building drain outlet point, located five feet (1.52 m) outside of a building, to a point of connection with a public drain or with any private drain upstream of a public drain.

Building service sewer means the sewer extension from a building sewer outlet point, located five feet (1.52 m) outside of a building, to a point of connection with a public sanitary sewer.

Building sewer means that part of the lowest horizontal piping of a building plumbing system that receives the sanitary sewage from pipes inside the walls of the building and conveys it from the building to the building service sewer, located five feet (1.52 m) outside of the outer face of the building.

Classes of users means the customers of the department of public works and service classified according to waste characteristics and process or discharge similarities. The distinct classes are:

(1) Residential, which includes all dwelling units such as detached, semidetached and row houses, mobile homes, garden and standard apartments and permanent multifamily dwellings. Transit lodging, considered commercial in nature, is not included;

(2) Commercial, which includes transit lodging, retail and wholesale establishments or places engaged in selling merchandise for personal, household or industrial consumption and/or rendering services to others;

(3) Institutional, which includes social, charitable, religious and educational activities, such as schools, churches, hospitals, nursing homes, penal institutions and similar institutional users;

(4) Governmental, which includes legislative, judicial, administrative and regulatory activities of federal, state and local governments, such as courthouses, police and fire stations, city halls and similar governmental users; and

(5) Industrial, which includes any manufacturing or processing facility that discharges industrial wastes to a publicly owned treatment works, such as those establishments identified in the Federal Office of Management and Budget's Standard Industrial Classification Manual (1972 Edition) under divisions A, B, D, E and I, which discharge an industrial waste as defined and determined by the city. A governmental industrial user shall be subject to the user charge system but not subject to the industrial cost recovery provisions of the Federal Water Pollution Control Act Amendments of 1972.

Combination sewer or *combined sewer* means a sewer receiving both surface runoff and sewage.

Drain or *storm drain* means a watercourse, ditch, drainage swale or pipe intended for the conveyance of drainage water.

Drainage system means any part or all of the property, structures, equipment, drains, watercourses, materials and appurtenances used in conjunction with the collection and disposal of drainage water.

Drainage water means stormwater, subsurface ground water, melting snow or ice, roof and/or other surface water runoff or unpolluted water.

Dwelling unit means a building, or a unit thereof, including an apartment, house trailer or mobile home, that is occupied by one or more persons as a residence, with a single set of culinary facilities, intended for a single family.

Floatable oil means oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

Garbage means animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

Industrial sewage or *industrial waste* means any liquid containing waterborne process wastes from industrial sources.

Mg/l means milligrams per liter.

Normal domestic sewage means, for the purposes of determining surcharge, wastewater or sewage having an average daily suspended solids concentration of not more than 250 mg/l, an average daily BOD of not more than 200 mg/l and an average daily phosphorus concentration of ten mg/l.

NPDES permit means a permit issued under the National Pollutant Discharge Elimination System for the discharge of wastewaters to the navigable waters of the United States pursuant to section 402 of PL 92-500.

pH means the reciprocal of the logarithm of the hydrogen ion concentration. pH measures the degree of acidity or alkalinity of a solution. pH values from 0 to 7 indicate acidity, and from 7 to 14 indicate alkalinity. Neutral water has a pH value of 7.

Polluted water means water that exceeds the water quality standards established for the receiving waterway.

POTW means publicly owned treatment works, such as a wastewater transportation and treatment system.

Premises means a parcel of real estate owned by a person served as a single user by a water supply outlet and/or a wastewater disposal outlet. Each mobile home park is considered separately as a premises.

Private sanitary sewage disposal system means any septic tank with subsurface soil absorption facilities or any other private wastewater treatment facility that may be approvable by the state water resources commission (MWRC) or by its designated agent, the county health department.

Properly shredded garbage means waste from the preparation, cooking and dispensing of food, which waste has 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 (1.27 cm) in any dimension.

Public drain means a drain under the control of the city or other public agency which is located in a public easement or public right-of-way.

Public sewer means a sanitary or combined sewer under the control of the city or other public agency and located in a public easement or public right-of-way.

Sanitary sewage means usual domestic sewage or equivalent sewage, not including industrial sewage.

Sanitary sewer means a pipe or conduit that carries sanitary sewage.

Settleable solids means total particulate matter in water or wastewater that will settle out of the liquid as prescribed in Standard Methods.

Slug means any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for 15 minutes of duration more than five times the average 24-hour concentration of flows during normal operation, and which adversely affects the collection system and/or performance of the wastewater treatment works.

Standard Methods means the latest edition of Standard Methods for the Examination of Water and Wastewater, as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation, and, more specifically, the laboratory procedures set forth therein, or methods acceptable to the United States Environmental Protection Agency.

Street means any street, avenue, boulevard, road, alley or other right of way that provides for vehicular or pedestrian access to abutting properties by the general public, including the land between the street right-of-way lines, whether improved or unimproved.

Suspended solids means the total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in Standard Methods. The term "suspended solids" includes settleable solids.

System means the wastewater system.

Total solids means and includes total suspended solids and total dissolved solids.

Unpolluted water means water that would not cause violation of the water quality standards established for the receiving waterway.

Wastewater or*sewage* means spent water which may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, institutions or other land uses, including drainage water inadvertently present in such waste.

Wastewater disposal outlet means the point of connection with the public sanitary sewer.

Wastewater system or *sewer system* means any part or all of the property, structures, equipment, sewers, materials and/or appurtenances used in conjunction with the collection and disposal of wastewater.

Wastewater treatment works or *sewage treatment plant* means the Detroit Water and Sewer Department Regional Treatment Plant for treating wastewater and sludge.

Watercourse means a natural or artificial channel for the passage of water either continuously or intermittently.

(Code 1989, § 1046.02; Ord. No. 604, 6-10-1980)

Sec. 46-99. - Use of public sewers and public drains required.

(a) The council hereby finds that a wastewater system is essential to the health, safety and welfare of the residents of the city. Further, septic tank disposal systems in the city are subject to failure due to heavy soil conditions prevalent throughout the city. Lastly, failure or potential failure of septic tank disposal systems poses a threat to the public health, safety and welfare; presents a potential for ill health, transmission of disease, mortality and potential economic blight; and constitutes a threat to the quality of surface and subsurface waters of the city. Therefore, connection to the available wastewater system at the earliest reasonable date is necessary in the public interest which is hereby declared by council to be a matter of legislative determination.

(b) No person shall place, deposit or permit to be deposited in any manner upon public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other waste.

(c) No person shall discharge to any watercourse or drain within the city, or in any area under the jurisdiction of the city, any wastewater or other polluted water.

(d) Except as provided in section 46-100, no person shall construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(e) The owner of a structure in which sanitary sewage originates and which is located within 200 feet of a right-of-way, easement, highway, street or public way which crosses, adjoins or abuts upon the property upon which such structure is located, within which right-of-way, easement, highway, street or public way, a public sewer is available for connection, shall connect to such sewer system within 18 months after the sewer becomes available for connection.

(Code 1989, § 1046.03; Ord. No. 604, 6-10-1980)

Sec. 46-100. - Private sanitary sewage disposal.

(a) Where a public sewer is not available under the provisions of this division, a building sewer shall be connected to a private sanitary sewage disposal system complying with the provisions of this division.

(b) No private sanitary sewage disposal system employing subsurface soil absorption facilities shall be constructed on a parcel of property which is less than 12,000 square feet in area.

(c) The type, capacities, location and layout of a private sanitary sewage disposal system shall comply with all regulations and recommendations of the state water resources commission and its designated agent, the county health department.

(d) Before commencement of construction of a private sanitary sewage disposal system, the owner shall first obtain a written permit from the agent. The application for such permit shall be made on a form furnished by the agent, which the applicant shall supplement with any plans, specifications or other information considered necessary by the agent.

(e) The agent shall be allowed to inspect the work at any stage of construction and the permittee shall notify the agent when the work is ready for any required inspection, including final inspection. The owner shall operate and maintain the private sanitary sewage disposal system in a sanitary manner at all times at no expense to the city, such that polluted water shall be prevented from entering all drains or watercourses.

(f) At such time as a public sewer becomes available to a property served by a private sanitary sewage disposal system, the building service sewer shall be connected to such sewer within 18 months after official notice of the availability of such sewer. Any septic tank, cesspool or similar private sanitary sewage disposal facility shall be abandoned by cleaning and filling the same with suitable material.

(g) Nothing contained in this section shall be construed to interfere with any additional requirements that may be imposed by the council or the state water resources commission with respect to private sewage disposal.

(Code 1989, § 1046.04; Ord. No. 604, 6-10-1980)

Sec. 46-101. - Building service sewers, building service drains and connections.

(a) No person shall uncover, make any connections to, open, use, alter or disturb any public sewer or public drain or appurtenance thereof without first obtaining a written permit therefor from the director of the department of public works and service. A permit fee in an amount as adopted by the city council from time to time shall be paid to the city at the time application is made for the permit for each building service drain or building service sewer to public facilities.

(b) There shall be two classes of building service sewer construction permits: one for sanitary sewage service and one for industrial sewage service. In addition, construction of a building service drain discharging into public facilities requires a permit. In all cases, the owner or his or her agent shall make application for the permit on a form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent by the city.

(c) All costs and expense incident to the installation or subsequent repair, maintenance or replacement of the building service sewer or building service drain shall be borne by the owner of the premises. The owner shall indemnify the city for any loss or damage to the city's wastewater or drainage systems which may result directly or indirectly by such connections.

(d) A separate building service sewer shall be provided for every building. Sanitary sewage and industrial sewage shall not be combined in a single building service sewer. A separate building service drain shall be provided for each building needing a drainage water outlet.

(e) Existing building service sewers may be used in connection with new buildings only when it is determined by the director that such building service sewers meet the requirements of this division.

(f) The size, slope, alignment, materials and methods of construction of a building service sewer or building service drain, including the connection to a public sewer or public drain, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the state construction code and other applicable rules and regulations of the city. In the absence of code provisions, the materials and procedures set forth in the ASTM and WPCF Manual of Practice No. 9 shall apply.

(g) No person shall make connections of roof downspouts, foundation or footing drains, areaway drains or other sources of surface runoff and/or ground water to a building sewer or building service sewer which in turn is connected directly or indirectly to a public sewer.

(h) The applicant for a building service sewer or building service drain permit shall notify the building official when the building service sewer is ready for inspection and connection to the public sewer or drain. The building official or his or her representative shall then inspect the building and the plumbing construction therein and if such construction meets the previous requirements as approved in the construction permit, a permit shall be issued, subject to the applicable provisions of other sections of this division.

(i) All excavations for building service sewer or building service drain installation shall be surrounded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored to their original condition.

(j) All new basement excavations and/or excavations for foundation walls for a building served by a public sewer shall be backfilled upon completion of construction of the basement wall or other foundation wall. The earth surface surrounding such wall shall be graded so as to direct the drainage water away from such walls to a point of disposal. The building contractor shall provide means to ensure drainage away from the building during all stages of construction and the owner shall maintain such drainage during all times the building is connected to a public sewer.

(k) All buildings connected to a public sewer shall be equipped with adequate eavestroughs, gutters, downspouts and similar connections so as to discharge stormwater at least five feet (1.52 m) perpendicularly away from all building walls. If stormwater is discharged on the surface of the ground or on the surface of the sidewalk or driveway, such ground or surface shall slope away from the building so that the surface water will be effectively disposed of away from the building. During stages of construction of the building, temporary downspouts and connections thereto directing the stormwater away from the building shall be provided if necessary.

(l) The responsibility and cost of effecting changes to existing building drainage are hereby decreed to be the joint responsibility of the owner, lessee and/or occupant, and the continuation of drainage contrary to the provisions set forth in this section is hereby decreed to be a public nuisance to be abated by suit by the city in any court of competent jurisdiction.

(Code 1989, § 1046.05; Ord. No. 604, 6-10-1980)

Sec. 46-102. - Plans and specifications.

All applicants for sewer connection permits shall first submit plans and specifications of all plumbing construction within the building or premises involved and such plans and specifications shall meet the requirements of the plumbing code of the city and all orders, rules and regulations of the state water resources commission or the state department of health. When such plans and specifications have been approved by the building official a construction permit shall be issued, subject to final inspection and approval when construction is completed and ready for connection with the city sewer system, as provided in section 46-101(h).

(Code 1973, § 2.75; Code 1989, § 1046.06)

Sec. 46-103. - Use of watercourses and public drains.

(a) All drainage water and unpolluted water, including unpolluted cooling water and unpolluted process water, shall be deposited into a watercourse or public drain.

(b) No sanitary sewage, industrial sewage, polluted water or wastes of any kind, solid or liquid, shall be discharged into a watercourse or public drain.

(Code 1989, § 1046.07; Ord. No. 604, 6-10-1980)

Sec. 46-104. - Use of public sewers.

(a) Except as otherwise permitted herein, all sanitary sewage shall be discharged into public sewers. However, no new connections to public sewers shall be allowed unless sufficient capacity for treatment of flows from such connections is available. Such flow capacity is subject to maximum flow limitations contained in contracts or agreements between the city, the South Macomb Sanitary District and the City of Detroit.

(b) Industrial sewage may be discharged into public sewers only upon issuance of an industrial sewage permit by the city and only when such sewage meets the requirements described in division 3 of this article.

(c) Drainage water and uncontaminated water shall not be discharged into public sewers.

(d) A user may not contribute substances to any POTW, which substances may be in violation of the general and special interim prohibitions of the City of Detroit's industrial waste control ordinance and/or division 3 of this article.

(e) The city shall conform its ordinances to all laws, ordinances, rules, regulations and orders of the City of Detroit, the state and orders of federal and state courts with reference to wastewater characteristics, collection and disposal and water pollution control.

(Code 1989, § 1046.08; Ord. No. 604, 6-10-1980; Ord. No. 788, 8-25-1992)

Sec. 46-105. - Interceptors.

(a) Grease, oil and sand interceptors shall be provided when, in the opinion of the plumbing inspector, the department of water and sewers and/or the state water resources commission, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any inflammable wastes, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be a type and capacity approved by the plumbing inspector, the department of water and sewers and/or the state water resources commission and shall be located so as to be readily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be substantially constructed, watertight and equipped with easily removable covers which when bolted in place shall be gastight and watertight.

(b) Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his or her expense, in continuously efficient operation at all times.

(c) Interceptors shall be placed outside of the building and a minimum of 25 feet from the last area that the device will service.

(Code 1973, § 2.82; Code 1989, § 1046.09)

Sec. 46-106. - Control manholes.

When required by the council or the state water resources commission, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the council. The manhole shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

(Code 1973, § 2.85; Code 1989, § 1046.10)

Sec. 46-107. - Measurements and tests.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in section 46-104 shall be determined in accordance with Standard Methods for the Examination of Water and Wastewater and shall be determined at the control manhole provided for in section 46-106 or upon suitable samples taken at such control manhole. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(Code 1973, § 2.86; Code 1989, § 1046.11)

Sec. 46-108. - Tampering with system.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewer or drainage or system treatment plant.

(Code 1973, § 2.88; Code 1989, § 1046.12)

Sec. 46-109. - Inspections; right of entry.

The building official or his or her designate and other duly authorized officials or employees of the city and agents of the state water resources commission, bearing proper credentials and identification, shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this division, at any time during reasonable or usual business hours. No person shall refuse or obstruct such entry.

(Code 1973, § 2.101; Code 1989, § 1046.13)

Secs. 46-110—-46-130. - Reserved.

DIVISION 3. - INDUSTRIAL WASTEWATER CONTROL

Sec. 46-131. - Definitions.

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

Act or *the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, being 33 USC 1251 et seq.

Authorized representative of industrial user means:

(1) Responsible corporate officer, where the industrial user submitting the reports required by this division is a corporation, who is either the president, vice-president, secretary, or treasurer of a corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000.00 in second-quarter 1980 dollars, when authority to execute documents has been assigned or delegated to said manager in accordance with corporate procedures; or

(2) A general partner or proprietor where the industrial user submitting the reports required by this article is a partnership or sole proprietorship, respectively. See section 46-135(n).

Available cyanide means the quantity of cyanide that consists of cyanide ion (CN), hydrogen cyanide in water (HCNaq), and the cyano-complexes of zinc, copper, cadmium, mercury, nickel and silver,

determined by EPA method OIA-1677, or other method designated as a standard method or approved under 40 CFR 136.

Best management practices (BMP) means programs, practices, procedures or other directed efforts initiated and implemented by the user which can or do lead to the reduction, conservation or minimization of pollutants being introduced into the ecosystem, including, but are not limited to the Detroit sewer system. BMPs include, but are not limited to, equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control and may include technical and economic considerations.

Biochemical oxygen demand (BOD) means the quality of dissolved oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure five days at 20 degrees Celsius expressed in terms of mass and concentration (milligrams per liter (mg/l)) as measured by Standard Methods.

Board means the board of water commissioners of the City of Detroit.

Bypass means the intentional diversion of a wastestream from any portion of an industrial user's treatment facility. See 40 CFR 403.17.

Centralized waste treatment (CWT) facility means any facility that treats any hazardous or nonhazardous industrial waste received from off-site by tanker truck, trailer roll-off bins, drums, barges, or any other forms of shipment, including:

(1) A facility that treats industrial waste received exclusively from off-site; and

(2) A facility that treats industrial waste generated on-site as well as industrial waste received from off site.

Compatible industrial wastewater means wastewater that is produced by an industrial user which has a pollutant strength or characteristics similar to those found in domestic wastewater, and which can be efficiently and effectively transported and treated with domestic wastewater.

Compatible pollutant means pollutants which can be effectively removed by the POTW treatment system to within the acceptable levels for the POTW residuals and the receiving stream.

Composite sample means a collection of individual samples which are obtained at regular intervals and collected on a time-proportional or flow-proportional basis over a specified period and which provides a representative sample of the average stream during the sampling period. A minimum of four aliquot per 24 hours shall be used where the sample is manually collected. See 40 CFR 403, Appendix E.

Confidential information means the information which would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user. See section 46-140.

Control authority means the Detroit Water and Sewerage Department which has been officially designated as such by the state under the provisions of 40 CFR 403.12. See 40 CFR 403.12(a).

Cooling water means the noncontact water discharged from any use such as air conditioning, cooling or refrigeration, and whose only function is the exchange of heat.

Days means consecutive calendar days for the purpose of computing a period of time prescribed or allowed by this chapter.

Department means the City of Detroit Water and Sewerage Department, and authorized employees of the department.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

Director means the director of the City of Detroit Water and Sewerage Department, or the director's designee.

Discharger means a person who, directly or indirectly, contributes, causes, or permits wastewater to be discharged into the POTW.

Domestic sewage means waste and wastewater from humans or household operations which is discharged to, or otherwise enters, a treatment works.

Environmental Protection Agency or *administrator* or *EPA administrator* means the United States Environmental Protection Agency or, where appropriate, the authorized representatives or employees of the EPA.

Facility means a location, which contributes, causes or permits wastewater to be discharged into the POTW including, but not limited to, a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable.

Fats, oils or grease (FOG) means any hydrocarbons, fatty acids, soaps, fats, waxes, oils, and any other nonvolatile material of animal, vegetable or mineral origin that is extractable by solvent in accordance with Standard Methods.

Flow proportional sample means a composite sample taken with regard to the flow rate of the wastestream.

Grab sample means an individual sample collected over a period of time not exceeding 15 minutes, which reasonably reflects the characteristics of the stream at the time of sampling.

Indirect discharge or *discharge* means the discharge or the introduction of pollutants into the POTW from any nondomestic source regulated under 33 USC 1317(b), (c) or (d).

Industrial user means a person who contributes, causes or permits wastewater to be discharged into the POTW, including, but not limited to, a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable but excludes single-family and multifamily residential dwellings with discharges consistent with domestic waste characteristics.

Industrial waste means any liquid, solid or gaseous waste or form of energy, or combination thereof, resulting from any processes of industry, manufacturing, business, trade or research, including the development, recovery or processing of natural resources.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation, or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder, or more stringent state or local regulations: section 405 of the clean water act, as amended, being 33 USC 1345, The Solid Waste Disposal Act (SWDA), as amended, including the resource conservation and recovery act (RCRA), and state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA, The Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

National categorical pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with 33 USC 1317 (b) and (c) which applies to a specific class or category of industrial users.

National pollutant discharge elimination system (NPDES) permit means a permit issued pursuant to 33 USC 1342.

New source means:

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under 33 USC 1317(c) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

a. The building, structure, facility or installation is constructed at a site where no other source is located;

b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site.

In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered;

(2) Construction on a site where an existing source is located resulting in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)b or (1)c of this definition but otherwise alters, replaces, or adds to existing process or production equipment; or

(3) Construction of a new source has commenced where the owner or operator has begun, or caused to begin as part of a continuous on-site construction program: any placement, assembly, or installation of facilities or equipment; or significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities that are necessary for the placement, assembly, or installation of new source facilities or equipment; or entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this section.

Pass through means discharge which exits the POTW into waters of the United States in quantities or concentrations, which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

pH means the intensity of the acid or base condition of a solution, calculated by taking the negative base 10 logarithm of the hydrogen ion activity. Activity is deemed to be equal to concentration in moles per liter.

Pollutant means any dredged soil, solid waste, incinerator residue, sewage garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, or industrial, municipal and agricultural waste which is discharged into water.

Pollution means the introduction of any pollutant that, alone or in combination with any other substance, can or does result in the degradation or impairment of the chemical, physical, biological or radiological integrity of water.

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater, including recycling and reclamation of wastewater.

Pretreatment means the reduction of the amount of pollutants, the removal of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction, removal or alteration may be attained by physical, chemical or biological processes, or process changes by other means, except as prohibited by federal, state or local law, rules and regulations.

Pretreatment requirements means any substantive or procedural requirements related to pretreatment, other than a national pretreatment standard imposed on an industrial user. (See 40 CFR 403.3(r).)

Pretreatment standards means all National Categorical Pretreatment Standards, the general prohibitions specified in 40 CFR 403.5(a), the specific prohibitions delineated in 40 CFR 403.5(b), and the

local or specific limits developed pursuant to 40 CFR 403.5(c), including the discharge prohibitions specified in section 46-135.

Public sewer means a sewer of any type controlled by a governmental entity.

Publicly owned treatment works (POTW) means a treatment works as defined by 33 USC 1292(2)(A) which is owned by a state or municipality, as defined in 33 USC 1362, including:

(1) Any devices and systems used in the storage, treatment, recycling, or reclamation of municipal sewage or industrial waste of a liquid nature;

(2) Sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant; or

(3) The municipality, as defined in 33 USC 1362, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

Quantification level means the measurement of the concentration of a contaminant obtained by using a specified laboratory procedure calculated at a specified concentration above the detection level. It is considered the lowest concentration at which a particular contaminant can be quantitatively measured using a specified laboratory procedure for monitoring of the contaminant.

Representative sample means any sample of wastewater, which accurately and precisely represents the actual quality, character, and condition of one or more pollutants in the wastestream being sampled. Representative samples shall be collected and analyzed in accordance with 40 CFR 136.

Sanitary wastewater means the portion of wastewater that is not attributable to industrial activities and is similar to discharges from domestic sources including, but not limited to, discharges from sanitary facilities and discharges incident to the preparation of food for on-site noncommercial consumption.

Significant industrial users means any user of the POTW who:

(1) Has an average discharge flow of 25,000 gallons per day or more of process wastewater excluding sanitary, boiler blowdown, and noncontact cooling water;

(2) Has discharges subject to the national categorical pretreatment standards;

(3) Requires pretreatment to comply with the specific pollutant limitations of this division;

(4) Has in its discharge toxic pollutants as defined pursuant to 33 USC 1317, or other applicable federal and state laws or regulations, that are in concentrations and volumes which are subject to regulation under this division as determined by the department;

(5) Is required to obtain a permit for the treatment, storage or disposal of hazardous waste pursuant to regulations adopted by the state or adopted under the Federal Solid Waste Disposal Act, as amended by the Federal Resource Conservation and Recovery Act, as amended, and may or does contribute or allow waste or wastewater into the POTW including, but not limited to, leachate or runoff; or

(6) Is found by the City of Detroit or City of Eastpointe to have a reasonable potential for adverse effect, either singly or in combination with other contributing industries, on the POTW operation, the quality of sludge, the POTW's effluent quality, or air emissions generated by the POTW.

Significant noncompliance means any violation which meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all of the measurements taken during a six-month period exceed by any magnitude the daily maximum limit or the average limit for the same parameter;

(2) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the department determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to human health or welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority;

(5) Failure to meet a compliance schedule milestone contained in a local control mechanism, or enforcement order for starting construction, completing construction, or attaining final compliance within 90 days after the scheduled date;

(6) Failure to provide required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within 30 days after the due date;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations which the department determines will adversely affect the operation or implementation of the local pretreatment program.

Slug means any discharge of a nonroutine episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge.

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, 1987, as amended.

Standard Methods means methods set forth in 40 CFR 136, Guidelines for Establishing Test Procedures for Analysis of Pollutants or the laboratory procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation. Where these two references are in disagreement regarding procedures for the analysis of a specific pollutant, the methods given in 40 CFR 136 shall be followed.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Suspended solids (total) means the total suspended matter which floats on the surface of, or is suspended in, water, wastewater or other liquids, and is removable by laboratory filtration or as measured by Standard Methods.

Total PCB means the sum of the individual analytical results for each of the PCB aroclors 1016, 1221, 1232, 1242, 1248, 1254, and 1260 during any single sampling event with any aroclor result less than the quantification level being treated as zero.

Total phenolic compounds means the sum of the individual analytical results for each of the phenolic compounds of 2-chlorophenol, 4-chlorophenol, 4-chloro-3-methylphenol, 2, 4-dichlorophenol, 2, 4-dinitrophenol, 4-methylphenol, 4-nitrophenol, and phenol during any single sampling event expressed in mg/l.

Toxic pollutant means any pollutant or combination of pollutants designated as toxic in regulations promulgated by the administrator of the U.S. Environmental Protection Agency under the provisions of the Clean Water Act, being 33 USC 1317, or included in the critical materials register promulgated by the state department of environmental quality, or by other federal or state laws, rules or regulations.

Trade secret means the whole, or any portion or phase, of any proprietary manufacturing process or method, not patented, which is secret, is useful in compounding an article of trade having a commercial value, and whose secrecy the owner has taken reasonable measures to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes but excludes any information regarding the quantum or character of waste products or their constituents discharged or sought to be discharged into the City of Detroit wastewater treatment plant, or into the wastewater system tributary thereto.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with limits imposed under this chapter or with national categorical pretreatment standards due to factors beyond the reasonable control of the industrial user but excludes noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

User means any person who, directly or indirectly, contributes, causes or permits the discharge of wastewater into the POTW.

Wastewater or*wastestream* means the liquid and water-carried industrial or domestic wastes of dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which are contributed to or permitted to enter the POTW, including infiltration and inflow waters, stormwater, and cooling water.

Wastewater discharge permits means permits issued by the department in accordance with section 46-137.

Waters of the state means groundwater, lakes, rivers, streams, all other watercourses and waters within the confines of the state as well as bordering the state in the form of the Great Lakes.

(b) For purposes of this division, the following acronyms shall have the meanings designated by this section:

BMR	Baseline monitoring report
BOD	Biochemical oxygen demand
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
FOG	Fats, oil or grease
l	liter
MDEQ	State department of environment quality
mg	milligrams
mg/l	milligrams per liter
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly owned treatment works
RCRA	Resource Conservation and Recovery Act, being 42 USC 6901 et seq.
SIC	Standard industrial classification

SWDA	Solid Waste Disposal Act, being 42 USC 6901 et seq.
TSS	Total suspended solids
USC	United States Code

(Code 1989, § 1048.04; Ord. No. 967, 12-20-2005)

Sec. 46-132. - Delegation of authority.

The City of Detroit, through the Detroit Water and Sewerage Department, as the state-approved control authority, is authorized to administer and enforce the provisions of this division on behalf of the city. The city has executed and hereby ratifies its delegation agreement with the City of Detroit through the Detroit Water and Sewerage Department, which sets forth the terms and conditions of such delegated authority, consistent with this division, and shall allow the Detroit Water and Sewerage Department to perform the specific responsibilities of control authority pursuant to state and federal law.

(Code 1989, § 1048.01; Ord. No. 967, 12-20-2005)

Sec. 46-133. - Purposes; objectives.

(a) The purpose of this division is the protection of the environment, and of public health and safety by abating and preventing pollution through the regulation and control of the quantity and quality of wastes admitted to or discharged into the wastewater collection and treatment system under the jurisdiction of the city and enabling the city to comply with all applicable state and federal laws required by the Federal Water Pollution Control Act, being 33 USC 1251 et seq., and the General Pretreatment Regulations, being 40 CFR 403.

(b) The objectives of this division are:

(1) To prevent the introduction of pollutants into the wastewater system which will interfere with the operation of the system or contaminate the resulting sludge, or will pose a hazard to the health or welfare of the people or of employees of the City of Detroit Water and Sewerage Department;

(2) To prevent the introduction of pollutants into the wastewater system which will pass inadequately treated through the system into receiving waters, the atmosphere or the environment, or otherwise be incompatible with the system;

(3) To improve the opportunity to recycle or reclaim wastewater or sludge from the system in an economical and advantageous manner; and

(4) To provide for the recovery of the costs from users of the wastewater collection and treatment system sufficient to administer regulatory activities and meet the costs of the operation, maintenance, improvement or replacement of the system.

(c) This division provides for the regulation of contributors to the City of Detroit and City of Eastpointe wastewater collection and treatment system through the issuance of wastewater discharge permits to certain users and through the enforcement of general requirements for all users, authorizes monitoring and enforcement, and authorizes fees and penalties.

(Code 1989, § 1048.02; Ord. No. 967, 12-20-2005)

Sec. 46-134. - Authority.

By virtue of the obligations and authority placed upon the city by the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, being (33 USC 1251 et seq.); the 1963 Constitution of the State of Michigan; Part 31 of Public Act No. 451 of 1994 (MCL 324.3101 et seq.); the 1997 City of Eastpointe Charter; the National Pollutant Discharge Elimination System (NPDES) permit for the City of Detroit Publicly Owned Treatment Works (POTW); the Consent Judgment in *U.S. EPA* v. *City of Detroit et al,* Federal District Court for the Eastern District of Michigan Case No. 77-1100, as amended; and existing or future contracts between the board of water commissioners and suburban communities or other governmental or private entities; or by virtue of common law usage of the system, this chapter shall apply to every user contributing or causing to be contributed, or discharging, pollutants or wastewater into the wastewater collection and treatment system of the City of Detroit POTW.

(Code 1989, § 1048.03; Ord. No. 967, 12-20-2005)

Sec. 46-135. - Discharge prohibitions.

(a) *General pollutant prohibitions.* No user shall discharge or cause to be discharged into the POTW, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general discharge prohibitions shall apply to all users of the POTW whether or not the user is subject to national categorical pretreatment standards or to any other federal, state, or local pretreatment standards or requirements. In addition, it shall be unlawful for a user to discharge into the POTW:

(1) Any liquid, solid or gas, which by reason of its nature or quantity, is sufficient either alone or by interaction with other substances to create a fire or explosion hazard or to be injurious in any other way to persons, to the POTW, or to the operations of the POTW. Pollutants, which create a fire or explosion hazard in a POTW, include, but are not limited to, wastestreams with a closed cup flash point of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21;

(2) Any solid or viscous substance in concentrations or quantities, which are sufficient to cause obstruction to the flow in a sewer or other encumbrances to the operation of the POTW, including, but not limited to, grease, animal guts or tissues, bones, hair, hides or fleshing, entrails, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent grains, spent hops, wastepaper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubrication oil, mud or glass grinding or polishing wastes, or tumbling and deburring stones;

(3) Any wastewater having a pH of less than 5.0 units or greater than 11.5 units;

(4) Any wastewater containing petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin, or toxic pollutants in sufficient concentration or quantity either singly or by interaction with other pollutants to cause interference, or pass-through, or constitute a hazard to humans or animals;

(5) Any liquid, gas, solid or form of energy, which either singly or by interaction with other waste is sufficient to create toxic gas, vapor, or fume within the POTW in quantities that may cause acute worker health and safety problems, or may cause a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair;

(6) Any substance which is sufficient to cause the POTW's effluent or any other product of the POTW, such as residue, sludge, or scum to be unsuitable for reclamation processing where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria guidelines or regulations developed under 33 USC 1345, with any criteria, guidelines, or developed and promulgated regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Toxic Substances Control Act, or with state criteria applicable to the sludge management method being used;

(7) Any substance which will cause the POTW to violate either the Consent Judgment in *U.S. EPA* v. *City of Detroit et al,* Federal District Court for the Eastern District of Michigan Case No. 77-1100, or the City of Detroit's National Pollutant Discharge Elimination System permit;

(8) Any discharge having a color uncharacteristic of the wastewater being discharged;

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into a public sewer which exceeds 150 degrees Fahrenheit or which will cause the influent at the wastewater treatment plant to rise above 104 degrees Fahrenheit (40 degrees Celsius);

(10) Any pollutant discharge which constitutes a slug;

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable federal or state regulations;

(12) Any floating fats, oil or grease which are sufficient to cause interference with or pass through the POTW; or

(13) Any solid materials having a specific gravity greater than 1.2 or a cross section dimension of one-half inch or greater which are sufficient to cause interference with the POTW.

(b) *Specific pollutant prohibitions.* No user shall discharge wastewater containing in excess of the following limitations:

(1) *Compatible pollutants.* See section 46-146.

(2) *Noncompatible pollutants.* No user shall discharge wastewater containing in excess of:

Arsenic (As)	1.0 mg/l
Cadmium (Cd)	See section 46-146
Chromium (Cr)	25.0
Copper (Cu)	2.5
Cyanide (CN) (available)	1.0
Iron (Fe)	1000.0
Lead (Pb)	1.0
Nickel (Ni)	5.0
Silver (Ag)	1.0
Zinc (Zn)	7.3
Total phenolic compounds or see section 46-145	1.0

All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance with 40 CFR 136.

a. The limitation for Total PCB is nondetect. Total PCB shall not be discharged at detectable levels, based upon U.S. EPA Method 608, and the quantification level shall not exceed 0.2 µgm/l, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one or more samples indicate detectable levels of Total PCB, the user shall be required to demonstrate compliance. For purposes of this section, this demonstration may be made using analytical data showing that the Total PCB concentration is below the detection level, or submission of a BMP in accordance with 56-3-66.1(d).

b. The limitation of mercury (Hg) is nondetect. Mercury (Hg) shall not be discharged at detectable levels, based upon U.S. EPA Method 245.1, and the quantification level shall not exceed 0.2 µgm/l, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one or more samples indicate detectable levels of mercury, the user shall be required to demonstrate compliance. For the purposes of this section, this demonstration may be made using analytical data showing that the mercury concentration is below the detection level, or submission of a BMP in accordance with 56-3-66.1(d). All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance with 40 CFR 136.

(3) *Compliance period.* Within 30 days of the effective date of the ordinance from which this division is derived, the department shall notify all industrial user's operating under an effective wastewater discharge permit of the requirement to submit a compliance report within 180 days after the effective date of the ordinance from which this division is derived. The compliance report shall demonstrate the user's compliance or noncompliance with these limitations, and, in the event of noncompliance, include the submission of a plan and schedule for achieving compliance with the stated limitation. In no event shall a compliance schedule exceed 18 months from the effective date of the ordinance from which this division is derived. An industrial user who does not demonstrate compliance may petition the department for a second extension as part of an administrative consent order. The department shall include appropriate monitoring, reporting, and penalties into an administrative consent order that relates to a second extension, and shall enter into such an agreement only upon a good-faith showing by the industrial user of the actions taken to achieve compliance with this provision.

(c) *National categorical pretreatment standards.* All users shall comply with the applicable national categorical pretreatment standards and requirements promulgated pursuant to the act as set forth in 40 CFR Subchapter N, Effluent Guidelines and Standards, which are hereby incorporated by reference and with all other applicable standards and requirements, provided, that where a more stringent standard or requirement is applicable pursuant to state law or regulation, or to this division, then the more stringent standard or requirement shall be controlling. Affected dischargers shall comply with applicable reporting requirements under 40 CFR 403 and as established by the department. The national categorical pretreatment standards which have been promulgated as of the effective date of the ordinance from which this section is derived are delineated in section 46-144.

(1) *Intake water adjustment.* Industrial users seeking adjustment of national categorical pretreatment standards to reflect the presence of pollutants in their intake water must comply with the requirements of 40 CFR 403.15. Upon notification of approval by the department, the adjustment shall be applied by modifying the permit accordingly. Intake water adjustments are not effective until incorporated into an industrial user's permit.

(2) *Modification of national categorical pretreatment standards.* The department may apply to the U.S. Environmental Protection Agency, or to the state department of environmental quality, whichever is appropriate, for authorization to grant removal credits in accordance with the requirements and procedures in 40 CFR 403.7. Such authorization may be granted only when the POTW treatment plant can achieve consistent removal for each pollutant for which a removal

credit is being sought, provided, that any limitation of such pollutant in the NPDES permit neither are being exceeded nor pose the prospect of being exceeded as a result of the removal credit being granted. Where such authorization is given to the department, any industrial user desiring to obtain such credit shall make an application to the department, consistent with the provisions of 40 CFR 403.7 and of this chapter. Any credits which may be granted under this section may be subject to modification or revocation as specified in 40 CFR 403.7, or as determined by the department. A requisite to the granting of any removal credit may be that the industrial user pay a surcharge based upon the amounts of such pollutants removed by the POTW, such surcharge being based upon fees or rates which the board may establish and, when appropriate, revise from time to time. Permits shall reflect, or be modified to reflect, any credit granted pursuant to this section.

(3) *New sources.* Industrial users who meet the new sources criteria shall install, maintain in operating condition, and start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time and not to exceed 90 days, new sources must meet all applicable pretreatment standards.

(4) *Concentration and mass limits.* When limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the department may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users. Equivalent limitations shall be calculated in accordance with sections 40 CFR 403.6(c)(3) and/or 40 CFR 403.6(c)(4) and shall be deemed pretreatment standards for the purposes of 33 USC 1317(d) and of this division. Industrial users will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(5) *Reporting requirements for industrial users upon effective date of categorical pretreatment standards-baseline report.* Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under section 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging into or scheduled to discharge into the City of Detroit POTW shall submit to the department a report containing the information listed in 40 CFR 403.12(b)(1) through (7). Where reports containing this information have already been submitted to the director or regional administrator in compliance with the requirement of 40 CFR 128.140(b), the industrial user will not be required to resubmit this information. At least 90 days before commencement of any discharge, each new source and any existing sources that become industrial users after the promulgation of an applicable categorical pretreatment standard shall submit to the department a report which contains the information listed in 40 CFR 403.12(b)(1) through (5). In such report, new sources shall include information concerning the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall provide estimates of the information requested in 40 CFR 403.12(b)(4) and (5).

(d) *Dilution prohibited.* Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no user shall increase the use of process water, or in any way dilute or attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or in any other pollutant specific limitation or requirement imposed by the City of Eastpointe, the City of Detroit or by the state.

(e) *Hauled in wastewater.* Any waste material or wastewater which is hauled into or within the service region for discharge to the POTW is subject to the requirements of this chapter including, but not limited to, permits, inspection, monitoring and enforcement. Unloading liquid or solid waste from hauling vehicles, directly or indirectly, into the POTW, with or without the benefit of pretreatment, is prohibited unless the person proposing to unload such waste has applied for and received a permit from the department for unloading such waste in accordance with the board's rules pertaining thereto. The discharger shall be subject to applicable terms and conditions, surcharges, fees or rates as

established by the board. Hauled in wastewater shall only be discharged at points designated by the POTW after authorization or approval issued pursuant to the general permit requirements specified in section 46-137. The department may establish specific limitations for sludge from municipally owned or operated POTW treatment plants which are different than the specific limitations in this chapter.

(f) *Centralized waste treatment.* It is unlawful for a centralized waste treatment (CWT) facility to discharge any industrial waste or wastewater into the POTW without a wastewater discharge permit from the department. Any authorization granted, or permit issued, by the department to a centralized waste treatment (CWT) facility shall specify the type of wastewater for which treatment is provided, and discharge approval is sought, from the POTW. Unless such industrial waste or wastewater is determined by the department to require further authorization, a centralized waste treatment (CWT) facility that has submitted an application to, and received previous approval from, the department to discharge wastewater is not required to obtain further authorization from the department before discharging such wastewater. An industrial user, that provides centralized waste treatment services and files an application for the treatment and discharge of such types of wastewater to the POTW, shall provide the following minimum information in support thereof:

(1) The general nature, source and process generating the type of wastewater. Any wastewater, which is generated from those processes and is subject to national categorical pretreatment standards as delineated in section 46-144, shall be so designated;

(2) The identity of the toxic pollutants known or suspected to be present in the wastewater;

(3) At least one sample report showing the results of an analysis for the EPA priority pollutants for each type of wastewater for which application is made in subsection (f)(1) of this section;

(4) A statement, that is certified by a professional engineer, which addresses the treatability and compatibility of the wastewater, received or collected by the facility's treatment process;

(5) The identity of the materials and/or pollutants whose transport or treatment are regulated by the EPA, by the state, or by any other governmental agency. Upon request, the centralized waste treatment (CWT) facility shall provide a copy of its permit and/or license to the department; and

(6) Other information requested by the department including, but not limited to, information required by section 46-137(c)(1) through (18), or by rules adopted by the board. The discharge from a centralized waste treatment (CWT) facility will be deemed approved for those specific types of wastewater delineated in a permit and, upon issuance of such permit in accordance with the procedures contained in section 46-137, will be deemed approved for discharge into the POTW. The centralized waste treatment (CWT) facility shall comply with all applicable provisions contained in section 46-137 regarding permits. In furtherance of its obligations as control authority, the department may include in the permit a requirement to report at selected intervals the information mandated in subsections (f)(1) through (f)(6) of this section.

All users granted a permit under this section shall maintain records which, at a minimum, identify the source, volume, character, and constituents of the wastewater accepted for treatment and disposal. These records may be reviewed at any time by the department.

(g) *Groundwater discharges.*

(1) Unless authorization has been granted by the department, the discharge of any groundwater into the POTW is prohibited.

(2) The department may authorize the discharge of groundwater resulting from maintenance and related activities of gas, steam, or electrical utilities through the use of general permits. Subject to appropriate reporting requirements, the general permit shall authorize discharge in accordance with the terms of the permit. Utilities shall comply with this provision within 180 days after its enactment.

(3) If a person, who proposes to discharge groundwater resulting from purge, response activity, or UST projects, has applied for and received a permit from the department, the department may

authorize the discharge of such wastewater. Permits shall be issued in accordance with the procedures contained in section 46-137, or in accordance with any rules adopted by the board.

(h) *City of Eastpointe right of revision.* The City of Detroit and the City of Eastpointe reserve the right to establish rules or regulations adopted by the board, additional or more stringent limitations or requirements on discharges to the POTW. These rules and regulations shall be adopted in accordance with the rule-making procedures section 2-111 of the 1997 Detroit City Charter. Ninety days after adoption by the board, industrial users shall comply with such rules and regulations.

(i) *Accidental discharges.*

(1) Each industrial user, which does not currently have an approved spill prevention plan or slug control plan, shall provide protection from accidental discharge of prohibited materials or other substances regulated by this division, and all significant industrial users shall submit to the department detailed plans which show facilities and operating procedures to be implemented to provide protection against such accidental discharges. Facilities and measures to prevent and abate accidental discharges shall be implemented, provided, and maintained at the owner's or industrial user's cost or expense. Unless the significant industrial user has an approved spill prevention or slug control plan, all existing significant industrial users shall complete and submit such a plan within 60 days of the effective date of the ordinance from which this division is derived (November 19, 1986). New significant industrial users shall submit such a plan prior to the time they commence discharging. For purposes of this section, the information provided shall include the approximate average and maximum quantities of such prohibited materials or substances kept on the premises in the form of raw materials, chemicals and/or waste therefrom and the containment capacity for each. Only substances that are in a form which could readily be carried into the POTW and constitute a concentration of five percent or greater in the raw material, chemical solution or waste material, are required to be reported. Volumes of less than 55 gallons, or the equivalent thereof, need not be reported unless lesser quantities could cause pass-through or cause interference with the POTW.

The industrial user shall promptly notify the department of any significant changes or modifications to the plan, including, but not limited to, a change in the contact person, or substance inventory.

(2) At least once every two years, the department shall evaluate whether a significant industrial user needs a plan to control slug discharges, as defined by 40 CFR 403.8(f)(2)(v). Unless otherwise provided, all significant users shall complete, implement, and submit such a plan within 30 days of notification by the department.

(j) *Notification requirements.* Unless a different notice is provided by this division or applicable law, within one hour of becoming aware of a discharge into the POTW which exceeds or does not conform with federal, state or city laws, rules, regulations or permit requirements, or which could cause problems to the POTW, or which has the potential to cause the industrial user to implement its plan prepared in accordance with subsection (i)(1) of this section, the industrial user shall telephone the department at its control center and notify the department of the discharge. The notification shall include the name of the caller, the location and time of discharge, the type of wastewater, the estimated concentration of excessive or prohibited pollutants and estimated volume, and the measures taken, or being taken, to abate the discharge into the POTW. Within five calendar days after the discharge, the industrial user shall submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences and when required by the department, the industrial user's wastewater discharge permit may be modified to include additional measures to prevent such future occurrences. Such notification shall not relieve the industrial user of any expense, cost of treatment, loss, damages or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other environmental impairment or any other damage to persons or property.

(k) *Notice to employees.* A notice shall be permanently posted on the industrial user's bulletin board, or other prominent place, advising employees whom to contact in the department in the event of an actual or excessive or prohibited discharge.

(l) *Recovery of costs.* Any user discharging in violation of any of the provisions of this division, which produces a deposit or obstruction, or causes damage to or impairs the department's POTW, or causes the department to violate its NPDES permit, shall be liable to the department for any expense, loss, damage, penalty or fine incurred by the department because of said violation or discharge. Prior to assessing such costs, the department shall notify the user of its determination that the user's discharge was the proximate cause of such damage, obstruction, impairment, or violation of the city's NPDES permit and the department's intent to assess such costs to the user. Any such notice shall include written documentation which substantiates the determination of proximate cause and a breakdown of cost estimates. Failure to pay the assessed costs shall constitute a violation of this division. Such charge shall be in addition to, and not in lieu of, any penalties or remedies provided under this division, or this Code, or other statutes and regulations, or at law or in equity.

(m) *Hazardous waste notification.* All industrial users, who discharge into the city collection system, shall notify the department in writing of any discharge of a substance which, if otherwise disposed of, would be a hazardous waste as set forth in 40 CFR 261. Such notification must comply with the requirements of 40 CFR 403.12(p).

(n) *Authorized representative.* The authorized representative, as defined in section 46-131, may designate a duly authorized representative of the individual designated in section 46-131 where:

(1) The authorization is made in writing by the individual defined in section 46-131;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility where the industrial discharge originates, such as the position of plant manager, operator of a well or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(3) The written authorization is submitted to the department.

(o) *Pollution prevention.* The department shall encourage and support industrial users to develop and implement pollution prevention programs that are designed to eliminate or reduce pollutant contributions beyond the levels required by this division. The department may require an industrial user to implement pollution prevention initiatives or BMP, as part of an enforcement response, or as necessary to comply with its NPDES permit.

(Code 1989, § 1048.05; Ord. No. 967, 12-20-2005)

Sec. 46-136. - Fees.

(a) The purpose of this section is to provide for the recovery of costs from users of the POTW. The applicable charges or fees established by the board shall be sufficient to meet the costs of the operation, maintenance, improvement or replacement of the system, or as provided by law or by board action.

(b) The board shall adopt charges and fees which shall include, but not be limited to:

(1) Fees for reimbursement of costs of establishing, operating, maintaining, or improving the department's industrial waste control and pretreatment programs;

(2) User fees based upon volume of waste and concentration or quantity of specific pollutants in the discharge, and treatment costs including sludge handling and disposal;

(3) Reasonable fees for reimbursement of costs for hearings, including, but not limited to, expenses regarding hearing officers, court reporters, and transcriptions; and

(4) Other fees, which the board may deem necessary, to carry out the requirements contained herein, or as may be required by law.

(Code 1989, § 1048.06; Ord. No. 967, 12-20-2005)

Sec. 46-137. - Wastewater discharge permits.

(a) *Required.* It shall be unlawful for users to discharge into the POTW any wastewater which will cause interference or pass-through, or otherwise not comply with the discharge prohibitions of section 46-135. It shall be unlawful for a significant industrial user to discharge into the POTW without a wastewater discharge permit from the City of Detroit Water and Sewerage Department. Unless otherwise expressly authorized by the department through permit, order, rule or regulation, any discharge must be in accordance with the provisions of this division.

(1) All significant industrial users, which are in existence on the effective date of the ordinance from which this division is derived, shall apply for a wastewater discharge permit within 30 days of the effective date of the ordinance from which this division is derived. Significant industrial users who are currently operating with a valid wastewater discharge permit are not subject to this provision. These applications are to include all information specified in subsection (c) of this section and, where applicable, any additional information which may be needed to satisfy the federal baseline monitoring report requirements of 40 CFR 403.12(b).

(2) All new significant users shall apply for a wastewater discharge permit at least 90 days prior to commencement of discharge. The application must include all information specified in subsection (c) of this section and, where applicable, any additional information that may be needed to satisfy the federal BMP requirements of 40 CFR 403.12(b). Until a permit is issued and finalized by the department, no discharge shall be made into the POTW.

(3) Any user, who proposes to discharge any wastewater other than sanitary or noncontact cooling water into the POTW, shall request approval from the department for the discharge at least 30 days prior to the commencement of the discharge.

(b) *Permit application or reapplication.* The department may require any user to complete a questionnaire and/or a permit application and to submit the same to the department for determining whether the industrial user is a significant user, or to determine changes in the wastewater discharges from a user's facility. Within 30 days of being so notified, a user shall comply with the department's request in the manner and form prescribed by the department. Failure of the department to so notify a user shall not relieve the user of the duty to obtain a permit as required by this division.

(1) A user, which becomes subject to a new or revised national categorical pretreatment standard, shall apply for a wastewater discharge permit within 90 days after the promulgation of the applicable national categorical pretreatment standard, unless an earlier date is specified or required by 40 CFR 403.12(b). The existing user shall provide a permit application which includes all the information specified in subsections (c) and (g) of this section.

(2) A separate permit application shall be required for each separate facility.

(3) Existing permittees shall apply for permit reissuance a minimum of 90 days prior to the expiration of existing permits on a form prescribed by the department.

(c) *Application or reapplication information.* In support of an application or reapplication for a wastewater discharge permit, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

(1) Corporate or individual name, any assumed name, federal employer identification number, address, and location of the discharging facility;

(2) Name and title of the authorized representative of the industrial user who shall have the authority to bind the industrial user financially and legally;

(3) All SIC numbers of all processes at this location according to the Standard Industrial Classification Manual, issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended;

(4) Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application form. Such parameters shall include those applicable pollutants having numeric

limitations as enumerated in section 46-135, those pollutants limited by national categorical pretreatment standards regulations for applicable industries and any toxic pollutants known or suspected to be present in the discharge, regulated in the previous permit, or specifically requested by the Detroit Water and Sewerage Department. For each parameter, the expected or experienced maximum and average concentrations during a one-year period shall be provided. For industries subject to national categorical pretreatment standards or requirements, the data requested herein shall be separately shown for each categorical process wastestream. Combined wastestreams proposed to be regulated by the combined wastestream formula shall also be identified. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to 33 USC 1314(g) and contained in 40 CFR 136, as amended. Where 40 CFR 136 does not include sampling or analytical techniques for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the administrator;

(5) A listing and description of activities, facilities and plant processes on the premises. Those processes, which are subject to national categorical pretreatment standards or requirements, shall be so designated. As pertains to subsection (c)(4) of this section, identify which pollutants are associated with each process;

(6) Restricted to only those pollutants referred to in subsection (c)(4) of this section, a listing of raw materials and chemicals which are either used in the manufacturing process or could yield the pollutants referred to in subsection (c)(4) of this section. Any user claiming immunity from having to provide such information for reasons of national security shall furnish acceptable proof of such immunity;

(7) A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the seven days of the week;

(8) Denote the average and maximum 24-hour wastewater flow rates, including, if any, daily, monthly and seasonal variations; each national categorical process wastestream flow rate and the cooling water, sanitary water and stormwater flow rates separately for each connection to the POTW; and each combined wastestream;

(9) A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW; also a flow schematic showing which connections receive each national categorical process wastestream and which connections receive stormwater, sanitary water or cooling water; also show which lines handle each combined wastestream. This schematic shall be cross-referenced to the information furnished in subsection (c)(8) of this section;

(10) Each product produced by type, amount, process or processes and rate of production as pertains to processes subject to production based limits under the national categorical pretreatment standards or requirements only;

(11) A statement regarding whether or not the requirements of this division and of the national categorical pretreatment standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance work and/or additional construction is required for the industrial user to meet the applicable standards and requirements. This statement shall be reviewed and signed by the authorized representative and, as appropriate, certified by a qualified professional;

(12) Basic information on the program for the prevention of accidental discharges in accordance with the requirements of section 46-135(i);

(13) Proposed or actual hours of operation of each pretreatment system for each production process;

(14) A schematic and description of each pretreatment facility which identifies whether each pretreatment facility is of the batch type or continuous process type;

(15) If other than Detroit Water and Sewerage Department potable water, the industrial user's source of intake water together with the types of usage and disposal method of each water source, and the estimated wastewater volumes from each source;

(16) If additional construction and/or operation and maintenance procedures will be required to meet the requirements of this division and the national categorical pretreatment standards, the shortest schedule by which the user will provide such additional construction and/or implement the required operation and maintenance procedures;

(17) Whether the user has conducted a waste minimization assessment or audit of its operations in order to identify all feasible source reduction and recycling practices that may be employed to reduce or eliminate the generation of pollutants and other waste at the facility; and

(18) Any other information as may reasonably be required to prepare and process a wastewater discharge permit.

(d) *Permit issuance.* Upon receipt of an application, the department shall review the application, determine, and so notify the industrial user in writing regarding any of the following:

(1) The industrial user does not meet the definition of a significant industrial user and is not required to have a wastewater discharge permit;

(2) The industrial user does meet the definition of a significant industrial user but is found by the department to have no reasonable potential for adversely affecting the POTW operation or for violating any pretreatment standard or requirement, and is not required to have a wastewater discharge permit. The department shall make such determination in accordance with the requirements of 40 CFR 403.8(f)(6);

(3) The application is incomplete or the information only partially satisfies the information and data required by 40 CFR 403.12 or by the department, and that additional information and data are required which shall be promptly furnished. Where appropriate, the industrial user is notified regarding specific information that is missing, or that the application is unacceptable;

(4) The industrial user is required to have a wastewater discharge permit. The department shall notify the industrial user of its determination and the basis of the determination. The department may withhold issuance of a permit to a significant user, which has not submitted an adequate or timely report, or permit application, to the department as the control authority in accordance with the reporting requirements of 40 CFR 403.12, or whose discharge is in violation of this division. If the department determines that an industrial user is required to have a wastewater discharge permit and has evaluated and accepted the data furnished, the industrial user will be notified accordingly by certified mail. The notification shall contain a copy of the draft permit, so marked, for the industrial user's review. An industrial user has 30 days from the date of mailing to file a response to the draft permit and, in accordance with the procedures contained in section 46-144, 20 days from the date of mailing to file an appeal regarding a permit issued as final. Upon disposition by the department of any contested terms or conditions, a permit shall be issued as final. Only one facility location shall be included in each permit.

(e) *Permit conditions.* Wastewater discharge permits shall contain all requirements of 40 CFR 403.8(f)(1)(iii) and shall be deemed to incorporate all provisions of this division, other applicable laws, rules, regulations, and user charges and fees established by the City of Detroit or the City of Eastpointe without repetition therein. In addition, permits may contain the following:

(1) Limits on the average and maximum wastewater constituents or characteristics which are equivalent, more restrictive than, or supplemental to the numeric limits enumerated in section 46-135, or the applicable national categorical pretreatment standards;

(2) Limits on average, and maximum rate and time of discharge or requirements for flow regulation and equalization;

(3) Requirements for installation, operation, and maintenance of discharge sampling manholes and monitoring facilities by the industrial user;

(4) Restrictions on which of the user's discharge wastestreams are to be allowed to be discharged at each point of connection to the POTW;

(5) Specifications for industrial user monitoring programs which may include sampling locations, frequency and type of sampling, number, types and standards for tests and reporting schedules;

(6) Requirements for the prevention of accidental discharges and the containment of spills or slug discharges;

(7) Restrictions based on the information furnished in the application;

(8) Additional reporting requirements:

a. All permittees shall submit a report on the form prescribed by the department, or on an alternative form approved by the department, indicating the status of compliance with all conditions enumerated or referred to in the wastewater discharge permit, or made applicable to the permit by this division. Unless required more frequently, the reports shall be submitted at six-month intervals on a schedule to be established by the department. Analytical data generated by the department may not be submitted in lieu of the facility's own monitoring data as required by the wastewater discharge permit.

b. Permittees not subject to national categorical pretreatment standards or requirements shall submit a report in accordance with the requirements of subsections (e)(8)d. and e. of this section. The report shall show the concentration of each substance for which there is a specific limitation in the permit, or which may be identified by the department in accordance with subsections (e)(9) and (11) of this section.

c. Permittees subject to national categorical pretreatment standards or requirements shall submit compliance reports at the times and intervals specified by federal regulations and by the department. A compliance report shall be submitted to the department no later than 90 days following the final compliance date for a standard, or in the case of a new source, no later than 90 days following commencement of the introduction of wastewater into the POTW, and in accordance with 40 CFR 403.12(d). A report on continued compliance shall be submitted at six-month intervals thereafter on the schedule established by the department and incorporated into the industrial users discharge permit and in accordance with subsections (e)(8)d. and e. of this section. The reports shall be either on a form prescribed by the department or on an alternate form approved by the department, and shall indicate the nature and concentration of all pollutants in the discharge from each regulated process which are limited by national categorical pretreatment standards, or on which there is a specific limitation in the permit, or which may be identified by the department in accordance with subsections (e)(9) and (11) of this section. The report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharges regulated by the permit. The combined wastestream formula may be used for reporting purposes after the initial information has been furnished to the department, provided there have been no changes to the elements composing the combined wastestream.

d. Reports shall contain the results of representative sampling performed during the period covered by the report and of the discharge and analysis of pollutants contained therein, and, for significant industrial users subject to production based standards, shall be cross-referenced to the related flow or production and mass as required to determine compliance with the applicable pretreatment standards. The frequency of monitoring shall be as prescribed in the applicable general pretreatment regulations, being 40 CFR 403, or by the department, but no less than is necessary to assess and assure compliance by the industrial user with the most stringent applicable pretreatment standards and requirements. All sampling and analysis shall be performed in accordance with applicable regulations contained in 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not include sampling or analytical techniques for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the administrator. If an industrial user monitors any pollutant more frequently than required by the department using the procedures as prescribed in this section, the results of this monitoring shall be included

in such report. The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional operation and maintenance practices and/or pretreatment system improvements or changes are necessary to bring the industrial user into compliance with the applicable pretreatment standards.

e. This report, and those required under section 46-135 and subsections (e)(8)b. and c. of this section, shall include the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction, or supervision, in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person who manages the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and/or imprisonment for knowing violations."

Said certification shall be signed by the facility's authorized representative, as defined in section 46-131. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of the authorized representative definition must be submitted to the department prior to, or together with, any reports to be signed by an authorized representative.

f. If sampling performed by a permittee indicates a violation, the user shall notify the department within 24 hours of the time said user becomes, or should have become, aware of the violation. In addition, the user shall repeat the sampling and analysis, and submit the results of the repeat analysis to the department within 30 days after said user becomes or should have become aware of the violation.

(9) In the event the director determines that an industrial user is discharging substances in quality, quantity or at locations which may cause problems to the POTW, or the receiving stream, the department has the authority to develop and enforce effluent limits applicable to the user. To the extent the department seeks to impose restrictions in a permit which are more restrictive than established in this division, the department shall provide written documentation to explain the greater restriction for protection against pass-through, interference, or violation of the NPDES permit;

(10) Requirement for pollution prevention initiatives; and

(11) Other requirements reasonably necessary to ensure compliance with this division.

(f) *Permit duration.* Permits shall be issued for a specified time period. Except as deemed necessary by the department, or as otherwise provided for under this division, permits shall be issued for a specified period of not more than five years nor less than one year. The existing permit for significant industrial users, who timely submit an application for permit reissuance to the department, shall be automatically extended until a permit is issued as final.

(g) *Permit modification.* The terms and conditions of the permit may be subject to modification by the department during the term of the permit as limitations or pretreatment standards and requirements identified in section 46-135 are amended, or other just cause exists. Just cause for a permit modification includes, but shall not be limited to, the following:

(1) Material or substantial changes to an industrial user's facility or operation, or changes in the characteristics of the industrial user's effluent. It shall be the industrial user's duty to request an application form and apply for a modification of the permit within 30 calendar days of the change;

(2) Change in the department's NPDES permit;

(3) Embodiment of the provisions of a legal settlement or of a court order;

(4) Any changes necessary to fulfill the department's role as control authority;

(5) An industrial user's noncompliance with portions of an existing permit;

(6) A change of conditions within the POTW;

(7) A finding of interference or pass-through attributable to the industrial user;

(8) Amendments to, or promulgation of, national categorical pretreatment standards or requirements including 40 CFR 403 and those delineated in section 46-144. Permittees shall request an application form and apply to the Department for a modified permit within 90 days after the promulgation of a new or revised national categorical pretreatment standard to which the industrial user shall be subject. Information submitted pursuant to this subsection shall be confined to that information related to the newly promulgated or amended national categorical pretreatment standard or requirement. However, information previously submitted need not be duplicated, insofar as the previously submitted information continues to be current and applicable. In addition, the department may initiate this action;

(9) Changes in the monitoring location. See section 46-138;

(10) Typographical errors or omissions in permits;

(11) The department may modify the permit on its own initiative based on its findings or reasonable belief of the above; or

(12) The user may request a modification of the permit.

When initiated by the department, the industrial user shall be informed of any proposed change in its permit. The department will issue a draft permit and an industrial user has 30 days to file a response to the draft modified permit. Thereafter, the department will issue a final permit and, unless appealed in accordance with the procedures contained in section 46-144, the permit will become effective 20 days after issuance.

(h) *Permit custody and transfer.* Wastewater discharge permits are issued to a specific person as defined herein for a specific discharge. A wastewater discharge permit shall not be reassigned or transferred or sold to a different person, new owner, new industrial user, different premises, or a new or changed operation without notice to and written approval of the department, and providing a copy of the existing permit to the new owner or operator. It shall be the permit holder's duty to notify the department of any such change at least 30 days before the date of the change. Wastewater discharge permits which do not receive the written approval of the department prior to the change shall be null and void regardless of reassignment, or transfer, or sale. If it has occurred, the department may revoke a permit. If a change takes place, the department may require the application for a new or modified permit. Any succeeding person shall comply with the terms and conditions of any existing permit which the department allows to be retained.

(i) *Permit notification requirements.* All industrial users shall promptly notify the department in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous waste for which initial notification under 40 CFR 403.12(p) has been made, request a permit application form, and apply for a modification of the permit at least 30 calendar days prior to the change. Failure of the industrial user to so apply shall be considered a violation of this chapter.

(Code 1989, § 1048.07; Ord. No. 967, 12-20-2005)

Sec. 46-138. - Monitoring facilities.

(a) Significant industrial users shall provide, operate and maintain at their own expense a sampling manhole or special structure to facilitate monitoring, inspection, sampling, and flow measurement of their discharge by the department and the industrial user, and to enable the department to conduct such other monitoring and sampling as required for determining compliance with discharge requirements, limits and standards as provided for in this chapter. In the event the department

determines that the monitoring facility identified in the permit application is inadequate, a new monitoring facility must be identified, or provided, which shall allow for collection of a representative sample of the wastewater discharged from the facility. Unless otherwise determined at the discretion of the department, said facility shall be provided within 90 days of receipt of notification by the department. The industrial user shall provide the department with:

(1) A drawing showing all sewer connections and sampling manholes by the size, location, elevation, and points or places of discharges into the POTW;

(2) A flow schematic showing: which connections receive each national categorical process wastestream; which connections receive stormwater, sanitary water or cooling water; and which lines handle each combined wastestream. This report shall be certified by a professional engineer. If a significant industrial user fails to install the monitoring facilities within the prescribed time limits, then the department may install such structure or device and the significant user shall reimburse the department for any costs incurred therein.

(b) The sampling manhole should be situated on the industrial user's premises in a location readily accessible to the department. When such a location would be impractical or cause undue hardship to the industrial user, the department may allow the facility to be constructed in the public street or sidewalk area when there is room and the location will not be obstructed by landscaping or parked vehicles. It shall be the responsibility of the industrial user to obtain any necessary approvals which may be required from other government agencies for the location and construction of monitoring facilities. There shall be ample room in or near such sampling or monitoring manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and any permanently installed sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the industrial user. Whether constructed upon public or private property, the sampling and monitoring facilities shall be provided in accordance with the department's requirements and all applicable local construction standards and specifications. See section 46-137(g).

(Code 1989, § 1048.08; Ord. No. 967, 12-20-2005)

Sec. 46-139. - Inspection, sampling and record keeping.

(a) For purposes of administering and enforcing this division, any other applicable provisions of this Code or applicable state or federal laws and regulations, the department may inspect the establishment, facility or other premises of the industrial user. The department's employees or authorized representative shall have access to the industrial user's premises for purposes of inspection, sampling, compliance monitoring and/or metering activities.

(b) Each such inspection or sampling activity shall be commenced and completed at reasonable times, and in a reasonable manner. Upon arrival at the industrial user's premises, the department shall inform the industrial user, or the industrial user's employees, that sampling and/or inspection is commencing, and that the facility's authorized representative has the right to observe the inspection and/or sampling. The department shall neither refrain from, nor be prevented or delayed from, carrying out its inspection or sampling duties due to the unavailability of the authorized representative of the facility to observe or participate in the inspection or sampling activity.

(c) While performing work on private property, employees or authorized representatives of the department shall observe all reasonable safety, security and other reasonable rules applicable to the premises as established by the industrial user. Duly authorized employees or representatives of the department shall bear proper credentials and identification, and at the industrial user's option may be accompanied by a duly authorized representative of the industrial user. Duly authorized department representatives shall not be restricted from viewing any of the facility site. Department employees or representatives may take photographs of facilities subject to this chapter, which shall be maintained by the department as confidential in accordance with section 46-140.

(d) Where an industrial user has security measures in force, the industrial user shall make prompt and necessary arrangements with the security personnel so that, upon presentation of appropriate credentials, personnel from the department will be permitted to enter for the purposes of performing their specific responsibilities.

(e) Significant industrial users shall sample and analyze their discharge in accordance with the provisions of their permit. The department may require such samples to be split with the department for the department's independent analysis.

(f) Industrial users shall maintain records of all information from monitoring activities required by this division, or by 40 CFR 403.12(n). Industrial users shall maintain the records for no less than three years. This period of record retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user, or the operation of the City of Detroit's Industrial Waste Program, or when requested by the department, by the state, or by the EPA.

(g) Upon the request of the department, industrial users shall furnish information and records relating to discharges into the POTW. Industrial users shall make such records readily accessible to the department at all reasonable times, and allow the department to copy such records.

(h) In the event the department obtains samples, and analyses are made of such samples, a copy of the results of such analyses shall be promptly furnished upon written request by the industrial user's authorized representative. When requested by the industrial user, the department employee or representative shall leave with the user, a portion of any sample of the user's discharge taken from any sampling point on or adjacent to the premises for the user's independent analysis. In cases of disputes arising over shared samples, the portion taken and analyzed by the department shall be controlling unless proven invalid.

(i) In addition to any other violation caused by the discharge described herein, in the event a single grab sample of the industrial user's discharge is obtained by the department, and then analyzed in accordance with 40 CFR 136, and found to contain concentrations of pollutants which are two or more times greater than the numeric limitations as listed in section 46-135(b), or as contained in the facility's wastewater discharge permit, the industrial user shall implement its slug control plan, and shall provide a written report to the department within 14 days, which describes the cause of greater concentration and provides a description of the means by which future discharge concentrations will be held to values of less than two times the limitation in the future.

(Code 1989, § 1048.09; Ord. No. 967, 12-20-2005)

Sec. 46-140. - Treatment of information on industrial users.

(a) Provisions regarding the treatment of information and data on an industrial user are as follows:

(1) Information and data on an industrial user obtained from written reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agencies without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the department that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.

(2) When submitted to the department, all information claimed to be confidential must be clearly marked "confidential." When requested by the person furnishing the report, the portions of a report determined by the department to disclose trade secrets or trade secret processes, and which are clearly labeled as confidential, shall not be made available for inspection by the public, but shall be made available upon request to governmental agencies for uses related to this division, to the national pollutant discharge elimination system (NPDES) permit, and to the state disposal system permit and/or the pretreatment programs, provided, however that information shall be treated as confidential by the governmental agency, until such time as the information has been determined to be nonconfidential by the governmental agency. Confidential information on industrial users,

which the department releases pursuant to a request of another governmental agency, should be handled by the other governmental agency pursuant to its own confidentiality procedures. The department cannot control how another governmental agency handles such confidential information, and assumes no responsibility for the disposition of the information released to the governmental agency. The department will use sufficient care to inform the other governmental agency of the existence of the industrial user's confidentiality claim.

(3) The department shall determine whether the information requested to be treated as confidential, in fact, satisfies the requirements of confidential information as defined herein. The decision of the department shall be made in writing.

(4) Wastewater constituents and characteristics will not be recognized as confidential information.

(b) Except as otherwise determined by the department or provided for by applicable law, all information with respect to an industrial user on file with the city shall be made available upon request by such user or the user's authorized representative during normal business hours.

(Code 1989, § 1048.10; Ord. No. 967, 12-20-2005)

Sec. 46-141. - Statutes, laws and regulations.

The national categorical pretreatment standards defined in 40 CFR 405—471, shall be and are incorporated by reference herein and made a part hereof. Unless otherwise provided, any reference in this division to a code, standard, rule, regulation, or law enacted, adopted, established, or promulgated by any private organization, or by any element or organization of government other than the city shall be construed to apply to such code, standard, rule, regulation, or law in effect or as amended or promulgated, from the date of enactment of this division.

(Code 1989, § 1048.11; Ord. No. 967, 12-20-2005)

Sec. 46-142. - Enforcement.

(a) *Violations.* It shall be a violation of this division for any user to:

(1) Fail to completely and/or accurately report the wastewater constituents and/or characteristics of the industrial user's discharge;

(2) Fail to report significant changes in the industrial user's operations or wastewater constituents and/or characteristics within the time frames provided in section 46-137(g)(1);

(3) Refuse reasonable access to the industrial user's premises, waste discharge, or sample location for the purpose of inspection or monitoring;

(4) Restrict, lockout or prevent, directly or indirectly, access to any monitoring facilities constructed on public or private property. The locking or securing of the monitoring facility shall not constitute a violation pursuant to this subsection, provided that upon request reasonable access to the facility is promptly provided to the department;

(5) Restrict, interfere, tamper with, or render inaccurate any of the department's monitoring devices including, but not limited to, samplers;

(6) Fail to comply with any condition or requirement of the industrial user's wastewater discharge permit;

(7) Fail to comply with any limitation, prohibition, or requirement of this chapter including any rule, regulation, or order issued hereunder. Industrial users acting in full compliance with wastewater discharge permits issued prior to the effective date of the ordinance from which this division is derived shall be deemed to be in compliance with the requirements of this division, and such permits shall remain in effect and be enforceable under this division until a superseding permit is

effective. Industrial users shall comply with applicable national categorical pretreatment standards and requirements on the date specified in the federal regulations, regardless of compliance schedules.

(b) *Upsets.* An upset shall constitute an affirmative defense to an action brought for noncompliance with national categorical pretreatment standards where the requirements of subsection (b)(1) of this section are met.

(1) An industrial user who wishes to establish the affirmative defense shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

a. An upset occurred and the industrial user can identify the cause of the upset;

b. At the time, the facility was being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

c. The industrial user has submitted the following information to the department, orally or in writing, within 24 hours of becoming aware of the upset and where this information is provided orally, a written submission must be provided within five days:

1. A description of the discharge and cause of noncompliance;

2. The period of noncompliance including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

3. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(2) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(3) The industrial user shall control production of all discharges to the extent necessary to maintain compliance with this division upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(c) *Bypass.* Bypasses are prohibited unless the bypass does not cause a violation of pretreatment standards or requirements, but only if it is for essential maintenance to ensure efficient operation of the treatment system. These bypasses are not subject to the provisions of subsections (c)(1) and (2) of this section.

(1) *Notice of anticipated bypass.* Industrial users anticipating a bypass shall submit notice to the department at least ten days in advance.

(2) *Notice of unanticipated bypass.* An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time the industrial user becomes or should have become aware of the bypass. A written submission shall be provided within five days of the time the industrial user becomes or should have become aware of the bypass. The written submission shall contain a description of the bypass, including exact dates and times, and if the bypass has not been corrected, a plan to prevent reoccurrence of the bypass.

(3) *Prohibition of bypass and enforcement.* Bypass is prohibited, and the department may take enforcement action against a user for a bypass, unless:

a. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The industrial user properly notified the department as described in subsection (c)(2) of this section.

(4) *Bypass approval.* Where it meets all conditions in subsection (c)(3) of this section, the department may approve an anticipated bypass.

(d) *Pollution prevention initiatives upon detection of pollutants.* Where one or more of the measurements taken for any pollutant defined in section 46-135(b) during a six-month period exceed by any magnitude the daily maximum nondetect limit for the same parameter, the industrial user may develop and implement pollution prevention initiatives, or a BMP, as part of its response. The department may, as part of an administrative order, also require development of a BMP as a part of the department's enforcement response. Upon approval of the department, these pollution prevention initiatives, or BMPs shall be made an enforceable part of the wastewater discharge permit. Industrial users shall provide, at six-month intervals, analytical results and certifications in support of its implementation of an approved pollution prevention initiative or BMP. Upon demonstration of compliance, the industrial user may request to be relieved of this implementation requirement.

(e) *Emergency suspensions and orders.* The department may order suspension of the sewer or wastewater treatment service and/or a wastewater discharge permit where, in the opinion of the department, such suspension is necessary to stop any actual or threatened discharge which presents or may present an imminent or significant hazard to the health or welfare of persons or to the environment, interferes or may interfere with the POTW, or causes or may cause the City of Detroit to violate any condition of its NPDES permit. Any person notified of a suspension of the sewer or wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event the department provides informal notification under this section, written confirmation and an order shall be provided within 24 hours. In the event of a failure of the person to comply voluntarily with any suspension or revocation order, the department shall take such steps as deemed necessary, including immediate severance of the sewer connection or service, to prevent or minimize damage to the POTW system or danger to any individual or the environment. In the event such steps are taken, the director shall notify the industrial user within 24 hours in writing of such action and order, and the specific recourse available. In any event, the department shall provide the industrial user with an opportunity for a hearing before the director, or his or her designated representative, within ten days of such action. The industrial user shall submit a detailed written statement to the department within 15 days of the occurrence describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Upon proof of elimination of the noncomplying discharge, the department shall reinstate the wastewater discharge permit and/or the sewer or wastewater treatment service.

(f) *Notice of violation.* Except in the case of an actual or threatened discharge as specified in subsection (e) of this section, whenever the department has reason to believe that any industrial user has violated or is violating this division, the department shall serve a written notice stating the nature of the violation upon such industrial user. Where applicable, the department shall pursue appropriate escalating enforcement action as defined within its approved enforcement response plan. The failure of the department to issue a notice of violation shall not preclude the department from escalating its enforcement response.

(g) *Administrative actions.* Whenever the department has reasonable grounds to believe that a user is violating or has violated a provision of its wastewater discharge permit, or a pretreatment standard or requirement or any prohibition of this division, the department may initiate appropriate administrative enforcement action, except in the case of emergency or flagrant violation, in order to compel the industrial user to eliminate or to remedy such violation as soon as possible.

(1) *Possible actions to remedy violation.*

a. *Conferences.* The department may order any person who violates this division to attend a conference wherein the department may endeavor to cause the user to eliminate or remedy the violation by establishing an enforceable compliance schedule. The notice of violation shall be served at least ten days before the scheduled conference and shall set forth the date, time, and place thereof. The conference shall be conducted by a representative of the

department. The industrial user shall present a plan and schedule for achieving compliance with this division. Nothing contained herein shall require the department to accept or agree to any proposed plan or schedule, or to prevent the department from proceeding with a show cause hearing as set forth in subsection (g)(2) of this section. If the attendees agree upon a compliance schedule, the user and the department's duly authorized representative may enter, by consent, into a compliance agreement or an administrative order setting forth the terms of such agreement. An industrial user must exhibit good faith and expeditious efforts to comply with this division and any procedures, requirements, and agreements hereunder.

b. *Compliance schedules.* The user and the department may agree upon a schedule which sets forth the terms and conditions, and time periods or schedules for completion of actions to remedy or to eliminate the causes of violation. These schedules may be developed as part of a compliance agreement, and/or an administrative consent order. Schedules developed under this subsection shall adhere to the following conditions:

1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of upgraded or additional pretreatment facilities, or to the implementation of additional operation and maintenance procedures required for the industrial user to meet the applicable pretreatment requirements and standards including, but not limited to, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, and completing construction;

2. No single increment referred to in subsection (g)(1)b.1. of this section shall exceed nine months;

3. Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the department including, at a minimum, whether it complied with the increment of progress to be met on such date and, if not, the date which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return to the established schedule; and

4. Any deviations from the compliance schedule may result in the industrial user being found in violation of this division.

c. *Administrative orders.* The department may order any industrial user, who violates or continues to violate this division or a duly issued permit, to install and to properly operate devices, treatment facilities, or other related appurtenances. In addition, orders may contain such other requirements as might reasonably be necessary and appropriate to address the violation including the installation of pretreatment technology, additional self-monitoring and management practices, implementation of a waste minimization assessment to identify and implement feasible source reduction, and recycling practices to reduce the generation or release of pollutants at the facility. An order may be either an administrative consent order, which is the result of an agreement, or a unilateral administrative order.

(2) *Show cause hearing.* The department may order any industrial user who violates this division or allows such violation to occur to show cause before the department why a proposed enforcement action should not be taken. A notice shall be served upon the industrial user specifying the time and place of a hearing before the department regarding the violation, the reason why the action is to be taken, the proposed enforcement action, and directing the industrial user to show cause before the department why any proposed enforcement action should not be taken. The notice of the hearing shall be served personally, or by registered or certified mail with return receipt requested, at least ten days before the hearing. Service may be made upon any agent or officer of a corporation, or its authorized representative.

a. *Hearing proceeding.* The hearing shall be conducted in accordance with the procedures adopted by the board. A hearings officer shall conduct the show cause hearing and take the evidence, and may:

1. In the name of the board, issue notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;

2. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the director for action thereon.

b. *Transcript.* At any show cause hearing held pursuant to this division, testimony shall be recorded by a court reporter.

(3) *Actions.* After a show cause hearing has been conducted, the hearings officer shall issue an order to the industrial user directing any of the following actions:

a. Immediate compliance with the industrial user's wastewater discharge permit or with any applicable limitation, condition, restriction or requirement of this division, or applicable local, state or federal law or regulation;

b. Pretreatment of waste by installation of adequate treatment equipment or proper operation and maintenance of existing treatment equipment be accomplished within a specified time period;

c. Submission of compliance reports on effluent quality and quantity as determined by self-monitoring and analysis during a specified time period;

d. Submission of periodic reports on effluent quality and quantity determined by self-monitoring analysis throughout the final period set by a compliance date;

e. Control of discharge quantities;

f. Payment of costs for reasonable and necessary inspection, monitoring, and administration of the industrial user's activities by the department during compliance efforts;

g. Any such other orders as are appropriate, including, but not limited to, immediate termination of sewer or wastewater treatment services, or revocation of a wastewater discharge permit, or orders directing that following a specified time period sewer or wastewater treatment service will be discontinued unless adequate treatment facilities, devices, or operation and maintenance practices have been employed;

h. A finding that the user has demonstrated by a preponderance of the evidence that a violation either of this division or of a duly issued permit did not occur.

(4) *Public notification of significant noncompliance.* The department shall publish in the largest daily newspaper published in the City of Detroit and the list of all industrial users which were in significant noncompliance with applicable pretreatment requirements at any time during the previous 12 months. All industrial users identified in a proposed publication shall be provided with a copy of the proposed notice at least 30 days before publication and allowed an opportunity to comment as to its accuracy.

(h) *Legal actions.*

(1) *Criminal action.* Any user who violates any provision of this division, including the failure to pay any fees, fines, charges or surcharges imposed hereby, or any condition or limitation of a permit issued pursuant thereto, or who knowingly makes any false statements, representatives or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this division or wastewater discharge permit, or who tampers with or knowingly renders inaccurate any monitoring device required under this division, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed $500.00 for each violation per day, or by imprisonment for not more than 90 days, or by both. The department is hereby authorized, through its counsel, to seek prosecution of criminal charges against any person violating any provision of this division.

(2) *Civil action.* Whenever the department has reasonable grounds to believe that a user is violating or has violated a provision of its wastewater discharge permit, a pretreatment standard or

requirement or any requirement of this division, the director may commence a civil action to compel compliance in a court of competent jurisdiction to enjoin the user from discharging, and/or to obtain appropriate relief to remedy the violations. The department or board may also seek additional legal and/or equitable relief. The commencement of suit neither constitutes an exclusive election of remedies nor prohibits the department, director, board, or City of Detroit from commencing action in federal court for discharges believed to be in violation of this chapter, state and federal requirements contained in the Clean Water Act, the City of Detroit's NPDES permit, or other applicable laws or requirements. In addition, the City of Detroit may recover the reasonable attorney fees, court costs, court reporters' fees, and other unusual expenses related to enforcement activities or litigation against the person found to have violated this division, or the orders, rules, regulations and permits issued hereunder.

(3) *Fines, costs, penalties.* All fines, costs, and penalties which are imposed by any court of competent jurisdiction shall be payable to the City of Detroit Water and Sewerage Department.

(Code 1989, § 1048.13; Ord. No. 967, 12-20-2005)

Sec. 46-143. - Reconsideration and appeal.

Through the procedures of reconsideration and appeal, a user may contest actions, determinations, or decisions of the department which result from its construction, application and enforcement of this division. The procedures contained within this section govern reconsideration and appeal with respect to construction, application, and enforcement of this division.

(1) *Selection of reconsideration or of appeal.*

a. Except for those actions, determinations, or decisions which are expressly identified as subject only to appeal, reconsideration may be requested by any permit applicant, permittee, authorized industrial wastewater discharger or other discharger, who is adversely affected by any action, determination, or decision that is made by, or on behalf of, the department by the director, or an authorized representative, and that interprets, implements or enforces the provisions of this division.

b. An appeal may be requested by any permit applicant, permittee, authorized industrial wastewater discharge or other discharger, who is adversely affected by a permit issued as final by the department, or by an administrative order entered after a show cause order and hearing, or after a hearing for reconsideration.

c. Unless otherwise expressly provided for by this article, a request for reconsideration or appeal must be signed by an authorized representative, and received at the department's general offices within 20 days from the date of the occurrence of the action, determination, or decision in dispute. A request for reconsideration shall contain the requester's name and address, a brief statement of the reason, and the factual basis underlying the request.

d. A request for reconsideration shall be filed in triplicate either by hand delivery or by certified mail to the general offices of the department. Where a request for reconsideration or appeal either is not filed within the time period provided for in this subsection or is improperly made, the action, determination or decision of the director, or the department's authorized representative, is final and any right to reconsideration appeal may be deemed waived.

(2) *Reconsideration.* Within 15 days after receipt of a timely and proper request for reconsideration, the department shall notify the applicant of the time and place for a hearing.

a. A hearing for reconsideration shall be conducted by a hearings officer who is designated by the director and may be an employee of the department. The decision of the hearing officer shall be in the form of a recommendation to the director and embodied in an administrative order. Except for an administrative consent order that was negotiated and agreed to by both parties, an administrative order is appealable in accordance with subsection (c) of this section.

b. Where improperly or untimely submitted, the department may reject a request for reconsideration. The department shall notify the requester in writing that the request has been rejected.

c. Unless the date is mutually extended by both parties, the hearing shall be conducted neither less than ten days nor more than 30 days after mailing of the notice. For cause and at the discretion of the hearing officer, the hearing may be continued for a reasonable time.

d. The hearing for reconsideration shall be an informal consultation and conference where the requester in person, or by counsel, shall present his or her argument, evidence, data, and proof in connection with the issue being reconsidered. The parties shall not be bound by the Michigan Rules of Evidence. The hearing shall be transcribed and the requester may obtain a copy of the hearing transcript, as appropriate, from the department or from the court reporter.

e. Within 30 days after the close of the hearing, the hearing officer shall issue a final decision, which shall contain a recommendation to the director. The hearings officer shall send such decision to the requester by certified mail.

f. Unless such action is necessary to prevent pass-through, interference or other harm to the POTW, to the public or to the waters of the state, the filing of a request for reconsideration in accordance with this section shall stay the action by the department that is the subject of the hearing for reconsideration.

(3) *Appeal.* Within 30 days after receipt of a timely and proper request for an appeal, the department shall notify the applicant in writing regarding the time and place for a hearing. The hearing shall be conducted in accordance with procedures set by the board until rules are promulgated pursuant to section 2-111 of the 1997 Detroit City Charter. In addition:

a. Any request for an appeal must be made within 20 days of the department's action, determination or decision regarding the request for reconsideration or any permit issued in accordance with this division.

b. Where a request either is not filed within the time period contained in this subsection or is improperly made, the action, determination or decision of the director, or the department's authorized representative, is final and any right to appeal may be deemed waived. Where untimely or improperly submitted, the department may reject the request for an appeal, and shall notify the requester in writing that such request has been rejected.

c. The department shall appoint a hearings officer. The hearings officer shall review the evidence, and within 15 days after the close of the hearing shall issue a written recommendation to uphold, modify or reverse the action, determination, or decision of the department.

d. The written recommendation of the hearings officer shall be submitted to the board which shall render a final decision within 30 days of its next regularly scheduled meeting.

e. In accordance with applicable law, the user or the department may appeal any final decision of the board to a court of competent jurisdiction.

f. Unless such action is necessary to prevent pass-through, interference, or other harm to the POTW, to the public or to the waters of the state, the filing of a request for appeal in accordance with this section shall stay the action by the department that is the subject of the appeal.

(Code 1989, § 1048.13; Ord. No. 967, 12-20-2005)

Sec. 46-144. - Appendix A.

Aluminum forming	40 CFR 467
Asbestos manufacturing	40 CFR 427
Battery manufacturing	40 CFR 461
Builder's paper and board mills	40 CFR 431
Canned and preserved fruits/vegetables	40 CFR 407
Canned and preserved seafood processing	40 CFR 408
Carbon black manufacturing	40 CFR 458
Cement manufacturing	40 CFR 411
Centralized waste treatment	40 CFR 437
Coal mining	40 CFR 434
Coil coating	40 CFR 465
Copper forming	40 CFR 465
Dairy products processing	40 CFR 405
Electrical and electronic components I and II	40 CFR 469
Electroplating	40 CFR 413
Explosives manufacturing	40 CFR 457
Feed lots	40 CFR 412
Ferroalloy manufacturing	40 CFR 424
Fertilizer manufacturing	40 CFR 418
Glass manufacturing	40 CFR 426

Grain mills	40 CFR 406
Gum and wood chemicals manufacturing	40 CFR 454
Hospital	40 CFR 460
Ink formulating	40 CFR 447
Inorganic chemicals manufacture (I and III)	40 CFR 415
Iron and steel	40 CFR 420
Landfills	40 CFR 445
Leather tanning and finishing	40 CFR 425
Meat products	40 CFR 432
Metal finishing	40 CFR 433
Metal molding and casting	40 CFR 464
Metal products and machinery	40 CFR 438
Mineral mining and processing	40 CFR 436
Nonferrous metals forming	40 CFR 471
Nonferrous metals manufacturing I	40 CFR 421
Nonferrous metals manufacturing II	40 CFR 421
Ore mining and dressing	40 CFR 440
Organic chemicals, plastics, and synthetic fibers	40 CFR 414
Paint formulating	40 CFR 446
Paving and roofing material	40 CFR 443

Pesticide chemicals	40 CFR 455
Petroleum refining	40 CFR 419
Pharmaceutical	40 CFR 439
Phosphate manufacturing	40 CFR 422
Photographic	40 CFR 459
Plastics molding and forming	40 CFR 463
Porcelain enameling	40 CFR 466
Pulp, paper, and paperboard	40 CFR 430 and 431
Rubber manufacturing	40 CFR 428
Soap and detergent manufacturing	40 CFR 417
Steam electric	40 CFR 423
Sugar processing	40 CFR 409
Textile mills	40 CFR 410
Timber products	40 CFR 429
Transportation equipment cleaning	40 CFR 442
Waste combusters	40 CFR 444

(Code 1989, app. A; Ord. No. 967, 12-20-2005)

Sec. 46-145. - Appendix B.

(a) An industrial user may elect, in lieu of the total phenols limitation specified in section 46-135(b)(2), to substitute specific limitations for each of the eight individual phenolic compounds identified under the total phenols limitation. The following specific limitations, expressed in mg/l, shall be applied in lieu of the total phenols limitation, upon election:

2-Chlorophenol	2.0 mg/l
4-Chlorophenol	2.0 mg/l
4-Chloro-3-methylphenol	1.0 mg/l
2, 4-Dichlorophenol	5.5 mg/l
2, 4-Dinitrophenol	2.0 mg/l
4-Methylphenol	5.0 mg/l
4-Nitrophenol	15.0 mg/l
Phenol	14.0 mg/l

(b) Following election, the wastewater discharge permit shall be modified to incorporate these substituted parameters and an industrial user shall be responsible for monitoring and reporting compliance with these parameters.

(Code 1989, app. B; Ord. No. 967, 12-20-2005)

Sec. 46-146. - Appendix C—Interim discharge limitations.

No user shall discharge wastewater containing any of the following pollutants in excess of the following interim pollutant discharge limitations:

(1) *Compatible pollutants.*

a. Any fats, oil or grease (FOG) in concentrations greater than 1,500 mg/l based on an average of all samples collected within a 24-hour period.

b. Any total suspended solids (TSS) in concentrations greater than 7,500 mg/l.

c. Any biochemical oxygen demand (BOD) in concentrations greater than 7,500 mg/l.

d. Any phosphorus (P) in concentrations greater than 250 mg/l.

Unless otherwise stated, all limitations are based upon samples collected over an operating period representative of a user's discharge, and in accordance with 40 CFR 136.

(2) *Noncompatible pollutants.*

Cadmium (Cd)	1.0 mg/l

(Code 1989, app. C; Ord. No. 967, 12-20-2005)

Secs. 46-147—46-164. - Reserved.

DIVISION 4. - RESIDENTIAL SEWER RATES

Sec. 46-165. - Definitions.

As used in this division, a word or term not interpreted or defined herein shall be used with a meaning of common or standard utilization. In addition, as used in this division, unless the context specifically indicates otherwise:

Building means any structure, including a mobile home, that requires a supply of potable water and/or a means of disposal of wastewater.

Capital expenditures means expenditures, including principal and interest on bonds, that are made for additions to or improvement of the systems.

Contractual obligations means the payments required to be made by the city to the county pursuant to the provisions of existing sewer contracts between such parties for the financing of improvements to the systems under the provisions of Public Act No. 342 of 1939 (MCL 46.171 et seq.).

Department means the department of water and sewers of the city, which is hereby charged with operating and maintaining the wastewater (sewage disposal) system of the city.

Dwelling unit means a building, or a unit thereof, including an apartment, house trailer or mobile home, occupied by one or more persons as a residence, with a single set of culinary facilities, intended for a single family.

Industrial sewage and *industrial waste* mean any liquid containing waterborne process wastes from industrial sources.

Operation and maintenance costs means all direct and/or indirect costs, other than debt service, necessary to ensure adequate wastewater collection and treatment on a continuing basis in conformance with related federal, state and local requirements. These costs include replacement costs and payments made to other agencies for wastewater disposal.

Premises means a parcel of real estate owned by a person served as a single user by a wastewater disposal outlet. Each mobile home is considered separately as a premises.

Recurring rates and charges means sewer use rates and any other rates and charges hereinafter established, or established by resolution of the council, that are payable in installments or on a recurring basis.

Replacement costs means expenditures for obtaining and installing replacement equipment, accessories or appurtenances that are necessary to maintain the capacity and performance of the existing systems.

Sanitary sewage means usual domestic sewage or equivalent sewage, not including industrial sewage as herein defined, from all sources.

Sanitary sewer and *sewer* mean a pipe or conduit that carries sanitary sewage.

System means the wastewater system of the city.

User means the owner or occupant of any premises connected to and/or using any of the facilities operated by the department of public works and service.

Wastewater and *sewage* mean spent water which may be a combination of liquid and water-carried wastes from residences, commercial buildings, industrial plants, institutions or other uses, including drainage water inadvertently present in such waste.

Wastewater system and *sewer system* mean any part or all of the property, structures, equipment, sewers, materials and/or appurtenances used in conjunction with the collection and disposal of wastewater.

(Code 1989, § 1050.01; Ord. No. 603, 6-10-1980; Ord. No. 788, 8-25-1992)

Sec. 46-166. - Wastewater rates, charges and fees.

(a) *Sewer use rates (sewage disposal charge).* Except as otherwise provided, sewage disposal service provided by the wastewater system shall be paid by the owner or occupant of each lot or parcel of land, building or premises having a connection with the wastewater system on the basis of the water meter readings for the water used. The sewage disposal charge shall be composed of the following:

A fixed ready-to-serve charge per month shall be billed as follows:

(1) 5/8 -inch meter $23.56

(2) ¾-inch meter $30.87

(3) 1-inch meter $44.93

(4) 1-½ inch meter $86.10

(5) 2-inch meter $120.48

(6) 3-inch meter $209.13

(7) 4-inch meter $268.84

(8) 6-inch meter $525.18

(9) 8-inch meter $1,037.37

A charge of $8.12 shall be billed for each 100 cubic feet of water consumed.

A minimum charge of $0.33 cents per month shall be charged to offset the expenses for operation and maintenance at the wastewater retention basin and shall be called the station maintenance charge.

Where sewage disposal service is furnished for users not connected to the water supply system, or if connected to the water supply system but no meter is used to measure the quantity of water used, or for other uses of the sewage disposal service for which special consideration should be given, special sewer rates may be fixed by the city.

(b) No free service shall be furnished to any person or to any public agency or department thereof.

This section shall be effective with meter readings after July 1, 2017.

(Code 1989, § 1050.02; Ord. No. 920, 12-17-2002; Ord. No. 929, 6-17-2003; Ord. No. 944, 6-29-2004; Ord. No. 961, 6-21-2005; Ord. No. 974, 6-27-2006; Ord. No. 992, 7-3-2007; Ord. No. 1001, § 1050.02, 7-1-2008; Ord. No. 1014, 9-1-2009; Ord. No. 1026, 7-6-2010; Ord. No. 1071, 7-3-2012; Ord. No. 1090, 7-16-2013; Ord. No. 1093, 8-20-2013; Ord. No. 1105, 6-17-2014; Ord. No. 1125, 6-16-2015; Ord. No. 1140, § 4, 6-20-2017)

Sec. 46-167. - Meter reading; billing and collection.

All meters shall be read at least quarterly. Bills for water service and sewage disposal service shall be due and payable when rendered. There shall be added to all bills not paid on or before the 21st day of the month following the billing a penalty of five percent of the amount of the bill. An additional penalty of one percent per month shall be added for each additional month that the bill has not been paid. The director of the department of public works and service shall have charge of the reading of all meters. He or she shall keep a record of all meter readings, shall keep accounts of the charges for water and sewer

service furnished to all premises and shall render bills for the same. All water and sewer service charges shall be collected by the director of finance, who shall credit the same to the proper account.

(Code 1989, § 1050.03; Ord. No. 827, 10-11-1994)

Sec. 46-168. - Enforcement.

The department of public works and service is hereby authorized to enforce payment of charges for sewage disposal service to any premises by discontinuing either the water service or the sewage disposal service to such premises, or both, and an action of assumpsit may be instituted by the city against the customer. The charges for water service and sewage disposal service, which, under the provisions of Public Act No. 94 of 1933 (MCL 141.101 et seq.), are made a lien on the premises to which they are furnished, are hereby recognized to constitute such lien, and the city shall, annually, on December 1, certify all unpaid charges for such services furnished to any premises which, on the November 30 preceding, have remained unpaid for a period of six months, to the city assessor, who shall place the same on the next tax roll of the city. Such charges so assessed shall be collected in the same manner as general city taxes. In cases where the city is properly notified, in accordance with Public Act No. 94 of 1933 (MCL 141.101 et seq.), that a tenant is responsible for sewage disposal service charges, no such service shall be commenced or continued to such premises until there has been deposited with the department a sum sufficient to cover twice the average quarterly bill for such premises as estimated by the city. Where the water service to any premises is turned off to enforce the payment of sewage disposal service charges, the water service shall not be recommenced until all delinquent charges have been paid and a deposit as in the case of tenants is made, and there shall be a water turn-on charge in an amount as adopted by the city council from time to time. In any other case where, in the discretion of the city, the collection of charges for water or sewage disposal service may be difficult or uncertain, the city may require a similar deposit. Such deposits may be applied against any delinquent water or sewage disposal service charges of the depositor, and the application thereof shall not affect the right of the department to turn off the water service and/or sewer service to any premises to satisfy any delinquency. No such deposit shall bear interest. Such deposit, or any remaining balance thereof, shall be returned to the customer making the same when he or she discontinues receiving water and sewage disposal service or, except as to tenants as to whom notice of responsibility for such charges has been filed with the city, when any eight successive quarterly bills have been paid by such customer with no delinquency.

(Code 1989, § 1050.04)

Sec. 46-169. - Findings.

(a) *Necessity for sewage disposal.* The city council has previously found, and currently reaffirms, that the use of septic tanks, privies, privy vaults, cesspools, or similar private sewage disposal facilities, is deleterious to the health, safety and welfare of the businesses, industries, governmental and charitable agencies, and residents of the city and that the health, safety and welfare of the businesses, industries, governmental and charitable agencies and residents is enhanced by the creation of a public sewer system and treatment plant, with regulation by the city of pollutants and other harmful materials according to state and federal standards.

(b) *Method for measuring use; sewage disposal services.* Based on advice of its engineers, the city council has previously found, and currently reaffirms, that the most practical, cost effective and accurate method, given available technology, of measuring the use of the system's sewers by any user is by the meter used to measure water usage.

(c) *Continuation of service.* The city council has previously found, and further currently reaffirms that, in order to provide and continue to provide for the safe and uninterrupted removal and treatment of sewage, pollutants and other harmful materials, it is necessary from time to time to install improvements, enlargements, extensions and repairs to the system's sewers and sewer service pipes.

(d) *Purpose of charges.* The charges and fees for the use of and connection to the system are hereby established for the purpose of recovering the cost of construction, reconstruction, maintenance, repair, and operation of the system and to comply with federal and state safe drinking water acts and related regulations, to provide for the payment principal of and interest on any bonds authorized to be issued as and when the same become due and payable, to create a bond and interest redemption fund therefor, to provide a fund for reasonable and necessary improvements to the system and to provide for such other funds as are necessary to meet contractual obligations of the issuer. Such charges and fees shall be made in accordance with the purposes herein described as well as the following:

(1) All premises connected directly or indirectly to the system, except as hereinafter provided, shall be charged and shall make payments to the city in amounts computed on the basis of this division.

(2) The charges, rates and fees for sewer service by the system are established herein to adequately provide for bond requirements and to ensure that the system does not operate at a deficit.

(3) The system staff or designated parties shall periodically review the charges, rates, fees, rules and regulations of the system, which review shall be completed not less than one time per fiscal year. Results of the review shall be reported to the city council with recommendations for any adjustments.

(4) The charges, rates and fees shall be set so as to recover costs from users in reasonable proportion to the cost of serving those users.

(e) *Proportionality, fairness, and benefits of charges, rates and fees.*

(1) The city council has previously found and further currently reaffirms that the fairest and most reasonable method of providing for the operation, maintenance, repair, replacement and improvement of the system is to charge each user, based in all cases on amount of use, for the costs of:

a. Retiring debt secured by the net revenues of the system issued to pay for improvements and replacements to the system;

b. Ongoing repair, replacement and improvement budgeted as part of the annual costs of the system; and

c. Operation, administration and maintenance costs of the system.

(2) The city has investigated several methods of apportioning the costs of the sewage disposal service provided by the system. Based on its investigation and on the advice of its engineers, the city council has previously found, and currently reaffirms, that to ensure the stability and viability of the system for the benefit of its users, the fairest and most accurate way to apportion the costs of operation, maintenance, replacement and improvement of the system is to charge each user:

a. A separate capital connection charge for sewage disposal service when such user's property is first connected to the system;

b. A monthly service charge for sewage disposal service, which varies depending on the size of the water intake pipe and meter, which charge reflects each user's proportionate share of the fixed costs of the system; and

c. A commodity charge for sewage disposal usage which is based on the user's actual use of water supplied by the system. The city council has previously found, and currently reaffirms that the rates and charges currently in effect accurately apportion the fixed and variable costs of the system among the users of the system and that the capital connection charge, the monthly service charge and the commodity charge each provide actual benefits to such users in the form of ready access to water service that would be unavailable if such charges were not charged.

(3) In addition to the findings set forth above, the city council has previously found and currently reaffirms that the capital connection charges reflect the proportional capital costs of the system, previously paid by the city and the system, attributable to each new user and that the opportunity

to connect to the system provides actual benefits to each new user equal to or greater than the amount of such charges.

(Code 1989, § 1050.05; Ord. No. 912, 6-19-2001)

Sec. 46-170. - Establishment of the sewage disposal system.

Based on the findings and for the purposes set forth in section 46-169, the city has previously established and hereby reestablishes the sewage disposal system, consisting of all sewers, interceptors, pipes, treatment facilities and all other appurtenances to the system.

(Code 1989, § 1050.06; Ord. No. 912, 6-19-2001)

Secs. 46-171—46-190. - Reserved.

DIVISION 5. - COMMERCIAL AND INDUSTRIAL SEWER RATES

Sec. 46-191. - Purpose and objective.

The purpose of this division is to protect the public health and safety. Further, because of the widely varying quality characteristics of the sewage discharged by different users of the public sewer and the publicly owned treatment works, it is the objective of this division to impose sewage charges which reflect the cost of treating sewage strength factors as well as sewage volume. These charges to commercial and industrial users will be in the form of a payment called a surcharge and will reflect industries' equitable costs of wastewater treatment in excess of the strength of domestic sewage. Sewage charges will be based on a volume rate and surcharges will be based on volume of discharge and the strength of BOD, suspended solids and phosphorus or other pollutants present in the wastewater. If other pollutants are required to be surcharged under this division, under authorized variances or by special arrangement with the owner of the publicly owned treatment works, the rules and regulations adopted herein will apply, such rules and regulations to be on file with the city clerk.

(Code 1989, § 1052.01; Ord. No. 615, 1-6-1981)

Sec. 46-192. - Authority.

This division is adopted pursuant to and in accordance with the requirements of Federal Law - Public Act 92-500, and applicable Federal regulations, the requirements of the settlement agreement in *United States of America* v *City of Detroit, et al,* Civil Action No. 771100, and in accordance with Act 94 of the Public Acts of 1933, as amended.

(Code 1989, § 1052.02)

Sec. 46-193. - 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:

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees Celsius, expressed in terms of weight and concentration (milligrams per liter (mg/l)), as measured by Standard Methods.

Commercial user means all nondomestic sources of indirect discharge other than industrial users, as defined herein, including, but not limited to, the following: a publicly or privately owned facility where persons are engaged in the exchange or sale of goods or services, hospitals, retail establishments, schools and facilities operated by local and state governments.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Federal Water Pollution Control Act, P.L. 92-500, as amended, into the public waste treatment system.

Industrial user means a source of indirect discharge under regulations issued pursuant to section 402 of the Act (33 USC 1342), which source originates from, but is not limited to, facilities engaged in industry, manufacturing, business, trade or research, including the development, recovery or processing of natural resources.

Industrial waste means any liquid, solid or gaseous waste or form of energy or combination thereof resulting from any process of industry, manufacturing, business, trade or research, including the development, recovery or processing of natural resources.

P means phosphorus in the waste expressed in terms of milligrams per liter (mg/l).

Pollutant means any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Public sewer means a common sewer controlled by a governmental agency or public utility.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering as measured according to Standard Methods.

Wastewater and *sewage* mean spent water which may be a combination of liquid and water-carried wastes from residences, commercial buildings, industrial plants, institutions or other land uses, including drainage water inadvertently present in such waste.

Wastewater system and *sewer system* mean any part or all of the property, structures, equipment, sewers, materials and/or appurtenances used in conjunction with the collection and disposal of wastewater, including the publicly owned treatment works (POTW).

(Code 1989, § 1052.03; Ord. No. 615, 1-6-1981)

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Sec. 46-194. - Schedule of surcharges.

The Schedule of Industrial Waste Pollutant Strength Surcharges is hereby adopted and made effective for users of the wastewater system of the city. Such surcharges shall be computed as follows:

COMPUTATION OF INDUSTRIAL WASTE

POLLUTANT STRENGTH SURCHARGE

The industrial waste pollutant strength surcharge shall be computed in accordance with the following formula:

$$SC = 0.0624\ V\ a\ (BOD-250) + b\ (TSS-300) + c\ (P-12)$$

where:

SC = Pollutant strength surcharge fee in dollars for the billing period.

V = Volume of waste discharge in billing period in Mcf (1,000 cubic feet).

BOD = Five-day biochemical oxygen demand of the waste expressed in milligrams per liter (mg/l).

where:

TSS = Total suspended solids in the waste expressed in milligrams per liter (mg/l).

P = Phosphorus in the waste expressed in milligrams per liter (mg/l).

a, b, c = Surcharge rates, $/pound for treating BOD, TSS and P, respectively.

0.0624 = Factor which converts Mcf to MM lbs.

a = as currently established or as hereafter adopted by the city council from time to time.

b = as currently established or as hereafter adopted by the city council from time to time.

c = as currently established or as hereafter adopted by the city council from time to time.

For purposes of surcharge computation, the values of pollutant strengths shall not be less than the allowable values, as follows:

BOD - 250

TSS - 300

P - 12

The total sewerage charge for a particular industry would be the sum of the base flow charge and the surcharge would be calculated from the following formula:

$$UC = V (R) + SC$$

where:

UC = Total sewerage charge for the billing period in dollar.

V = Volume of waste discharged in billing period of Mcf.

R = Basic flow sewage rate is as currently established or as hereafter adopted by the city council from time to time.

SC = Surcharge in dollars as computed above.

(Code 1989, § 1052.04; Ord. No. 615, 1-6-1981)

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Sec. 46-195. - Standards and regulations.

In accordance with the basic service agreement between the City of Eastpointe, the County of Wayne and the Wayne County Board of Public Works, or any other properly designated agent of the County of Wayne named pursuant to Public Act No. 342 of 1939 (MCL 46.171 et seq.), and Public Act No. 185 of 1957 (MCL 123.731 et seq.), any person discharging wastewater into the publicly owned sewer system shall comply with the standards, rules and regulations controlling the quality and quantity of discharge of wastewater into such system. The standards, rules and regulations shall be as established from time to time by Wayne County and/or its designated agent.

(Code 1989, § 1052.05; Ord. No. 615, 1-6-1981; Ord. No. 788, 8-25-1992)

Secs. 46-196—46-214. - Reserved.

[4]

Footnotes:

Sec. 46-215. - Construction plan design standards for stormwater systems within the separated area of the City of Eastpointe.

Unless otherwise noted, the following design standards and requirements apply to construction plans submitted for review by the City of Eastpointe for all types of developments or drain-related construction activities within the separated area of the City of Eastpointe.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-215.1. - Definitions.

Authorized enforcement agency means the building department for new plan review for ordinance approval and department of public works and services for ensuring maintenance of best management practices for illicit discharges, connections and other prohibited discharges.

Best management practice (BMP) means a practice or combination of practices based on current, accepted engineering standards that prevent or reduce stormwater runoff and/or associated pollutants. BMPs include schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Construction plans means detailed plans showing the existing and proposed features of a proposed development and engineering calculations supporting the design of the proposed features.

County drain means a drain which has been designated as an established drain wholly within Macomb County.

Design storm means a rainfall event of specified return frequency and duration (e.g., a 100-year, 24-hour storm) that is used to calculate peak flows and/or runoff volumes.

Detention basin means a storm water management practice that captures stormwater runoff temporarily and releases the stormwater to a surface water body or drain at a restricted rate.

Development means a residential, industrial, municipal, commercial, or other project involving the construction of structures and/or paved surfaces on natural or previously developed land.

Drain means a the main stream or trunk and all tributaries or branches of any creek or river, any watercourse or ditch, either open or closed, any covered drain, any sanitary or any combined sanitary and storm sewer or storm sewer or conduit composed of tile, brick, concrete, or other material, any structures or mechanical devices, that will properly purify the flow of such drains, any pumping equipment necessary to assist or relieve the flow of such drains and any levee, dike, barrier, or a combination of any or all of same constructed, or proposed to be constructed, for the purpose of drainage or for the purification of the flow of such drains, but shall not include any dam and flowage rights used in connection therewith which is used for the generation of power by a public utility subject to regulation by the public service commission.

Drainage district means any county or inter-county drainage district legally established pursuant to applicable provisions of the Drain Code.

Easement means a legal right granted by a property owner to another entity, allowing that entity to make limited use of the property for a specific purpose.

Established drain means an open or enclosed stormwater conveyance system that has been legally established as a county or inter-county drain pursuant to applicable provisions of the Drain Code.

First flush means during the early stages of a storm, stormwater with a highly concentrated pollutant load, due to the runoff washing away the pollutants that have accumulated on the land.

Freeboard means the vertical distance from the top of an embankment to the design water elevation of a detention basin or retention basin, required as a safety margin.

Hazardous materials means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Headwater means the depth of water at the upstream end of a culvert.

Illegal discharge means any direct or indirect non-storm water discharge to the storm drain system, except as exempted in section 46-225(a)(2).

Illicit connections means either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Infiltration means the absorption of water into the ground, often expressed in terms of inches per hour.

Inter-county drain means a drain traversing two or more counties that has been legally established as an established drain.

Invert means the interior surface of the bottom of a pipe.

Non-storm water means any discharge to the storm drain system that is not composed entirely of storm water are prohibited. Any discharges or flows categorized and/or defined as non-storm water discharges or flows if identified as significant contributors to violations of Water Quality Standards and are prohibited to storm sewers within the city. This ordinance shall not authorize illicit discharges; however, the city excludes prohibiting the discharges or flows listed in section 46-225 (a)(2) of this division.

Obvert means the interior surface of the top of a pipe.

Pre-development rate means the peak outflow rate of the property based on existing pervious and impervious areas prior to the proposed development.

Pre-developed rate means the peak outflow rate of the property based on existing surface prior to any development having occurred, i.e., agricultural peak outflow rate.

Proprietor means a person, firm, association, partnership, corporation or combination of any of them which may hold ownership in land whether recorded or not. "Proprietor" shall be synonymous with "developer" or "land owner".

Retention basin means a storm water management practice that captures stormwater runoff and does not discharge to a surface water body or watercourse, but allows the water to evaporate or infiltrate into the ground.

Redevelopment means additions and/or modifications to an existing development.

Riprap means a combination of large stone, cobbles, and boulders used to line channels, stabilize banks, reduce runoff velocities, or filter out sediment.

Runoff means the excess portion of precipitation that does not infiltration into the ground or is not captured by vegetation, but flows overland to a stream, storm sewer, or water body.

Spillway means a depression in the embankment of a detention basin used to allow overflow of stormwater during storm events in excess of the design storm.

Storm drainage system means publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm water means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation

Tailwater means the depth of water at the downstream end of a culvert.

Time of concentration means the time it takes for surface runoff to travel from the hydraulically farthest portion of a watershed to the design point.

Wastewater means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-215.2. - Requirement to prevent, control, and reduce storm water pollutants by the use of best management practices.

(a) The department of public works and services will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the state. Infiltration BMPs are subject to review and approval by the city's engineer except in areas of or potential for soil or groundwater contamination. Review and approval of these BMPs is as determined by and in coordination with EGLE. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal separate storm sewer system (MS4) or watercourses through the use of these structural and non-structural BMPs.

(b) Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

(c) "Reasonable protection" for the purposes of this division shall mean the installation, operation and maintenance of the required structural and/or nonstructural BMPs, implementation and documentation of the BMPs operation and maintenance procedures and practices; and pollution prevention and good housekeeping (P2/GH) procedures and practices necessary for the establishment to comply with state and federal stormwater regulations.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-216. - General requirements.

The following general stormwater management requirements apply to all new developments and redevelopments in City of Eastpointe.

(a) The design process shall begin by identifying sensitive areas located on the site and laying out the site to protect the sensitive areas.

(b) Best management practices (BMPs) that reduce the amount of stormwater runoff and improve water quality are required and shall be designed on a site specific basis. All BMPs shall be included on the plans and will be subject to review and approval by the appropriate government agency such as the City of Eastpointe, Building Department, Planning Commission, the Macomb County Public Works Office (MCPWO) and the Michigan Department of Environment, Great Lakes and Energy (EGLE former MDEQ) as necessary for permits.

Land uses with potential for significant pollutant loading, including but not limited to: gas stations, commercial vehicle maintenance and repair, auto recyclers, recycling centers, and scrap yards, will require BMPs which address regulation of the specific hazard as determined by the MCPWO or the city engineer. In such cases, weekly SESC reports shall also be required during construction.

The developer/owner shall include a long-term operation and maintenance schedule for all permanent BMPs. A maintenance agreement between the developer/owner and the city, prepared by the Department of Public Works and Services, is necessary for permanent BMPs which shall include but not be limited to: inspection of structural or vegetative BMPs, performance of maintenance and corrective actions when BMPs are neglected by the owner, and deed restrictions. All such maintenance agreements shall be binding on the property and shall run with the land and remain in effect in the event the property ownership is transferred or sold and be recorded with the Macomb County Register of Deeds.

(c) Onsite management of stormwater is required first and foremost, unless site constraints, as determined by the city engineer, preclude this approach.

(d) Stormwater shall be managed using four standards: flood control, channel protection, water quality, and pre-treatment to protect both water resources and real property.

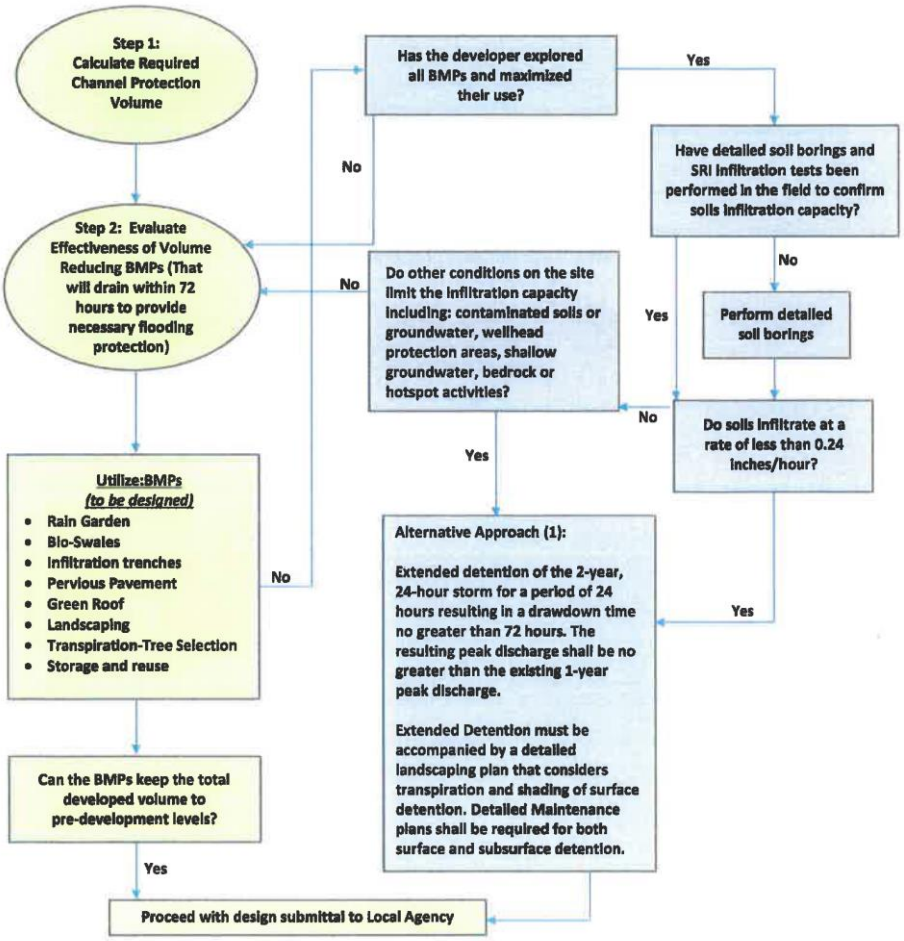
(e) Flood control shall be provided for all sites through retention or detention. On-site detention or retention of stormwater is required of all new developments or redevelopments to maintain the peak outflow to a rate similar to the pre-development runoff rate.

(f) Overland flow routes and the extent of high water levels for the 100-year storm shall be identified for all sites.

(g) Channel protection control system shall be provided on all new developments connecting to an open drain to protect the drain's channel and banks from erosion due to the increased flow. Direct discharges to the Macomb County Public Works Office Drains are generally governed by MCPWO design standards. City of Eastpointe does not have any open municipal or open county drains within its jurisdiction; however, channel protection is required. Drains shall be protected by incorporating a restricted flow of the Channel Protection Volume. It is required that the post-development project site runoff volume and peak flow rate must be maintained at or below pre-development levels for all storms up to the two-year, 24-hour event. Pre-development level means the runoff flow volume and rate for the last land use prior to the planned new development or redevelopment. Compliance with this requirement is determined by calculating the existing ("pre-development") and post-development runoff volume and rate for the two-year and smaller storm events. In the case of extended detention when required for channel protection, the volume shall be held for 48 hours or released at the one-year/24 hour discharge rate. The method is described in the Department of Environmental Quality (DEQ) publication Computing Flood Discharges for Small Ungaged Watersheds, dated July 2003 (updated January 22, 2010).

(1) If it is demonstrated using the Alternative Approach Flowchart (Exhibit "A") that the development cannot meet the required channel protection performance standard, the development may propose incorporation of green infrastructure (i.e., Rain gardens, Eastpointe, MI Code of Ordinances Page 7 of 36 Third Draft Changes to Stormwater Ordinance 11/26/19/2019 green (vegetated) roofs, permeable pavement, impervious cover removal, use of trees, etc.) This includes instances where site conditions (e.g., space limitations or tight soils that prevent infiltration) challenge or prohibit feasibility of maintaining the project site's pre-development runoff levels for all storms up to the two-year, 24-hour event. Green infrastructure shall be allowed under all circumstances consistent with the flowchart. Review of these proposals will be consistent with the "SEMCOG Low Impact Development Manual for Michigan, 2008" or current standards.

CITY OF EASTPOINTE, MICHIGAN
STORM WATER STANDARDS ORDINANCE – EXHIBIT "A"
CHANNEL PROTECTION PERFORMANCE STANDARD
ALTERNATIVE APPROACH FLOW CHART



Ref: Lower Grand River Organization of Watersheds MS4 Stormwater Ordinance Committee Alternative Approach Flow Chart

1. NOTE: If utilizing extended detention as a post-construction storm water runoff control, additional BMPs likely will be needed to maintain the pre-development volume and peak rate levels for all storms up to the 2-year, 24-hour event, through green infrastructure or specific low impact development (LID) on-site BMPs for meeting the performance standard

(h) Water quality treatment shall be provided for all sites. A minimum treatment volume equal to one inch of runoff from the project site is required. A minimum volume of 900 cubic feet per acre is required for directly connected disturbed pervious areas (i.e., lawns). BMP's shall be designed to reduce post development solids loadings by 80 percent or to not exceed solids loadings of 80 milligrams per liter. Developments that disturb less than one acre, and are not part of a larger common plan of development or sale may be exempted from the city's water quality treatment standards as approved by the building department.

(i) Pre-treatment is required for infiltration, filtration and detention BMPs for ease of maintenance and to protect BMP integrity and preserve longevity.

(j) Stormwater discharges from activities with a high risk for an accidental spill of pollutants (stormwater hot spots) shall provide spill containment.

(k) The design maximum release rate, volume or concentration of stormwater discharged from a site shall not exceed the capacity of existing infrastructure or cause impairment to the offsite receiving area. Evaluation of the existing outlet must be performed and an adequate outlet must be provided.

(l) The use of many decentralized low impact development (LID) BMPs is not mandated, but is encouraged on private sites.

(m) Unless otherwise noted, hydraulic and hydrologic calculations (including rainfall volumes and distributions) shall be based on current EGLE standards (i.e., NOAA Atlas 14) and procedures in place at the time of application.

(n) Construction plans for a phased development shall show the existing and/or proposed drainage systems for all prior phases of the development, unless the drainage system for the current phase is entirely independent of the prior phases. Furthermore, drainage plans for a phase of a development must not be dependent upon work planned to be performed in a future phase.

(o) Plans shall include a grading plan showing existing and proposed topographic contour lines and proposed finish floor and basement floor elevations.

(p) All existing natural or manmade drains shall be shown on the plans. The proposed changes to the site must not interfere with common law natural flow rights. Existing drains must be preserved or relocated, or the flow otherwise accommodated by the proposed plans. Provisions for the maintenance of the drain must be included in the deed restriction or an equivalent legally binding agreement. MDEQ and/or the Army Corps of Engineers may also require permits for changes made to such drains.

(q) The cover sheet of the plans shall include a "permit status table" indicating the status of all permits being obtained.

(r) If an established county drain is involved, construction plans shall include a note indicating that "All work performed in the right-of-way of an established drain shall require a permit from the Macomb County Public Works Commissioner."

(s) The engineer's seal shall be affixed to just the cover sheet of the construction plans.

(t) Unless the storm sewers are to be owned and maintained by a single private entity (i.e., municipal or commercial development, manufactured housing community, etc.), all storm sewers shall be located within an easement. The minimum easement width for a storm sewer shall be 12 feet centered on the sewer centerline. City engineer may require a larger easement as necessary for access and to facilitate maintenance and future repairs. The dedication of the easement shall be required prior to acceptance of the continuous maintenance and service by the city.

(u) Privately maintained storm infrastructure, including but not limited to; pipes, Storm water detention facility, water treatment units, bio-swales, etc., will require a maintenance agreement.

(v) All existing and proposed on-site drainage easements shall be clearly shown.

(w) No public right-of-way runoff shall be routed through private storm sewer unless approved by city engineer. All storm sewer intended to be public (i.e., road drainage), shall be within a public right-of-way except as may be necessary to outlet said public storm sewer to another public sewer.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-217. - Established drains.

No construction activities shall be allowed without approval from the Macomb County Public Works Commissioner for any development directly discharging to an established county drain.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-218. - Storm sewers.

(a) Plans shall show boundaries and acreages of catchment areas contributing runoff to each proposed or existing catch basin and/or inlet. Runoff from off-site tributary areas must be accommodated in design or rerouted.

(b) The required discharge capacity for each reach of sewer shall be determined by the rational method.

(1) A ten-year design storm shall be used such that rainfall intensity, I = 175 / (T + 25), where T = time of concentration in minutes.

(2) The runoff coefficient, C, shall be in conformance with normal design practice. Where a weighted average coefficient is employed, the computations shall be submitted for review.

(3) Minimum C-coefficients for various finish surfaces are as follows:

Water surface:	1.00
Impervious Pavement & roofs:	0.90
Dense graded stone & pavers:	0.80
Open graded stone:	0.60
Lawns:	0.35
Other surface c-coefficients subject to approval by city engineer	

(4) The following averaged C-coefficients may be used in lieu of weighted coefficient for proposed developments:

Single-Family Residential:	0.35
Multi-Family Residential:	0.55
Commercial:	0.85
Industrial:	0.90

(c) A complete set of storm sewer design calculations shall accompany every set of construction plans submitted for review.

(1) Sewer capacities shall be based on the Manning equation for full flow velocity. With Manning's "n" coefficient as follows:

a. Smooth Lined, Metal, PVC or HDPE Pipe: 0.011

b. Reinforced Concrete Pipe: 0.013

c. Corrugated, Metal, PVC, or HDPE Pipe: 0.024

d. Other pipe material n-coefficients subject to approval by city engineer.

(2) Energy losses from friction shall be based on calculated design storm peak discharges and velocities, not Manning design (i.e., full-pipe) capacities.

(3) Energy losses through manholes and other appurtenances shall be included in the design calculations OR reflected in friction losses through use of conservative Manning "n" roughness values as approved by the city engineer.

(d) The storm sewer pipe shall have a minimum diameter of 12 inches when constructed in a public right-of-way or easement.

(e) Minimum allowable pipe velocity shall be 2.5 ft./sec. (except where the minimum diameter requirement makes this unachievable.) Desirable pipe velocity range shall be four to eight ft./sec. Maximum allowable pipe velocity shall be ten ft./sec.

(f) Hydraulic grade lines for the ten-year storm shall be calculated and shown as a part of all storm sewer profiles. In no case shall the elevation of the hydraulic grade line exceed the elevation of a point lying one foot below the rim elevation of a manhole, catch basin or inlet. The hydraulic grade line upstream of a detention or retention storage facility shall be calculated assuming the design high water elevation (e.g., full detention basin) or 8/10 height of pipe, which is higher.

(g) The storm sewer plan and profile drawing shall show the following data:

(1) Proper identification and numbering of manholes, catch basins and inlets;

(2) Invert and casting elevations for all structures;

(3) Pipe length (C/L to C/L to structures);

(4) Pipe diameter;

(5) Pipe slope;

(6) Pipe class or designation;

(7) Detail of trench construction and type of backfill material.

(h) Generally, manholes shall be placed not more than 300 feet apart for sewers less than 30 inches diameter and 600 feet apart for larger sewers.

(i) The minimum inside diameter of all manholes, catch basins and inlets shall be 48 inches, with the following exception: Inlet structures from which water will be discharged directly into a catch basin may be 24 inches inside diameter. The depth of such inlets shall be no greater 5.0 feet and no less than 3.5 feet from the top of frame and cover to the invert.

(j) Manholes and inlets structures may be constructed of brick, manhole block, precast concrete (ASTM C478) or cast-in-place concrete.

(k) All manhole block or brick structures shall be plastered on the outside with one to 2.5 mix of portland cement mortar, ½-inch thick. No calcium chloride or other chemical shall be added to lower the freezing point of the mortar, as the strength of the mortar may be lessened.

(l) Inlet structures in the public street right-of-way shall be spaced a maximum of 400 feet apart (or a maximum of 400 feet on either side of a high point). The spacing and/or number of inlet structures required to accommodate the design flows in streets and in private drives and parking areas, shall be based on a maximum of one cfs per 90 square inches of opening in an inlet or catch basin cover.

(m) All storm sewer pipe, manholes, catch basins, and inlets shall meet MDOT specifications.

(n) Generally, drops of over 2.0 feet at manholes, from invert of higher pipes to lower pipes, shall be avoided.

(o) Where drainage is discharged to an established drain, such outlets shall be so designed as to enter the drain at an angle of 90 degrees or less, as determined by the upstream centerline.

(p) Unless the storm sewers are to be owned and maintained by a single private entity (i.e., municipal or commercial development, manufactured housing community, etc.), all storm sewers shall be located within an easement. The minimum easement width for a storm sewer shall be 12 feet centered on the sewer centerline.

(q) All existing and proposed on-site drainage easements shall be clearly shown.

(r) To account for energy losses, at structures a flow change of direction of greater than 45 degrees, a 0.10' drop shall be added from the upstream to downstream pipes. Approval from city engineer is required to waive the requirement for sites where existing conditions do not provide adequate storm depth to facilitate the drop.

(s) At structure with a change of pipe size, the 8/10th elevation, or obvert of the pipes shall align. Approval from city engineer is required to waive the requirement for sites where existing conditions do not provide adequate storm depth to facilitate the drop.

(t) Storm sewers shall have a minimum of three and one-half feet of cover from the finished surface to the horizontal centerline, where existing conditions allow. The department of public works and services may approve less cover where existing conditions restrict cover.

(u) An end section with prefabricated bar screen shall be installed on the end of all storm sewers 12 inches in diameter or larger. Openings of the bar screen shall be no more than six inches on center.

(v) All connections of storm sewers shall be at structure (i.e., manhole, catch basins etc.), locations. Blind taps or wye connections are not allowed with the exception of sump pump connections per the city's stormwater detail sheet. All sump pumps shall be directed, via an enclosed three-inch diameter minimum pipe, to the storm system.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-218.1. - Storm water management facilities—Water quality control.

(a) Water quality control consists of reducing or eliminating pollutants and suspended solids from the storm water runoff prior to discharging to the existing system. Water quality control can be achieved by various methods. Water quality control shall be achieved using best management practices (BMPs) in order to reduce the post development total suspended solids (TSS) loading by a minimum of 80 percent or not to exceed TSS loadings of 80 milligrams per liter.

(b) *Settling ponds (basins)/forebay.*

(1) A settling pond (first flush pond) is a means to detain the first flush volume so that a minimum of 80 percent of the TSS settle to the bottom of the pond.

(2) A settling pond may be stand alone or adjacent to a detention pond as a settling forebay.

(3) The bankfull volume is calculated as the rainfall from a 1.5-year storm while the first flush volume is calculated as the first one inch of runoff over the site, or

(4) Vff (cf) = 3630 x A(acres) x C, where C is the runoff coefficient.

(5) The outlet of a first flush basin or sediment collection unit shall be designed to release the first flush volume over 24—36 hours.

(6) The first flush basin or sediment collection unit shall contain a bypass structure and/or berm to allow the ten-year peak flow to bypass without hydraulic interference.

(c) *Structural BMPs.*

(1) Structural BMPs (i.e., prefabricated swirl chambers or sand filter structures) can serve as the water quality management BMPs. Manufacturer's data must be provided, for approval by the department of public works and services, to indicate that TSS removal rate is met.

(2) Structural BMPs can be designed as in-line or off-line configuration, provided that the structure has built-in overflow mechanism that will not re-suspend settled TSS.

(d) *Natural BMPs.*

(1) Natural BMPs (i.e., vegetative swales or cells) may be permitted subject to approval by the city engineer as part of the plan review and stormwater calculation process. Design engineer shall provide data to support TSS removal rate effectiveness.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-219. - Bioretention.

A bioretention system consists of a soil bed planted with native vegetation located above an underdrained sand layer. It can be configured as either a bioretention structure or a bioretention swale. Stormwater runoff entering the bioretention system is filtered first through the vegetation and then the sand/soil mixture before being conveyed downstream by the underdrain system. Runoff storage depths above the planting bed surface are typically shallow. The adopted TSS removal rate for bioretention systems is 90 percent.

Bioretention systems are used to remove a wide range of pollutants, such as suspended solids, nutrients, metals, hydrocarbons, and bacteria from stormwater runoff. They can also be used to reduce peak runoff rates and increase stormwater infiltration when designed as a multi-stage, multi-function facility.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-219.1. - Pre-design site evaluation.

For infiltration trench and structure practices, a minimum field infiltration rate (fc) of 0.52 inches per hour is required; lower rates preclude the use of these practices. For surface sand filter and bioretention practices, no minimum infiltration rate is required if these facilities are designed with a "day-lighting" underdrain system; otherwise these facilities require a 0.52 inch per hour rate.

Feasibility testing is to be conducted to screen unsuitable sites, and reduce testing costs. A soil boring is not required at this stage. However, a designer or landowner may opt to engage concept design borings at his discretion, without feasibility testing.

Initial testing involves either one field test per facility, regardless of type or size, or previous testing data, such as the following:

- On-site septic percolation testing, within 200 feet of the proposed BMP location, and on the same contour which can establish initial rate, water table and/or depth to bedrock;
- Geotechnical report on the site prepared by a qualified geotechnical consultant; or
- Natural Resources Conservation Service (NRCS) County Soil Mapping showing an unsuitable soil group such as a hydrologic group "D" soil in a low-lying area.

If the results of initial feasibility testing as determined by a qualified professional show that an infiltration rate of greater than 0.52 inches per hour is probable, then the number of concept design test

pits shall be per the following table D-1 (Exhibit "B"). An encased soil boring may be substituted for a test pit, if desired.

Table D-1 Infiltration Testing Summary Table

Type of Facility	Initial Feasibility Testing	Concept Design Testing (Initial testing yields a rate greater than 0.5"/hr)	Concept Design Testing (Initial testing yields a rate lower than 0.5"/hr)
I-1 (trench)	1 field percolation test, test pit not required	1 infiltration test and 1 test pit per 50' of trench	Not acceptable practice
I-2 (basin)	1 field percolation test, test pit not required	1 infiltration test* and 1 test pit per 200 sf of basin area	Not acceptable practice
F-1 (sand filter)	1 field percolation test, test pit not required	1 infiltration test and 1 test pit per 200 sf of filter area (no underdrains required**)	Underdrains required
F-6 (bioretention)	1 field percolation test, test pit not required	1 infiltration test and 1 test pit per 200 sf of filter area (no underdrains required**)	Underdrains required
*Feasibility test information already counts for one test location.			
**Underdrain installation still strongly suggested.			

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-219.2. - Design criteria.

(a) *Storage volume, depth, and duration*. Bioretention systems shall be designed to treat the runoff volume generated by the stormwater quality design storm (two-year). The maximum water depth during treatment of the stormwater quality design storm shall be 12 inches in a bioretention structure and 18 inches in a bioretention swale. The minimum diameter of any outlet or overflow orifice is 2.5 inches. The bottom of a bioretention system, including any underdrain piping or gravel layer, must be a minimum of one foot above the seasonal high groundwater table. The planting soil bed and

underdrain system shall be designed to fully drain the stormwater quality design storm runoff volume within 72 hours.

(b) *Permeability rates*. The design permeability rate through the planting soil bed must be sufficient to fully drain the stormwater quality design storm runoff volume within 72 hours. This permeability rate must be determined by field or laboratory testing. Since the actual permeability rate may vary from test results and may also decrease over time due to soil bed consolidation or the accumulation of sediments removed from the treated stormwater, a factor of safety of two shall be applied to the tested permeability rate to determine the design permeability rate. Therefore, if the tested permeability rate of the soil bed material is four inches/hour, the design rate would be 2 inches/hour (i.e., four inches per hour/two). This design rate would then be used to compute the system's stormwater quality design storm drain time.

(c) *Planting soil bed*. The planting soil bed provides the environment for water and nutrients to be made available to the vegetation. The soil particles can adsorb some additional pollutants through cation exchange, and voids within the soil particles can store a portion of the stormwater quality design storm runoff volume. The planting soil bed material should consist of ten to 15 percent clays, a minimum 65 percent sands, with the balance as silts. The material's pH should range from 5.5 to 6.5. The material shall be placed in 12 to 18 inch lifts. The total depth or thickness of the planting soil bed should be a minimum of three feet. As noted above, the design permeability rate of the soil bed material must be sufficient to drain the stormwater quality design storm runoff volume within 72 hours. Filter fabric should be placed along the sides of the planting soil bed to prevent the migration of soil particles from the adjacent soil into the planting soil bed.

(d) *Vegetation*. The vegetation in a bioretention system removes some of the nutrients and other pollutants in the stormwater inflow. The use of native plant material is recommended for bioretention systems wherever possible. The goal of the planting plan should be to simulate a forest-shrub community of primarily upland type. In general, trees should dominate the perimeter zone that is subject to less frequent inundation. Shrubs and herbaceous species that are adapted to moister conditions and expected pollutant loads should be selected for the wetter zones. The number of stems per acre should average 1,000, with tree spacing of 12 feet and shrub spacing of eight feet.

(e) *Sand layer*. The sand layer serves as a transition between the planting soil bed and the gravel layer and underdrain pipes. It shall be a minimum thickness of 12 inches and consist of clean medium aggregate sand (AASSHTO M-6/ASTM C-33 or MDOT Class II). To ensure proper system operation, the sand layer must have a permeability rate at least twice as fast as the design permeability rate of the planting soil bed.

(f) *Underdrain*. The underdrain piping must be rigid Schedule 40 PVC pipe. The portion of drain piping beneath the planting soil bed and sand layer must be perforated. All remaining underdrain piping, including cleanouts, must be nonperforated. All joints must be secure and watertight. The underdrain piping must connect to a downstream storm sewer manhole, catch structure, channel, swale, or ground surface at a location that is not subject to blockage by debris or sediment and is readily accessible for inspection and maintenance. Blind connections to downstream storm sewers are prohibited.

(g) *Overflows*. All bioretention systems must be able to safely convey system overflows to downstream drainage systems. The capacity of the overflow must be consistent with the remainder of the site's drainage system and sufficient to provide safe, stable discharge of stormwater in the event of an overflow.

(h) *Tailwater*. The hydraulic design of the underdrain and overflow systems, as well as any stormwater quantity control outlets, must consider any significant tailwater effects of downstream waterways or facilities. This includes instances where the lowest invert in the outlet or overflow structure is below the flood hazard area design flood elevation of a receiving stream.

(i) *Maintenance*. The following requirements must be included in the system's maintenance plan.

(1) *General maintenance*. All bioretention system components expected to receive and/or trap debris and sediment must be inspected for clogging and excessive debris and sediment accumulation at least four times annually as well as after every storm exceeding one inch of rainfall. Such

components may include bottoms, trash racks, low flow channels, outlet structures, riprap or gabion aprons, and cleanouts.

Sediment removal should take place when the structure is thoroughly dry. Disposal of debris, trash, sediment, and other waste material should be done at suitable disposal/recycling sites and in compliance with all applicable local, state, and federal waste regulations.

(2) *Vegetated areas.* Mowing and/or trimming of vegetation must be performed on a regular schedule based on City code enforcement standards. Vegetated areas must be inspected at least annually for erosion and scour. Vegetated areas should also be inspected at least annually for unwanted growth, which should be removed with minimum disruption to the planting soil bed and remaining vegetation.

When establishing or restoring vegetation, biweekly inspections of vegetation health should be performed during the first growing season or until the vegetation is established. Once established, inspections of vegetation health, density, and diversity should be performed at least twice annually during both the growing and non-growing seasons. The vegetative cover should be maintained at 85 percent. If vegetation has greater than 50 percent damage, the area should be reestablished in accordance with the original specifications and the inspection requirements presented above.

All use of fertilizers, mechanical treatments, pesticides and other means to assure optimum vegetation health should not compromise the intended purpose of the bioretention system. All vegetation deficiencies should be addressed without the use of fertilizers and pesticides whenever possible.

(3) *Structural components.* All structural components must be inspected for cracking, subsidence, spalling, erosion, and deterioration at least annually.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-220. - Infiltration.

An infiltration structure is a facility constructed within highly permeable soils that provides temporary storage of stormwater runoff. An infiltration structure does not normally have a structural outlet to discharge runoff from the stormwater quality design storm. Instead, outflow from an infiltration structure is through the surrounding soil. An infiltration structure may also be combined with an extended detention structure to provide additional runoff storage for both stormwater quality and quantity management. The adopted TSS removal rate for infiltration structures is 80 percent.

Infiltration structures are used to remove pollutants and to infiltrate stormwater back into the ground. Such infiltration also helps to reduce increases in both the peak rate and total volume of runoff caused by land development. Pollutant removal is achieved through filtration of the runoff through the soil as well as biological and chemical activity within the soil.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-220.1. - Pre-design site evaluation.

Infiltration structures can present some practical design problems. When planning for an infiltration structure that provides stormwater quality treatment, consideration should be given to soil characteristics, depth to the groundwater table, sensitivity of the region, and runoff water quality. Specifically, infiltration structures must not be used in the following locations:

• Industrial and commercial areas where solvents and/or petroleum products are loaded, unloaded, stored, or applied or pesticides are loaded, unloaded, or stored.

• Areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the U.S. Environmental Protection Agency in the Code of Federal Regulations at 40 CFR 302.4.

• Areas where infiltration structure use would be inconsistent with an NJDEP-approved remedial action work plan or landfill closure plan.

• Areas with high risks for spills of toxic materials such as gas stations and vehicle maintenance facilities.

• Areas where industrial stormwater runoff is exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing, or other industrial activities, that could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to raw materials, intermediate products, final products, waste materials, by-products, industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

• Areas where their installation would create a significant risk for basement seepage or flooding, cause surficial flooding of groundwater, or interfere with the operation of subsurface sewage disposal systems and other subsurface structures. Such adverse impacts must be assessed and avoided by the design engineer.

Infiltration structures must be configured and located where their construction will not compact the soils below the structure. In addition, an infiltration structure must not be placed into operation until the contributing drainage area is completely stabilized.

Minimal Setback Requirements for Infiltration Structures:

Soil absorption systems for septic:	50 ft.
Private wells:	100 ft.
Public wells:	150 ft.
Public reservoir, surface water sources for public water systems and their tributaries:	400 ft.
Other surface waters:	50 ft.
Property lines:	10 ft.

Building foundations:	>10 to 100 ft, depending upon soil types and infiltration structure type

Soils are perhaps the most important consideration for site suitability. In general, county soil surveys can be used to obtain necessary soil data for the planning and preliminary design of infiltration structures. For final design and construction, soil tests are required at the exact location of a proposed structure in order to confirm its ability to function without failure.

Tests should include:

- Determination of the textural classification
- Permeability of the subgrade soil at and below the bottom of the proposed infiltration structure

The recommended minimum depth for subgrade soil analysis is five feet below the bottom of the structure or to the groundwater table. Soil permeability testing can be conducted in accordance with the standards for individual subsurface sewage disposal systems.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-220.2. - Design criteria.

(a) *Storage volume, depth, and duration*. An infiltration structure must be designed to treat the total runoff volume generated by the structure's maximum design storm. This may either be the groundwater recharge or stormwater quality design storm, depending upon the structure's proposed use. An infiltration structure must also fully drain this runoff volume within 72 hours. Runoff storage for greater times can render the structure ineffective and may result in anaerobic conditions, odor, and both water quality and mosquito breeding problems. The bottom of the infiltration structure must be at least two feet above seasonal high water table or bedrock. For surface structures, this distance must be measured from the bottom of the sand layer. The structure bottom must be as level as possible to uniformly distribute runoff infiltration over the subgrade soils.

To enhance safety by minimizing standing water depths, the vertical distance between the structure bottom and the maximum design storm water surface in surface infiltration structures should be no greater than two feet. Construction of an infiltration structure must be done without compacting the structure's subgrade soils. Excavation must be performed by equipment placed outside the structure whenever possible. This requirement should be considered when designing the dimensions and total storage volume of an infiltration structure. It is important to note that the use of infiltration structures is recommended only for the stormwater quality design storm and smaller storm events. Use of infiltration structures for larger storm events and the requirements by which such structures are to be designed, constructed, and maintained should be reviewed and approved by all applicable reviewing agencies.

(b) *Permeability rates*. The minimum design permeability rate of the soils below an infiltration structure will depend upon the structure's location and maximum design storm. The use of infiltration structures for stormwater quality control is feasible only where soil is sufficiently permeable to allow a reasonable rate of infiltration. Therefore, infiltration structures designed for storms greater than the groundwater recharge storm can be constructed only in areas with Hydrologic Soil Group A and B soils.

Maximum Design Structure Location	Minimum Design Permeability Rate (Inches/Hour)

Groundwater Recharge Subsurface	0.2
Groundwater Recharge Surface	0.5
Stormwater Quality Surface and Subsurface	0.5

In addition to the above, the design permeability rate of the soil must be sufficient to fully drain the infiltration structure's maximum design storm runoff volume within 72 hours. This design permeability rate must be determined by field testing (See Bioretention Pre Design). Since the actual permeability rate may vary from test results and may also decrease over time due to soil bed consolidation or the accumulation of sediments removed from the treated stormwater, a factor of safety of two must be applied to the tested permeability rate to determine the design permeability rate. Therefore, if the tested permeability rate of the soils is four inches/hour, the design rate would be two inches/hour (i.e., four inches per hour/two). This design rate would then be used to compute the structure's maximum design storm drain time.

(c) *Bottom sand layer*. To help ensure maintenance of the design permeability rate over time, a six-inch layer of sand must be placed on the bottom of an infiltration structure. This sand layer can intercept silt, sediment, and debris that could otherwise clog the top layer of the soil below the structure. The sand layer will also facilitate silt, sediment, and debris removal from the structure and can be readily restored following removal operations. The sand layer must meet the specifications of a MDOT Class II sand. This must be certified by a certified testing lab.

(d) *Overflows*. All infiltration structures must be able to convey overflows to downstream drainage systems in a safe and stable manner. The capacity of the overflow must be consistent with the remainder of the site's drainage system and sufficient to provide safe, stable discharge of stormwater in the event of an overflow.

(e) *Subsurface infiltration structures*. A subsurface infiltration structure is located entirely below the ground surface. It may consist of a vault, perforated pipe, and/or stone bed. However, due to the greater difficulty in removing silt, sediment, and debris, all runoff to a subsurface infiltration structure must be pretreated. This pretreatment must remove 80 percent of the TSS in the runoff from the structure's maximum design storm.

(f) *Basis of design*. The design of an infiltration basin is based upon Darcy's Law:

$Q = KIA$

where:

Q = the rate of infiltration in cubic feet per second (cfs)

K = the hydraulic conductivity of the soil in feet per second (fps)

I = the hydraulic gradient

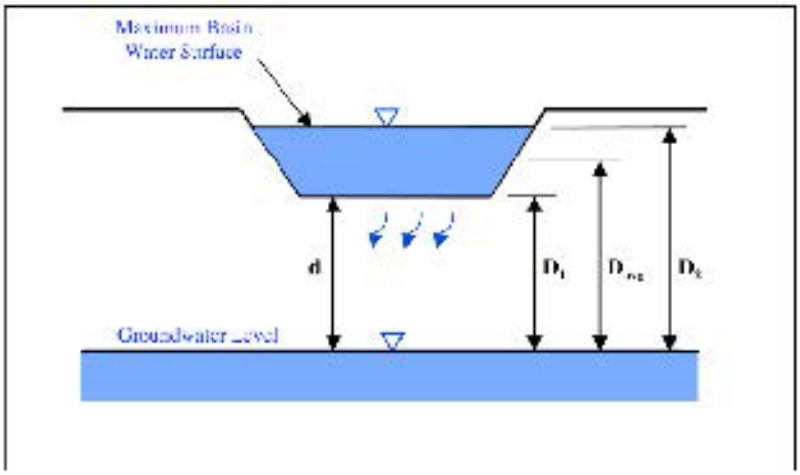
A = the area of infiltration in square feet (sf)

From the variables shown in the Figure below:

Average Hydraulic Gradient = D_{avg}/d

Minimum Hydraulic Gradient = D_{1}/d

Maximum Hydraulic Gradient = D_2/d



(g) *Maintenance*. The following requirements must be included in the system's maintenance plan.

General maintenance. All infiltration structure components expected to receive and/or trap debris and sediment must be inspected for clogging and excessive debris and sediment accumulation at least four times annually as well as after every storm exceeding one inch of rainfall. Such components may include bottoms, riprap or gabion aprons, and inflow points. This applies to both surface and subsurface infiltration structures. Sediment removal should take place when the structure is thoroughly dry. Disposal of debris, trash, sediment, and other waste material should be done at suitable disposal/recycling sites and in compliance with all applicable local, state, and federal waste regulations.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-221. - Detention storage facilities.

Detention storage facilities are designed to detain runoff for a short period of time and then release it to a watercourse where it returns to the hydrologic cycle. The objective of detention storage is to regulate the released runoff rate and to reduce the impact on downstream drainage systems. Detention storage should not be confused with retention storage (i.e., retention basins), a facility with no engineered outlet (other than an emergency-type outlet) designed to hold runoff for a considerable length of time. The water in a retention basin is not discharged to surface water, although it may infiltrate in to the ground, evaporate, or be consumed by plants. In the case of extended detention when required for channel protection, the volume shall be held for 48 hours or released at the one-year/24-hour discharge rate.

In keeping with Common Law Natural Flow Rights and the Michigan Drain Code, concentrated discharges of stormwater (such as the outflow from a detention facility) or increased surface water runoff over property owned by others must be pursuant to a valid right-of-way, easement, or other written permission from all property owners affected. The outflow from a detention facility is considered to be such a concentrated discharge of stormwater.

All forms of detention storage shall meet the following criteria:

(a) On-site detention (or retention—See section 46-222 Retention Basin below) of stormwater is required of all new developments or redevelopments to maintain the peak outflow to a rate similar to the pre-development runoff rate. In no case shall the outflow from a site exceed the capacity of the receiving drain to accept the flow.

(b) For development sites greater than five acres, the detention basin volume shall be determined for the 100-year flood volume from all tributary area, including off-site area.

(1) The tributary area shall include all acreage contributing runoff to the detention storage facility, including any off-site tributary area in its existing state, whether developed or undeveloped.

(2) The following equations shall be used to determine the 100-year detention volume:

Q_a = Allowable release rate, cfs

$Q_o = Q_a / (A\ C)$, where A = Tributary area in acres, C = weighted runoff coefficient

Detention time in minutes, $T = -25 + \text{sqrt}(10{,}312.5 / Q_o)$

Storage volume per impervious acre, $V_s = 16{,}500\ T / (T + 25) - 40\ Q_o T$

Required detention volume in cubic feet, $V = V_s \times A \times C$

(c) For development sites five acres and less, the detention basin volume shall be determined for the ten-year flood volume from all tributary area, including off-site area.

(1) The tributary area shall include all acreage contributing runoff to the detention storage facility, including any off-site tributary area in its existing state, whether developed or undeveloped.

(2) The following equations shall be used to determine the ten-year detention volume:

Q_a = Allowable release rate, cfs

$Q_o = Q_a / (A\ C)$, where A = Tributary area in acres, C = weighted runoff coefficient

Detention time in minutes, $T = -25 + \text{sqrt}(6{,}562.5 / Q_o)$

Storage volume per impervious acre, $V_s = 10{,}500\ T / (T + 25) - 40\ Q_o T$

Required detention volume in cubic feet, $V = V_s \times A \times C$

(d) If the site is located near the downstream end of a drainage district, the city engineer may require that the proprietor's engineer generate and submit hydrographs of the outflow from the existing site and from the proposed site (i.e., detention facility) and a hydrograph of the flow in the receiving drain to verify that the detained outflow would not result in an increase in the peak flow in the receiving drain. If the detained outflow would result in an increase in the peak flow in the receiving drain, then stormwater detention is not an acceptable stormwater management option. Retention of stormwater or other stormwater management design approved by the city engineer must be provided. See section 46-222 Retention Basins for design requirements.

(e) Portions of the developing site may be allowed to drain unrestricted (i.e., not through a detention facility) if either of the following conditions are met:

(1) The areas draining unrestricted are not being disturbed or altered by the construction, such that they will maintain their existing drainage characteristics and patterns.

(2) The areas draining unrestricted are being disturbed or altered but will be permanently stabilized to prevent erosion and will not contain any impervious surface post-construction. In this case, the unrestricted flow must be draining to a receiving drain with valid rights-of-way, or else written agreement from the affected property owners would have to be obtained per Common Law Natural Flow Rights and the Michigan Drain Code. In addition, the post-construction peak 100-year flow from these areas should be calculated and deducted from the total allowable peak flow from the detention facility (Qa). The detention outlet(s) should be designed to restrict the basin outflow(s) to this reduced allowable peak flow rate.

(f) Where the detention facility is to be equipped with a pump discharge, the proprietor shall be required to furnish design data on pump(s) and discharge force main so that the capacity of the system can be verified. These data will include system curve calculations, the pump performance curves, and a profile of the system piping. The pumping station should be able to release the first flush volume over

approximately 24 hours, the bankfull flood volume over 24—48 hours, and the 100-year flood volume at a rate not to exceed 0.15 cfs/ac of tributary area. A back-up generator will be required to ensure the operation of the pumping station in the event of power loss. The city discourages the use of pumped outlets, and will not accept responsibility for damages due to power failure, pump malfunction, or Acts of God that result in storm conditions that exceed the design conditions of the pump station.

(g) An agreement for acceptance and maintenance of the detention facility, if executed by the proprietor, shall be submitted to the City of Eastpointe prior to final approval. The agreement both as form and content shall be subject to the approval of the city.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-221.1. - Detention basins.

A detention basin is a form of detention storage where the stormwater is detained above ground as surface water. In addition to the general requirements indicated above, detention basins shall meet the following requirements:

(1) Detention volume in a gravity-outlet detention basin must be located:

a. Above the invert of the lowest row of orifices in the outlet standpipe;

b. Above the elevation of the dry weather base flow in the receiving drain;

c. Above the elevation of the groundwater table. Soil boring data used to determine the groundwater table elevation shall be submitted with the plans.

(2) The detention basin outlet shall consist of a vertical standpipe with multi-level orifices to control the release of stormwater from the basin, including the first flush volume, bankfull flood volume, and 100-year flood volume (or ten-year flood volume for sites less than five acres).

a. The standpipe shall not be less than 36 inches in diameter.

b. The standpipe shall contain multiple rows of orifices (i.e., holes) to control the release of the first flush runoff volume, the bankfull flood volume, and the 100-year flood volume (or ten-year for sites less than five acres).

• First flush orifices shall be located at the elevation of the basin floor (or permanent pool water level, if a wet basin),

• Additional bankfull flood orifices shall be at the elevation of the first flush volume in the basin, where the first flush volume is calculated as the first one inch of runoff over the site, or

• Vff (cf) = 3630 x A(acres) x C, where C is the runoff coefficient

• Additional 100-year (or ten-year for sites less than five acres) flood control orifices shall be located at the elevation of the bankfull flood volume in the basin, where the bankfull flood volume is calculated as the rainfall from a 1.5-year storm, or

• Vbf (cf) = 8170 x A(acres) x C

• To promote improved filtering of runoff sediment from smaller, more frequent storm events, the bankfull flood and first flush volumes shall be based on the developing tributary site area only, and not include off-site tributary area.

c. Orifices should not be less than one inch in diameter or greater than four inches in diameter.

d. The top of the standpipe shall consist of a grating at or above the design (high) water level to serve as an overflow mechanism, in addition to the overflow spillway/berm.

e. The standpipe shall be encased in stone extending to the design (high) water level to allow for filtering of the stormwater prior to discharge from the basin. The encasement stone size shall be large enough so as not to plug or pass through the orifices in the standpipe.

f. The standpipe shall contain a sediment sump with a depth of at least one foot.

g. Double standpipes (e.g., a 36-inch diameter inner standpipe within a 48-inch diameter outer standpipe) are encouraged. Double standpipes are believed to be less prone to blockages of the control orifices, and therefore require less maintenance. The inner standpipe should contain the appropriate number and configuration of orifices to provide the controlled release of the first flush volume, the bankfull flood volume, and the 100-year (or ten-year for sites less than five acres) flood volume. The outer standpipe should contain at least several times the orifice area as the inner standpipe over the entire height of the standpipe, such that the head loss across the outer standpipe orifices is negligible.

h. The outlet pipe extending from the standpipe to the receiving drain shall be sized to convey the calculated 100-year (or ten-year for sites less than five acres) peak inflow to the detention basin.

i. The location of the outlet pipe extending downstream of the standpipe shall be indicated on a profile drawing of the receiving drain, whether or not the receiving drain is an established drain. The receiving drain profile shall extend at least from the upstream end of the site to the downstream end of the site.

(3) A sediment sump shall be provided within the basin, below the lowest orifice elevation but above the groundwater table, to provide for sediment accumulation.

a. The volume of the sump shall be equivalent to the first flush volume, or one inch of runoff over the site area. (Sump volume, cf = V_{ff} = 3630 x A x C)

b. Appropriate precautions shall be taken to protect public safety and to ensure that the sump does not constitute a nuisance.

(4) All detention basins must have standpipe overflow grates and spillways berms for emergency overflow at the high water level.

a. The standpipe overflow grate and spillway must provide adequate capacity to overflow the peak 100-year (or ten-year for sites less than five acres) basin inflow with no more than one foot of head (i.e. water level must not exceed the one foot of freeboard).

b. Downstream of the overflow spillway, the stormwater overflow must be directed (either by overland flow or via a swale or ditch) to the receiving drain.

(5) A minimum of one-foot freeboard shall be provided above the design high water elevation.

(6) The side slopes shall not be steeper than six feet horizontal to one foot vertical. Slope protection shall be provided as necessary. Basin side slope elevation contours shall be shown on the plans.

(7) Unless the detention basin contains a permanent pool, the bottom of all detention basins shall be graded in such a manner as to provide positive flow to the outlet. A minimum bottom slope of one percent shall be provided.

(8) A 12-foot wide minimum access easement shall be provided for all detention basins, as measured from the top of bank.

(9) A 25-foot wide minimum setback from property lines shall be provided for all detention basins, as measured from the top of bank.

(10) Detention basin configurations where stormwater must "back-up" into the basin (i.e., stormwater enters the conveyance system downstream of the basin) will not be permitted.

(11) Multiple detention basins serving a single development should function independently. If the outflow from one basin passes through another basin before being discharged to the receiving drain, a full hydraulic analysis (i.e., a computer model simulation) will be required to ensure that the system functions satisfactorily.

(12) If at any time the detention basin is to function as a sediment basin (for use during the construction phase), an outlet filter shall be provided. Such an outlet filter is to be designed in accordance with criteria established by the Macomb County Public Works Office. Such use of a detention pond shall be considered a temporary measure only. The proprietor shall be responsible for sediment removal upon completion of construction.

(13) Detention basins shall meet all local ordinances and/or requirements for "ponds."

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-221.2. - Underground storage.

Underground storage is a form of detention storage where the stormwater is detained in underground pipes. Like a detention basin, the water is released at a controlled rate to a receiving drain.

In addition to the general requirements indicated above in section 46.221.1, underground detention facilities shall meet the following requirements:

(1) Detention volume in an underground detention facility shall be located above the elevation of the dry weather baseflow in the receiving drain and above the elevation of the groundwater table. Soil boring data used to determine the groundwater table shall be submitted with the plans.

(2) To minimize sedimentation in the downstream drainage district, sediment shall be removed from the stormwater before water enters the underground storage facility (e.g., in first flush forebay or within the catch basins using removable filtration inserts).

(3) The pipe material used for the underground storage facility shall have an expected life of at least 50 years.

(4) Access manholes shall be provided along the underground storage facility to allow for maintenance.

(5) A minimum of one foot of freeboard shall be provided between the design hydraulic grade line in the underground storage facility and the rim elevations of all access manholes.

(6) A 25-foot wide setback from property lines shall be provided for all underground storage facilities.

(7) An access easement shall be provided to and above the underground storage facility.

(8) No permanent structures shall be constructed above the underground storage facility.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-221.3. - Parking lot surface detention.

(a) Parking lot surface storage is a form of detention storage where the storm water is detained in the parking lot surface creating temporary flooding of the parking lot. Like a detention basin, the water is released at a controlled rate to a receiving drain.

(b) In addition to the general requirements indicated above in section 46-221.1., parking lot surface detention facilities shall meet the following requirements:

(1) Storage elevation must be not less than one foot from the lowest finish grade elevation of the nearest building.

(2) Storage depth shall not exceed 12 inches at any location of the parking lot.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-222. - Retention basins.

A "retention basin" is a facility with no engineered outlet (other than an emergency-type outlet) designed to hold runoff for a considerable length of time. The water in a retention basin is not discharged to a drain, although it may be consumed by plants, evaporate, or infiltrate into the ground. A retention basin should not be confused with a "detention basin," a facility designed to detain runoff for a short period of time and then release it to a drain.

(1) On-site retention (or detention—See section 46.221.2, detention storage facilities) is required of all new developments or redevelopments to prevent an increase in peak flows downstream in the drainage district.

a. Retention basins are an acceptable stormwater management practice on sites where the soil has an infiltration rate of at least 0.52 inches per hour and a clay content of less than 30 percent (per recommendations in Guidebook of Best Management Practices for Michigan Watersheds). The required storage volume of a retention basin is that of the runoff from a 100-year design storm as determined using the SCS method.

b. Retention basins shall accommodate runoff from off-site areas that drain onto/across the developing site. (An exception to this rule would be if off-site runoff were to be routed around the site to a receiving drain, if done in a manner such that runoff from the developing site would not contribute to this off-site flow. If the off-site flow were to be concentrated from overland flow to a point discharge into an receiving drain without valid rights-of-way, written agreement from the affected property owners would have to be obtained per Common Law Natural Flow Rights and the Michigan Drain Code.)

(2) One foot of freeboard shall be provided above the design high water elevation.

(3) Retention volume must be provided above the elevation of the groundwater table. Soil boring data used to determine the groundwater table elevation shall be submitted with the plans.

(4) All retention basins must have a spillway for emergency overflow at the high water level.

a. The spillway must provide adequate capacity to overflow the peak 100-year basin inflow with no more than two feet of head (i.e., water level must not exceed the two feet of freeboard).

b. The plans must identify where the overflow would be directed to flow or stored in the event of an overflow.

(5) The side slopes shall not be steeper than six feet horizontal to one foot vertical unless fenced in accordance with city requirements. Slope protection shall be provided as necessary. Basin side slope elevation contours shall be shown on the plans.

(6) A 12-foot wide access easement shall be provided to and around all retention basins.

(7) An agreement for acceptance and maintenance of the retention basin system, if executed by the proprietor, shall be submitted to the City of Eastpointe prior to final approval. The agreement both as form and content shall be subject to the approval of the city.

(8) If at any time during the construction period the retention basin is to function as a sediment basin, the proprietor shall be responsible for sediment removal prior to completion of construction. (See Macomb County Department of Public Health for requirements regarding Soil Erosion and Sedimentation Control during construction.)

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46.223. - Oil separators.

Oil must be removed from stormwater as appropriate prior to discharge to a receiving drain. The city engineer will consider means of oil removal on a case-by-case basis.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-224. - First flush basins and sediment collection units.

When stand-alone BMPs such as permanent first flush basins and prefabricated sediment collection units are proposed or required for a specific site, the following design standards shall apply:

(1) A first flush basin or pre-fabricated sediment collection unit shall contain storage volume for the first one inch of runoff from the project site. The storage volume of a first flush basin can be calculated as:

V_{ff} (cf) = A x C x 3630 cf/ac-impervious

(2) The outlet of a first flush basin or sediment collection unit shall be designed to release the first flush volume over 24—36 hours.

(3) The outlet of a first flush basin or sediment collection unit shall not be submerged by the receiving drain at a ten-year design level.

(4) The first flush basin or sediment collection unit shall contain a bypass structure and/or berm to allow the ten-year peak flow to bypass without hydraulic interference.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-225. - Discharge requirements.

(a) *Discharge prohibitions.*

(1) *Prohibition of illegal discharges.*

a. No person shall discharge or cause to be discharged into the municipal separate storm sewer system (MS4) or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

b. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(2) The following discharges if identified as not being a significant contributor to violations of Water Quality Standards (WQS) are excluded from discharge prohibitions established by this ordinance:

a. Water line flushing and discharges from potable water sources.

b. Landscape irrigation runoff, lawn watering runoff, and irrigation waters.

c. Diverted stream flows and flows from riparian habitats and wetlands.

d. Rising groundwaters and springs.

e. Uncontaminated groundwater infiltration and seepage.

f. Uncontaminated pumped groundwater, except for groundwater cleanups specifically authorized by NPDES permits.

g. Foundation drains, water from crawl space pumps, footing drains, and basement sump pumps.

h. Air conditioning condensation.

i. Waters from noncommercial car washing.

j. Street wash water.

k. Dechlorinated swimming pool water from single, two, or three-family residences. (A swimming pool operated by the permittee shall not be discharged to a separate storm sewer or to surface waters of the state without NPDES permit authorization from EGLE.)

l. Discharges or flows from firefighting activities if identified as not being significant sources of pollutants to waters of the state.

m. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

n. Dye testing is an allowable discharge, but requires a "Notice of Intent to Treat" under the General Rule 97 Certification of Approval to be obtained from the EGLE prior to the commencement of the test.

o. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(b) *Prohibition of illicit connections.*

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-226. - Inspection and monitoring requirements.

(a) *Monitoring of discharges.*

(1) *Applicability*.

a. This section applies to all facilities that have storm water discharges, facilities associated with industrial activity, and those having construction activity.

(2) *Access to facilities.*

a. The City of Eastpointe Department of Public Works and Services shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the city.

b. Facility operators shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

c. The city shall have the right to set up on any permitted facility such devices as are necessary and/or required by the MS4 permit to conduct monitoring and/or sampling of the facility's storm water discharge.

d. The city has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

e. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the city and shall not be replaced. The costs of clearing such access shall be borne by the operator.

f. Unreasonable delays in allowing the city access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this division.

g. If the city has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this division or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. No. 1181, § 1, 2-4-2020)

Sec. 46-227. - Enforcement.

(a) *Enforcement*.

(1) *Notice of violation.*

a. Whenever the authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this division, or failed to comply with the city's current Illicit Discharge Elimination Plan and Total Maximum Daily Load (IDEP & TMDL) plan and amendments, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. Improved plans and design at the owner's cost;

2. The performance of monitoring, analyses, and reporting;

3. The elimination of illicit connections or discharges;

4. That violating discharges, practices, or operations shall cease and desist;

5. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;

6. Payment of a municipal civil infraction ticket; and

7. The implementation of source control or treatment BMPs.

(2) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(3) *Penalty*.

a. For general code penalty, see section 1-15.

(Ord. No. 1181, § 1, 2-4-2020)

Chapter 50 - ZONING[1]

Footnotes:

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Editor's note— Ord. No. 1080, adopted Apr. 16, 2013, repealed former Ch. 50, §§ 50-1—50-409, and enacted a new Ch. 50 as set out herein. Former Ch. 50 pertained to similar subject matter. For prior history, see Code Comparative Tables.

Charter reference— City planning and zoning, ch. XIII.

State Law reference— Michigan zoning enabling act, MCL 125.3101 et seq.; Michigan planning enabling act, MCL 125.3801 et seq.

ARTICLE I. - INTRODUCTION

Sec. 50-1. - Short title.

This chapter shall be known as the City of Eastpointe Zoning Ordinance.

(Ord. No. 1080, 4-16-2013)

Sec. 50-2. - Intent.

The purposes of this chapter are to:

(1) Promote the public health, safety, morals and general welfare;

(2) Encourage the use of lands in accordance with their character and adaptability;

(3) Limit the improper use of land;

(4) Avoid the overcrowding of population;

(5) Provide adequate light and air;

(6) Avoid congestion on the public roads and streets;

(7) Reduce hazards to life and property;

(8) Facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; and

(9) Conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties.

In reaching these objectives, the city will give reasonable consideration to the character of each district, its peculiar suitability for particular uses, the general and appropriate trend, and the character of land, buildings and population development, as studied, recommended and/or adopted within the master plan by the City of Eastpointe Planning Commission and the Eastpointe City Council.

(Ord. No. 1080, 4-16-2013)

Secs. 50-3—50-9. - Reserved.

ARTICLE II. - DEFINITIONS AND CONSTRUCTION

Sec. 50-10. - 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.

Accessory means a use which is clearly incidental to, customarily found in connection with, and, except in the case of accessory off-street parking or loading spaces, located on the same zoning lot with the principal use to which it is related. When the term "accessory" is used in this text, it shall have the same meaning as the term "accessory use." An accessory use includes, but is not limited to, the following:

(1) Residential accommodations for servants and/or caretakers and private vehicle garages;

(2) Swimming pools and tennis courts for the use of the occupants of a residence, and their guests;

(3) Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure;

(4) A newsstand primarily for the use of the occupants of a building, when the newsstand is located on the same premises with the building;

(5) Storage of merchandise normally carried in stock and which is directly used in connection with a business use on the premises, unless such accessory storage is specifically prohibited as set forth in the regulations of the zoning lot on which the principal use is located;

(6) Storage of goods and materials used in the manufacture of a product made on the same premises, unless such storage is specifically prohibited as set forth in the regulations of the zoning lot on which the principal use is located;

(7) Accessory off-street parking spaces, open or enclosed, on the same premises as the use it is intended to serve, except as otherwise permitted in the P-1 Vehicle Parking District as set forth in this Code;

(8) Uses clearly incidental to a main use such as but not limited to offices of an industrial or commercial use located on the same premises with the principal use;

(9) Accessory off-street loading, and unloading on the same premises as the principal use; and

(10) Accessory signs located on the same premises as the principal use.

Acre, net means gross land acreage devoted to a use, exclusive of land in streets, alleys, parks, playgrounds, school yards, or other public lands and open spaces such as environmentally restricted land.

Adolescent means a male or female human being less than 18 years of age.

Adult means a male or female human being 18 years of age or older.

Adult-oriented use includes the following uses as herein defined:

Adult arcade 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 maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult bookstore or *adult video store* means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other audio visual representations which depict or describe specified sexual activities or specified anatomical areas; and

(2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(1) Persons who appear in a state of nudity;

(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; and

(3) Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motel means a hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

(2) Offers a sleeping room for rent for a period of time that is less than ten hours; and

(3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours. Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Establishment means and includes 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.

(3) The additions of any sexually-oriented business to any other existing sexually-oriented business.

(4) The relocation of any sexually-oriented business.

Nude model studio means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

Nudity or a *state of nudity* means the appearance of a human bare buttocks, anus, male genitals, female genitals, or full female breast.

Permittee and/or *licensee* means a person in whose name a permit and/or license to operate a sexually-oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Seminude means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual encounter center means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; and

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude.

Sexually-oriented business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center. Sexually-oriented businesses are classified as follows:

(1) Adult arcades;

(2) Adult bookstores or adult video stores;

(3) Adult cabarets;

(4) Adult motels;

(5) Adult motion picture theaters;

(6) Adult theaters;

(7) Escort agencies;

(8) Nude model studios;

(9) Sexual encounter centers.

Specified anatomical areas mean the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

Specified sexual activities means and includes any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.

(3) Masturbation, actual or simulated.

(4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) of this definition.

Substantial enlargement of a sexually-oriented business means the increase in floor areas occupied by the business by more than 25 percent, as the floor areas exist on the date of enactment.

Transfer of ownership or control of a sexually-oriented business means and includes any of the following:

(1) The sale, lease, or sublease of the business.

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means.

(3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Alley means any dedicated public way, typically along the rear property line, affording a secondary means of access to abutting property.

Alteration means a change, addition, or modification in construction (or deconstruction) or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the act of which may be referred to herein by the term "altered" or "reconstructed."

Apartment means a room or suite of rooms used as a dwelling for one family which has cooking facilities and sanitary facilities located therein which is leased or rented.

Apartment building means a building or a portion thereof, designed exclusively for occupancy by two or more families living independently of each other in apartment units.

Apartments means the dwelling units in a multiple-dwelling building as defined herein:

Efficiency apartment means a dwelling unit generally containing not less than 450 square feet of floor area, and consisting of not more than one room in addition to the kitchen, dining and necessary sanitary facilities.

One-bedroom unit means a dwelling unit containing a minimum floor area of at least 500 square feet per unit, consisting of not more than two rooms in addition to kitchen, dining, and necessary sanitary facilities.

Three or more bedroom unit means a dwelling unit wherein for each room in addition to the three rooms permitted in a two-bedroom unit, there shall be provided an additional area of 200 square feet to the minimum floor area of 700 square feet.

Two-bedroom unit means a dwelling unit containing a minimum floor area of at least 600 square feet per unit, consisting of not more than three rooms in addition to kitchen, dining, and necessary sanitary facilities.

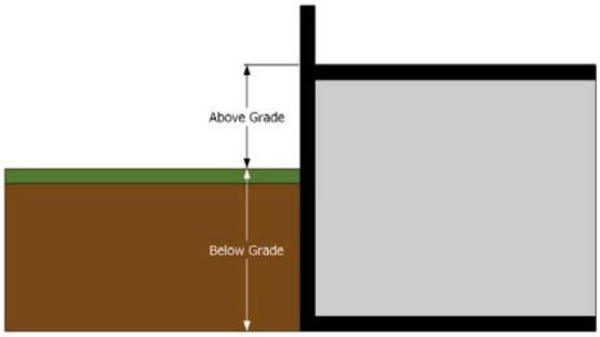
Arcade means any establishment or place of business containing four or more mechanical amusement devices.

Arcade, adult. See *Adult oriented use.*

Automobile repair garage. See *Motor vehicle repair.*

Automobile service center means a building or premises used primarily for the sale and installation of major automobile accessories, such as tires, batteries, radios, air conditioners and mufflers, plus such services as brake adjustment, wheel alignment and balancing; but excluding any major mechanical repairs, collision work, undercoating or painting.

Basement means that portion of a building between the floor and ceiling which is at least partly below ground level, provided that the vertical distance from grade to the floor below is more than a vertical distance from grade to ceiling. A basement shall not be considered as a story.



Block means the property abutting one side of a street and lying between the two nearest such perpendicular side streets or railroad right-of-way, or any other barrier to the continuity of development, or corporate boundary lines of the city.

Brick. See *Face brick.*

Building means:

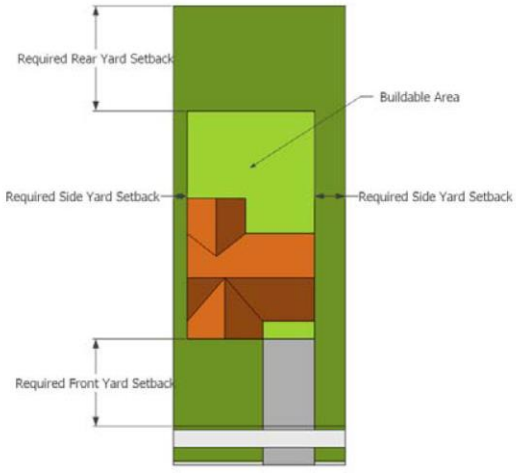
(1) The term "building" means any structure which:

a. Is permanently affixed to the land; or

b. Has one or more floors and/or a roof.

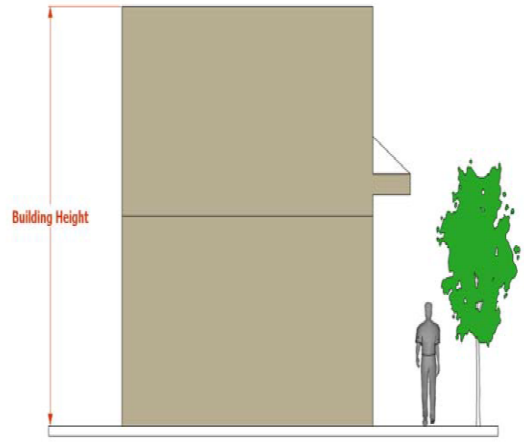
Building, accessory. See *Accessory building.*

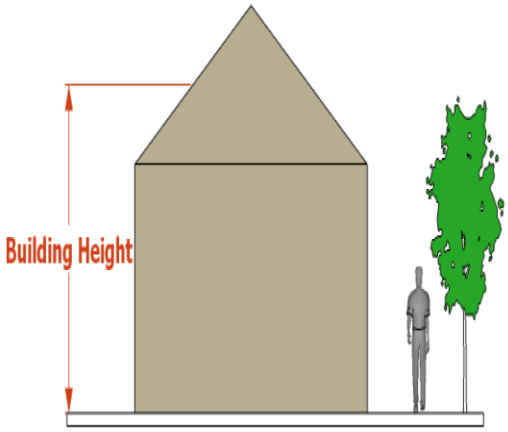
Building area means the space remaining on a property for building purposes after compliance with minimum building setback requirements.



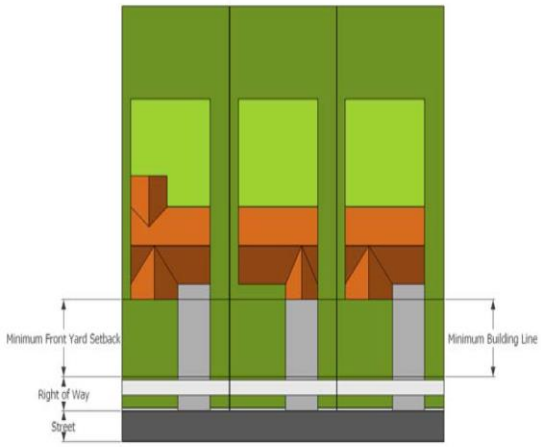
Building height means, for a principal building or structure, the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs;

and to the average height between eaves and ridge for gable, hip, and gambrel roofs. For detached accessory buildings, the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs and to the ridge line for mansard, gable. For a building located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.





Building line means a line formed by the face of the buildings, typically, the minimum building line is the same as a front setback line.



Building, main or principal means a building in which the principal use is conducted.

Building, one-family. See *Dwelling, single-family.*

Building, multiple-family means a building or a portion thereof, designed exclusively for occupancy by two or more families living independently of each other.

Building, two-family. See *Dwelling, two-family.*

Cemetery means land dedicated solely for burial of the human dead.

Cemetery, pet means land dedicated solely for burial of nonhuman dead.

Child. See *Adolescent.*

Child care means the provision of care and supervision for periods of less than 24 hours a day. For the purposes of this chapter, child care shall include the following:

Child care center means a facility, other than a private residence, receiving one or more preschool or school-age children for care for periods of less than 24 hours a day, where the parents or guardians are not immediately available to the child. Child care center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before-school or after-school program, or drop-in center. The term "child care center" does not include any of the following:

(1) A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are attending for not more than three hours per day for an indefinite period or for not more than eight hours per day for a period not to exceed four weeks during a 12-month period.

(2) A facility operated by a religious organization where children are in the religious organization's care for not more than three hours while persons responsible for the children are attending religious services.

(3) A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age child-focused training.

(4) A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.

Family child care home means a private home in which one but fewer than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. The term "family child care home" includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

Group child care home means a private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group child care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

Church means a building(s) used principally for religious worship (not specific to a religion) and its ancillary activities, but the term "church" shall not include or mean an undertaker's chapel or funeral building.

City means the City of Eastpointe, Macomb County, Michigan.

Clinic means an establishment where human patients, who are not lodged overnight, are admitted for examination and treatment by a group of physicians, dentists or similar professions.

Club, lodge or fraternity means an organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, public service, patriotism, ideals or the like.

Commercial (center commercial) means a retail center which is generally characterized by more than one use in a group of buildings served by a common off-street parking area, and whose architecture is of uniform design and appearance.

Commercial (noncenter commercial) means a freestanding individual use in a single building of its own design and architecture that may or may not be in common with the buildings around it.

Commercial vehicle includes all motor vehicles used for the transportation of passengers for hire, or constructed or used for transportation of goods, wares or merchandise, and/or all motor vehicles designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

Condominium means a form of ownership, which, for the purposes of this chapter, is applied to the following terms as defined herein:

Common elements means the portions of the condominium project other than the condominium units which are intended to service the entire condominium development.

Condominium Act means Public Act No. 59 of 1978 (MCL 559.101 et seq.).

Condominium bylaws means the required set of bylaws establishing the rules of conduct for the condominium project and association which is attached to the master deed.

Condominium site plan means a scaled drawing of the site, including a survey of the property, the units, the limited and general common elements, utility layouts, floor plans and elevation sections, as appropriate, showing existing and proposed structures, improvements, roadways, parking, etc., as it is to be erected on the site.

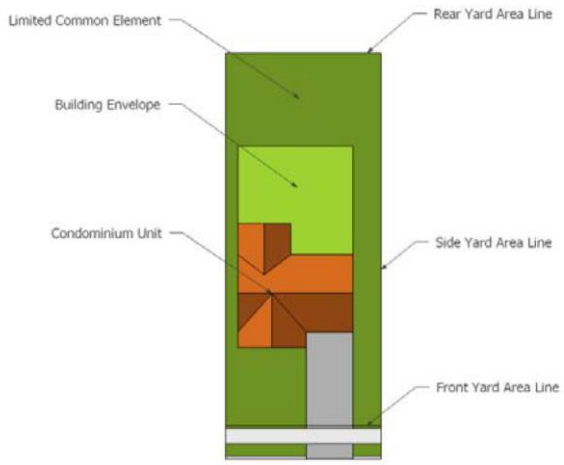
Condominium unit means that portion of the project designed and intended for separate, individual ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

Consolidating master deed means the final amended master deed for a contractible or expandable condominium project, or a condominium project containing convertible land or space which the final amended master deed fully describes the condominium project as completed.

Contractible condominium means a condominium project from which any portion of the submitted land or buildings (i.e., units) may be withdrawn pursuant to express provisions in the condominium documents and in accordance with this chapter and the condominium act.

Conversion condominium means a condominium project containing condominium units, some or all of which were occupied before the filing of a notice of taking reservations under section 71 of the Condominium Act (MCL 559.171).

Convertible area means a unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to express provision in the condominium documents and in accordance with this chapter and the condominium act.



Co-owner means a person, firm, corporation, partnership, association, trust, or other legal entity or any combination of those entities, who owns a condominium unit within the condominium project. Co-owner includes land contract vendees and land contract vendors, who are considered jointly and severally liable under this act and the condominium documents, except as the recorded condominium documents provide otherwise.

Expandable condominium means a condominium project to which additional land may be added pursuant to express provisions in the condominium documents and in accordance with this chapter and the condominium act.

Limited common elements means a portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

Master deed means the condominium document recording the condominium project as approved by the city. The master deed shall also include exhibits that include the approved bylaws and condominium subdivision plan for the project.

Convalescent or nursing home means a home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, wherein two or more persons are cared for. Said home shall conform and qualify for license under state law even though state law has different size regulations.

Density means the number of dwelling units developed on, an acre of land. As used in this chapter, all densities are stated in dwellings per net acre.

Development means the construction of a new building or structure on a lot, the relocation of an existing building, or the use of open land for a new use.

District means the various portions of the city within which certain zoning regulations and requirements or various combinations thereof apply under the provisions of this chapter.

Drive-in. See *Restaurant, drive-in*.

Drive-through means a business establishment designed and intended to provide a driveway approach and temporary motor vehicle standing space or stacking space where customers receive service while in their motor vehicles as either a primary or ancillary means of service.

Dwelling means a place or unit of residence. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Dwelling, manufactured means a dwelling unit which is substantially built, constructed, assembled, and finished off the premises upon which it is intended to be located and then brought to the site for final assembly.

Dwelling, single-family means a building designed exclusively for and occupied exclusively by one family.

Dwelling, site built means a dwelling unit which is substantially built, constructed, assembled, and finished on the premises which is its final location. Site built dwelling units shall include dwelling units constructed of precut materials, and panel walls, roof and floor sections when such sections require substantial assembly and finishing on the site.

Dwelling, two-family means a building designed exclusively for occupancy by two families living independently of each other (two-family dwellings shall also be considered multiple family dwellings).

Earth berm. See *Landscaping*.

Earth berm, obscuring. See *Landscaping*.

Easement or *corridor* means the area within which a public transmission line is located, either above or below ground. The term "corridor" shall apply when the designated area within which the transmission line is located is owned in fee interest by a utility company.

Entrance ramp means a roadway designed to permit traffic from an unlimited access surface street to gain access to a limited access highway or expressway.

Erected means built, constructed, altered, reconstructed, moved upon or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like shall be considered a part of erection.

Essential services means the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collections, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection therewith, but not including buildings which are necessary for the furnishing of adequate service to the city of such utilities or municipal departments for the general health, safety or welfare. Essential services shall be permitted as authorized and regulated by law and the applicable standards of this chapter and other ordinances of the city.

Excavation means any breaking of ground, except common household gardening and ground care.

Exit ramp means a roadway designed to permit traffic from a limited access highway or expressway to gain access to an unlimited access surface street.

Face brick, nonresidential means material consisting of kiln baked clay or shale masonry units the exterior dimensions of which shall not be less than four inches deep by four inches high, by 12 inches long, the individual shape of which shall be rectangular in appearance.

Face brick, residential means material consisting of kiln baked clay or shale masonry units the exterior dimensions of which shall not exceed accepted industry standards for residential brick units, except no such unit shall be less than three and five-eighths inches deep, measured from the front face of the unit to the rear face of the unit.

Family means either of the following:

(1) A domestic family, that is, one or more persons living together and related by the bonds of consanguinity, marriage, or adoption, together with servants of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling.

(2) The functional equivalent of the domestic family, that is, persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family, with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, or group whose association is temporary or seasonal in character or nature. For the purposes of enforcement, it is presumed that a functional equivalent of a domestic family is limited to six or fewer persons.

Fast food restaurant. See *Restaurant (fast food)*.

Fence means a structure serving as an enclosure, a barrier, a confinement or a boundary, usually made of posts or stakes joined together by boards, wire, or rails. A fence is not a wall.

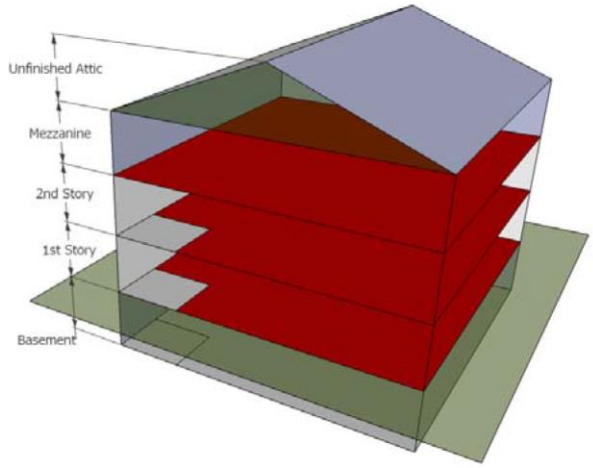
Privacy fence means a fence structure, or any part of a fence, over a height of four feet, consisting of materials constructed in such a manner to inhibit at least 70 percent of the light, ventilation and sight through the fence. Examples of privacy fences include but are not limited to stockade and shadow box.

Fence, obscuring means an opaque structure (having no or minimal openings) and a definite height and location designed to serve as a screen or obscuring device.

Filling means the depositing or dumping of any matter on or into the ground which modifies the grade, except deposits resulting from common household gardening and general farm care.

Floor area, gross means the area of a building measured to the exterior face of all exterior walls.

Floor area, useable, nonresidential means the sum of the horizontal area of the first story measured to the interior face of exterior walls; plus, similarly measured, that area of all other stories, including mezzanines, which may be made fit for occupancy, including the floor area of all accessory buildings measured similarly and the floor area of basements when used or activities related to the principal use, but excluding storage, furnace, and utility rooms or interior parking areas.



Floor area, useable, residential means the sum of the horizontal area of the first story measured to the interior face of exterior walls; plus, similarly measured, that area of all other stories having more than 84 inches of headroom which may be made useable for human habitation; but excluding the floor area of basements, attics, attached or unattached garages, breeze ways, unenclosed porches and accessory buildings. (See *Story* and *Story, half* and *Basement*.)

Foster care means the provision of supervision, personal care and protection in addition to room and board for 24 hours a day five or more days a week and for two or more consecutive weeks for compensation. The term "foster care" shall include the following:

Adult foster care family home means a private residence with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more

consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.

Adult foster care large group home means an adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.

Adult foster care small group home means an adult foster care facility with the approved capacity to receive 12 or fewer adults to be provided with foster care.

Foster family group home means a private home in which more than four but less than seven minor children who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

Foster family home means a private home in which one but not more than four minor children who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

Garage, commercial parking means a building or structure which is used by the public for the parking of motor vehicles.

Garage, private means a detached accessory building or integral portion of a main building designed or used solely for the storage of motor-driven vehicles, boats, and similar vehicles owned and used by the occupants of the building.

Garage, repair. See *Motor vehicle repair*.

Gasoline service station. See *Motor vehicle service station*.

Grade means the ground elevation established for the purpose of regulating the number of stories and the height of the building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by computing the average elevation of the ground for each face of the building, and averaging the totals.

Greenbelt, aesthetic. See *Landscaping*.

Greenbelt, obscuring. See *Landscaping*.

Home occupation means a gainful occupation, activity, hobby or profession that is carried on entirely within the walls of a residential dwelling and which is carried on by the inhabitants thereof, which use is incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

Hospital means a building, structure or institution in which sick or injured persons are given medical or surgical treatment and operating under license by the health department and the State of Michigan, and is used for primarily in-patient services, and including such related facilities as laboratories, out-patient departments, central service facilities, and staff offices.

Hotel means a building or part of a building, with a common entrance or entrances, in which the dwelling units or rooming units are used primarily for transient occupancy and within which one or more of the following services are offered; maid service, furnishing of linen, telephone secretarial or desk service and bell boy service. A hotel may also include a restaurant, cocktail lounge, banquet halls, ballrooms or meeting rooms.

Junk means any motor vehicles, machinery, appliances, products, merchandise with parts missing or scrap metals or other scrap materials that are damaged, deteriorated, or are in a condition which cannot be used for the purpose that the product was manufactured.

Junkyard includes automobile wrecking yards, any area where junk vehicles are stored, keeping or abandonment of junk, including scrap metal or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof except for the normal household refuse which is stored only between regular pickup and disposal of household refuse, provided

the same is not left for a period of over 30 days in which case it shall be considered as junk. This definition does not pertain to uses conducted entirely within an enclosed building.

Kennel, commercial means any lot or premises on which three or more dogs, and/or cats, or other household pets, over six months of age are either permanently or temporarily boarded. The term "kennel" shall also include any lot or premises where household pets are bred or sold on a regular basis.

Landscaping means the art or science of placing live planting materials in specific or in specified areas with the intent of improving the appearance of an area, or for the purpose of creating a screen to obscure vision beyond the screen. The term "landscaping" shall also include the following terms:

Buffers for conflicting land use means a device or an area that is used for the purpose of protection and shielding the view of one use of land from another. A buffering device could include a wall, fence, earth berm or landscape planting screen, or an area containing sufficient natural tree cover to serve as a buffer.

Caliper means the diameter of a tree measured five feet above the root ball.

Earth berm, artistic means an aesthetically designed landscaping feature, which may also serve to create a landscaped mound for the purpose of temporarily detaining stormwater runoff.

Earth berm, obscuring means an earthen mound of definite height, length, location and appearance, which is designed and intended to serve as an obscuring device.

Greenbelt, aesthetic means an area in which live landscape planting materials are placed for aesthetic purposes and not for the purpose of screening.

Greenbelt, obscuring means a landscaped area of definite width, height and location containing live planting materials of definite spacing or grouping which is designed to serve as an obscuring device.

Interior landscaped areas includes all landscaped areas between the walls of a building and any off-street parking spaces, service drives or vehicle maneuvering lanes, or loading and unloading areas.

Obscure means to make not readily visible, to hide or screen from view.

Parking lot tree means a large deciduous tree placed within or adjacent to an off-street parking area.

Peripheral landscaped areas includes all landscaping that lies between any off-street parking spaces, service drives and vehicle maneuvering lanes, or loading and unloading area, and any peripheral property line, or where no parking, service drives and vehicle maneuvering lanes, or loading and unloading areas exist, any landscaped areas lying between any minimum required building setback line and a peripheral property line.

Shrubs, large means shrubs which will be four feet six inches in height or greater at maturity.

Shrubs, small means shrubs which will be less than four feet six inches in height at maturity.

Tree, large deciduous means a minimum of two and one-half inches in caliper measured five feet up to the tree from the ground.

Tree, small deciduous means a minimum of one and one-half inches in caliper measured five feet up the tree from the ground.

Vehicle use area includes all off-street parking lots, drive aisles, loading, unloading areas, service drives and landscaped islands.

Loading space. See *Off-street loading space*.

Local street means a street of limited continuity which is to be used to gain access to abutting residential properties.

Lot means a parcel of land occupied or intended to be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this chapter.

Lot area means the total horizontal area within the lot lines of the lot, excluding any portion of abutting private streets.

Lot, corner means a lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this chapter if the arc is of less radius than 150 feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees.

Lot coverage means the part or percent of the lot occupied by buildings including accessory buildings.

Lot, depth means the average horizontal distance between the front and rear lot lines measured along the median between the side lot lines.

Lot, interior means any lot other than a corner lot.

Lot lines means the legal property lines bounding the lot as described in the legal description.

Front lot line means, the line separating such lot from such street right-of-way. In the case of a corner lot the front lot line shall be the narrower of the two frontage lines, except in the case where both street frontages are at equal dimension, the front shall be the one assigned a street address. In the case of a double frontage lot, the front lot line shall be that line separating said lot from that street which is designated as the front street by the owner, with city approval, or the city's zoning board of appeals shall designate the front lot line.

Rear lot line means, ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular, triangular, or cone shaped lot, the property owner, with city approval, may designate the rear lot line, or the city's zoning board of appeals shall designate the rear lot line.

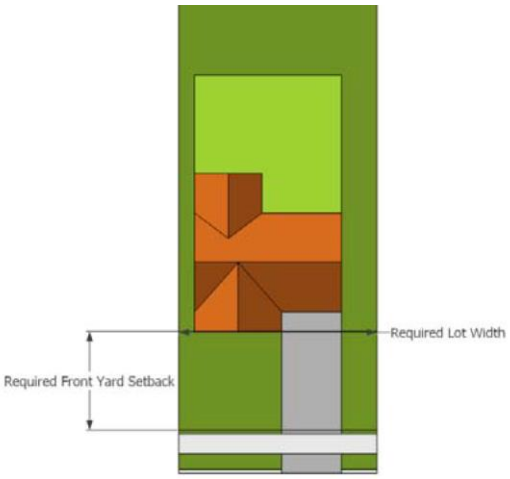
Side lot line means any lot line which is not a front lot line or a rear lot line. A side lot line separating a lot from a street is an exterior side lot line. A side lot line separating a lot from another lot is an interior side lot line.

Lot of record means a parcel of land, the legal description and dimensions of which are on file with the city or county and which actually exists as so shown.

Lot, through (double frontage) means an interior lot having frontage on two, more or less, parallel streets. In case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

Lot width means the horizontal straight line distance between the side lot lines.

Lot width, required means the minimum required horizontal straight line distance between the side lot lines, measured between the two points where the minimum required front setback line intersects the side lot lines.



Main building (principal building) means a building in which is conducted the principal use of the lot upon which it is situated.

Main use means the principal use to which the premises are devoted and the principal purpose for which the premises exist.

Major thoroughfare means an arterial street which is intended to serve as a large volume traffic way for both the immediate area and the region beyond, and may be designated as a major thoroughfare, parkway, freeway, expressway, or equivalent terms in the city's master land use plan. Any street with a width, existing or proposed, of 120 feet or greater shall be considered a major thoroughfare.

Marquee means a structure of a permanent nature projecting out horizontally from the wall of a building, typically depicted a message or providing signage.

Master land use plan means a comprehensive plan including graphic and written policies indicating the general location for streets, parks, schools, public building and all physical development of the city and any amendment to such plan or parts thereof.

Mechanical amusement device means any machine or device, whether video, electronic, mechanical or a combination thereof, which, upon the insertion of a coin, trade, token, ticket, slug, plate, disc or key, or payment of a price, operates or may be operated as a game, entertainment or contest of skill or amusement of any kind or description which contains no automatic payoff device for the return of money, price or goods to the player and further includes any machine, apparatus, or contrivance which is used or may be used as a game of skill and amusement wherein or whereby the player initiates, employs or directs any force generated by the machine. This definition does not apply to or include:

(1) A vending machine which does not incorporate gaming or amusement features;

(2) Musical devices or coin-operated radios; or

(3) Television sets in private quarters.

Mezzanine means an intermediate or fractional story between the floor and ceiling of a full story and occupying not more than one-third of the floor area of the full story.

Mixed use means a single building or property containing more than one type of use, or a single development of more than one building and use, where different land use types are in close proximity, and which are planned with shared vehicle and pedestrian access and parking areas.

Mobile home means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term "mobile home" does not include a recreational vehicle.

Mobile home park means any plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located.

Motel means a series of attached, semidetached or detached rental units containing a bedroom, bathroom and closet space. Units shall provide for overnight lodging and are offered to the public for compensation.

Motor vehicle repair (general) means the general mechanical repair, including overhaul and reconditioning of motor vehicle engines, transmissions and other mechanical repairs, but not including collision services such as body, frame or fender straightening and repair, painting or undercoating.

Motor vehicle repair (major) means the general mechanical repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision services such as body, frame or fender straightening and repair, painting or undercoating.

Motor vehicle service center means a use which is accessory to a designated retail commercial outlet located within a shopping center or which is within a building composed of the same construction material and of the same design as the shopping center, wherein automobile products such as motor oils, lubricants and various automobile mechanical parts that are retailed directly to the public by said retail commercial outlet are installed.

Motor vehicle service station (gasoline station) means a place where gasoline or other motor fuel and lubricants for operating motor vehicles are offered for sale at retail to the public including sale of accessories, lubricating and light motor service on the premises, but not including collision services such as body, frame or fender straightening or repair, painting or undercoating.

Noncenter commercial. See *Commercial, noncenter*.

Nonconforming building means a building or structure, or portion thereof lawfully existing at the effective date of the ordinance, or amendments thereto and that does not conform to the provisions of the district in which it is located.

Nonconforming use means a use which lawfully occupied a building or land at the effective date of the ordinance or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

Nuisance factors means an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as but not limited to: noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people, particularly at night, passenger traffic, and invasion of non abutting street frontage by traffic.

Nursery means an area for the growing of plant materials, not offered for sale on the premises.

Nursery, commercial means a space, building or structure, or combination thereof, for the growing and storage of live trees, shrubs, or plants offered for sale on the premises, including products used for gardening or landscaping.

Nursery school. See *Day care*.

Nursing home. See *Convalescent care*.

Occupancy load means the number of individuals that are permitted to occupy a building or property as determined by the city.

Occupied means to dwell or reside in (either permanently or temporarily).

Off-street loading space means a facility or space specifically intended to permit the standing, loading or unloading of trucks and other vehicles outside of a public right-of-way.

Off-street parking lot means a facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than three vehicles.

Open air business uses means business sales and operations not conducted within a wholly enclosed building, and shall include the following uses:

(1) Bicycle, trailer, mobile home, motor vehicle, farm implements, boats or home equipment sale or rental services.

(2) Outdoor display and sale of garages, sheds, swimming pools, and similar uses.

(3) Retail sale of fruit, vegetables, and perishable foods.

(4) Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

(5) Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park or similar recreation uses.

Open front store means a business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "open front store" shall not include automobile repair stations or automobile service stations.

Open space means an area of land that remains primarily undeveloped and in its natural state. The term "open space" may include park lands and park facilities so long as they are provided as a part of an open space area.

Open storage (motor vehicle) means the outdoor standing or placement of motor vehicles including truck trailers for more than 18 hours, including new or used motor vehicles on display for lease or sale.

Open storage (nonresidential) means the outdoor standing or placement of any material which is manmade, assembled, fabricated or treated in any manner and which may or may not be used directly in the processing or fabrication of a product manufactured on the premises.

Open storage (residential) means the outdoor placement or keeping of material which is owned and possessed by the resident occupying the dwelling unit on the premises or by the owner of the premises where open storage is to take place.

Out lot means a lot in a subdivision which is restricted from use for building purpose, whether or not deeded to the city, but which is not dedicated as a street or public reservation or public park.

Parking means the parking of a motor vehicle for short duration. The term "temporarily" or "shortly" for the purpose of this definition shall mean and be measured by hours, or at most, up to a maximum of 18 hours.

Parking lot. See *Off-street parking lot*.

Parking space means an area of definite length and width exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of vehicles.

Pawnbroker:

Employee means any person over 18 years of age who renders any service in connection with the operation of a pawnbroker, secondhand dealer or junk dealer business and who receives compensation from the owner or operator of the business or patrons thereof.

Owner and *operator* mean a person who owns or controls a pawnbroker, secondhand dealer or junk dealer business. This includes individuals, licensees, managers, lessees, sponsors, partnerships, corporations, societies, organizations, associations or any combination of individuals of whatever form or character.

Patron means any person over 18 years of age who does business in any form with a pawnbroker, secondhand dealer or junk dealer business.

Pawnbroker means any person, corporation or member of a co-partnership or firm who loans money on deposit or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back again at a stipulated price.

Secondhand dealer and *junk dealer* mean any person, corporation or member of a co-partnership or firm whose principal business is that of purchasing, storing, selling, exchanging and receiving secondhand personal property of any kind or description.

Planned commercial center. See *Commercial, center commercial*.

Planning commission means the city's planning commission.

Planned development means a proposed use of the land which requires the submission of a site plan for more than one building, structure or use to be approved, including spatial relationships and vehicular and pedestrian circulation.

Principal use. See *Main use*.

Property line means the boundary lines that define and identify the extent of a lot, parcel or property by ownership.

Public utility means a person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under governmental regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

Recreation land means any publicly owned or privately owned property that is utilized for recreation activities, including such active recreation as camping, swimming, picnicking, hiking, walking, nature study and various organized or unorganized sports, and inactive recreation such as reading, sitting and table games.

Recreation vehicles or equipment includes the following:

(1) Boats and boat trailers including boats, floats, ski jets and rafts, plus the normal equipment to transport the same on the highway.

(2) Folding tent trailer means a folding structure, mounted on wheels and designed for travel and vacation use.

(3) Motorized home means a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

(4) Pickup camper means a structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational, and vacation uses.

(5) Snowmobile and all-terrain vehicle plus the normal equipment to transport the same on the highway.

(6) Travel trailer means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel trailer" by the manufacturer.

(7) Utility trailer, for the purpose of this chapter, means any wheeled vehicle designed and intended to be towed behind another vehicle.

Recycling means the process by which waste products are reduced to raw materials and transformed into new and often different products.

Recycling center means a facility where previously used products or materials are transformed into new and often different products. For the purposes of this chapter, the term "recycling center" means other than a junkyard as defined.

Restaurant (drive-in) means a business establishment designed to provide a motor vehicle driveway approach, standing space, or parking space where patrons receive food and beverages while in motor vehicles for consumption in motor vehicles while on the premises.

Restaurant (fast food carry-out) means a business establishment wherein food is prepared or cooked on the premises to be sold in disposable containers or wrappers to patrons and which is not intended to be consumed on the premises or within a motor vehicle parked or standing on the premises.

Restaurant (fast food sit-down) means a business establishment in which a patron purchases food or beverages, which may have been previously prepared, and which is served in disposable containers or wrappers and which the patron consumes while seated in the restaurant.

Restaurant (sit-down) means a business establishment in which a patron purchases food or beverages, which is then prepared after the patrons order, on the premises and which is thereafter served to the patron and is consumed by the patron while seated in the restaurant.

Right-of-way means the right-of-way line shall be the line established by the Macomb County Department of Roads and the city in its right-of-way requirements established in the city's adopted master land use plan.

Roadside stands means a temporary or existing permanent building operated for the purpose of selling only produce raised or produced by the proprietor of the stand or his family on the premises, and its use shall not make into a commercial district land which would otherwise be an agricultural or residential district, nor shall its use be deemed an approved commercial activity.

Salvage yards means an open area where used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to, scrap iron and other metals.

Screen. See *Landscaping*.

Secondary thoroughfare means a street of limited continuity designed and intended to collect and distribute traffic to and from local streets and to and from major thoroughfares.

Setback means the minimum horizontal distance between any side of the main building and any adjoining property boundaries, such as the front of the building, excluding only the steps, and the front lot line or street right-of-way line.

Signs:

Animated sign means a sign that uses lights, moving parts or other means to depict an object in motion or a sequence of motions.

Awning means a metal, wooden, fiberglass, canvas or other cover which extends over a porch, patio deck, balcony, window, door or open space.

Awning sign means a sign that is printed on, integrated into, or otherwise affixed to an awning.

Balloon means any floating air-filled or gas-filled object tethered to a fixed location.

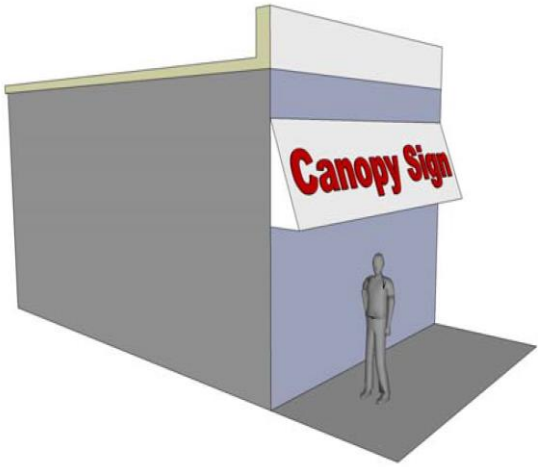
Balloon sign means a sign in which one or more balloons are used as a permanent or temporary sign or as a means of directing attention to any business location.

Banner sign means a sign produced on cloth, paper, fabric or other similar material.

Billboard means an off-premise, non accessory sign advertising an item or product that is not produced or sold on the same premises where the sign is located.

Canopy means a roof-like structure providing shelter which is either freestanding or is projecting from a building and is supported by structural members.

Canopy sign means a sign that is printed, integrated into or otherwise affixed to a canopy-type structure.



Church or school sign means a freestanding sign as defined in this section and which may have changeable letters and which is located on property owned by churches or schools.

Display area means the area of a sign, measured in square feet, within which a message, logo or other means of conveying a message, thought or idea is presented or displayed.

Fabric awning means a canvas or other fabric cover which extends over a porch, patio, deck, balcony, window, door or open space.

Feather sign means a temporary type sign typically vertical in nature constructed of canvas or fabric, attached to a pole and placed onto or into the ground.

Festoon sign means a sign consisting of a wreath or garland of flowers, leaves, paper or other material hanging in a loop or curve.

Freestanding sign means a sign that is not attached in any way to a building on the property.

Gasoline price sign means any sign which is used to advertise the price of gasoline. If the brand identification sign is attached to or a part of the sign advertising price, that portion of the sign used for advertising price shall be considered the gasoline price sign.

Mansard roof means a four-sided roof having a double slope on all sides, with the lower slope much steeper than the upper.

Marquee sign means a sign that is permanently affixed to a structure, projecting outward from the building wall more than 18 inches but not more than five feet which creates a permanent overhang, typically over an entrance.

Monolith sign means a three-dimensional, self-supporting, base-mounted, freestanding sign, consisting of two or more sides extending up from the base, and upon which a message is posted. A monolith sign may also consist of a base-mounted cylindrical structure upon which a message is posted.

Municipal sign means a sign constructed or otherwise placed on property advertising or informing the general public of issues pertaining to the City of Eastpointe, locations of public properties or facilities, etc.

Mural means a work of decorative art applied on or attached to an exterior wall within public view that does not include graphics or text that can be interpreted as commercial advertising, except that a mural may contain bona fide historic recreations or restorations of vintage advertising of former businesses.

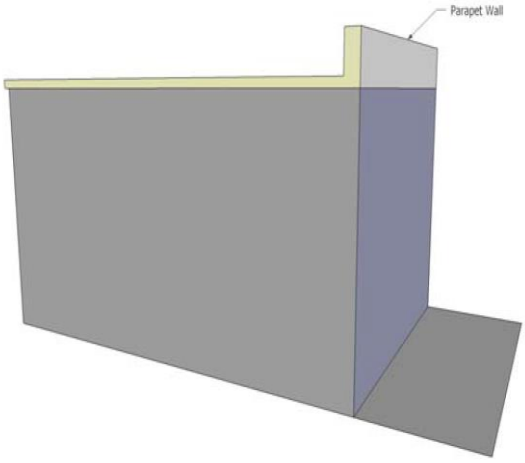
Neon sign means an illuminated sign constructed of fluorescent lights in the form of bent glass tubes; the different colors being obtained by adding different gases to the neon.

Nonconforming sign means a sign that is prohibited under the provisions of this article but was in use and lawful at the date of enactment of this article.

Obsolete sign means a sign that advertises a product that is no longer made or that advertises a business that has closed at that location.

Outline tubing sign means a sign consisting of glass tubing, filled with a gas such as neon, which glows when electric current is sent through it.

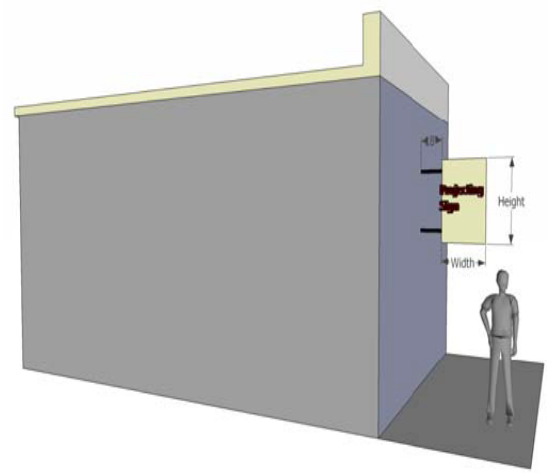
Parapet means a low protective wall or railing along the edge of a raised structure such as a roof or balcony.



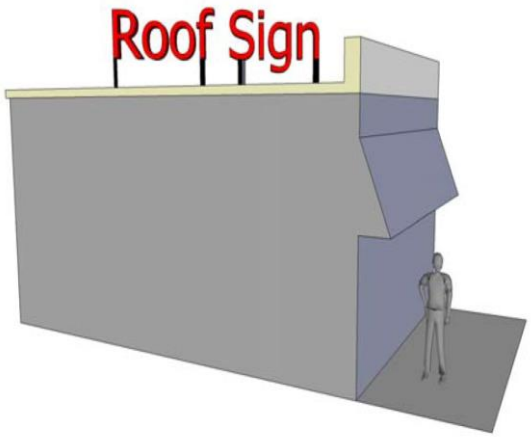
Pennant sign means a sign or display consisting of long, narrow, usually triangular flags.

Portable sign means a sign that is not permanently affixed to a building face or to a pole, pylon or other support structure that is permanently anchored in the ground.

Projecting sign means a sign that is affixed to any building or structure and extends in whole or in part beyond the building wall, or structure by more than 18 inches.



Roof sign means a sign erected, constructed or maintained upon, and which projects above or beyond, a roof or parapet.



Rooming house means any building occupied as a home or family unit where certain room, in excess of those used by members of the immediate family, are leased or rented to one or more persons and occupied by four or more persons not members of the family.

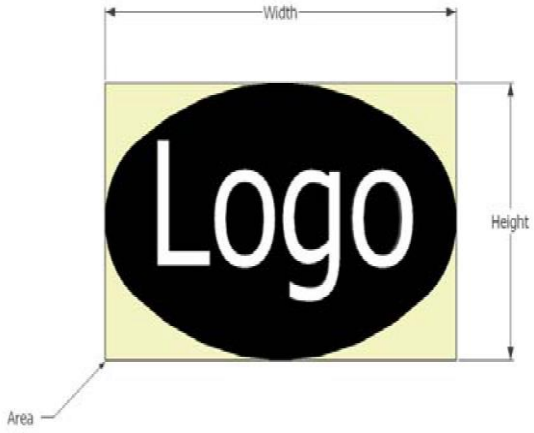
Sandwich sign means a sign typically temporary in nature, consisting of two advertising boards laid back-to-back and at least partially supported by each other.

Sign generally means any use of words, numbers, figures, devices, designs, logos, trademarks, letters, characters, marks, points, planes, posters, pictorials, pictures, strokes, stripes, lines, reading matter, illuminating devices or paint visible to the general public and designed to inform or attract the attention of persons not on the premises on which the sign is located as determined by the building official or the planning commission, including the structure upon which the sign may be printed or affixed.

Sign display area means:

(1) Unless otherwise noted, the display area of a sign shall include the total area within any triangle, square, or rectangle upon which a message is presented or displayed, including any symbol or logo and including any frame or other material forming an integral part of the display, or which is used to differentiate the display area from the background against which it is placed.

(2) In the case of an oval or other geometric shape the display area will be the area contained within a square or a rectangle, the edges of which touch the outer most edges of the circle, oval or other geometric shape.



(3) In the case of letters or symbols attached directly to a wall in which there is no frame or other material to form an integral part of the display or used to differentiate such sign from the background against which it is placed, the display area envelope shall be measured from the front of the first letter to the end of the last letter in the word or message of words, logos, emblems, figures, pictures, etc.

(4) For a single face sign, the area shall be computed as the total exposed exterior surface in square feet. For a double-faced freestanding sign, the display area shall be applicable to one face of the sign, provided that the outline and dimensions of the second face is identical in every way to the first and the faces are back so only one face of the sign is visible at any given location.

Signage means the total number and area of signs requiring a permit which are allowed on the property where the signs exist or are proposed for erection. Maximum signage shall be determined by adding together the maximum area in square feet of each sign which would be permitted on the property in question.

Spinner means a sign or display consisting of parts that spin.

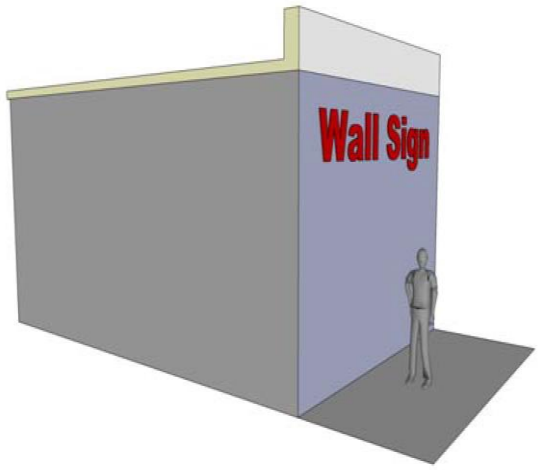
Street furniture means a sign structure that by its design invites, entices, encourages or makes itself convenient or available to use by the general public for something more than mere visual attraction to its message.

Temporary sign means a sign that is intended to be erected for only a few days or weeks, including portable signs, trailer signs, banners, pennants or any other sign that is not permanently affixed to a building face or to a pole, pylon or other support that is permanently anchored on the ground. Temporary signs may include real estate signs, residential and nonresidential construction signs, temporary political signs, garage sale signs, real estate open house signs, etc.

Temporary event or *temporary seasonal sign* means a sign that is displayed on public property for either a public or private event, typically a festival, fundraiser, or gathering, to be held on public property.

Trailer sign means a sign that is mounted on a frame with wheels and that is capable of being pulled by a vehicle or by hand. For the purposes of this article, a trailer sign is considered to be a portable sign.

Wall sign means a sign that is attached affixed, painted or placed flat against, parallel to or upon any exterior wall or surface of any building or building structure provided that no part of any sign extends more than 18 inches from the face of the exterior wall and does not project above the roof or parapet line. For purposes of this article, a sign attached to the face of a mansard roof is considered to be a wall sign. Murals shall not be considered wall signage.



Window sign means any sign located in or on a window or inside a building and visible to the general public on the exterior, whether or not the sign is affixed to the window.

Site plan means a drawing showing all prominent features of a proposed development so that it may be evaluated in order to determine compliance with the applicable requirements of this Code.

Special land use means a use of land which requires compliance with certain development or location conditions as set forth for the use in the various zoning districts.

Storage. See *Open storage*.

Story means that part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A space shall not be counted as a story when more than 50 percent, by cubic content, is below the height level of the adjoining ground.

Story, half means an uppermost story generally lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet six inches.

Street, public means a dedicated public right-of-way and accepted roadway, other than an alley, which affords the principal means of access to abutting property.

Structural alteration means any change in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders, stairways, or any change in the width or number of exits, any substantial change in the roof, or any addition or removal of exterior walls.

Structure means anything placed, constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Swimming pool means any structure located above or below grade designed to hold water to a depth greater than 24 inches to be used for swimming.

Telecommunication towers.

Attached wireless communications facilities means wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles and the like. A wireless communication support structure proposed to be newly established is not included within this definition.

Colocation means the location by two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.

Wireless communication facilities means and includes all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities, shortwave facilities, ham, amateur radio facilities, satellite dishes, and governmental facilities, which are subject to state or federal law or regulations which preempt municipal regulatory authority.

Wireless communication support structures means structures erected or modified to support wireless communication antennas. Support structures within this definition include, but are not limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

Temporary use means a use of building or land permitted by the city to exist during periods of construction of the main building or use, or for special events.

Tourist home means any building in which there are less than ten rooms or rental units, other than such as may be occupied by the family of the owner or lessee, in which transients are lodged for hire.

Townhouse means a building occupied by three or more families, where each dwelling unit is divided from the one adjacent to it by a party wall extending the full height of the building. Each dwelling unit is capable of individual use and maintenance without trespassing upon adjoining properties and utilities and service facilities are independent for each property.

Transient means a person lodging for hire in any building for less than 30 days.

Transition means a zoning district, a landscaped area, arrangement of lots, wall or other means which may serve as a district or area of transition, i.e., a buffer zone between various land use districts and/or land use and thoroughfares.

Travel trailer park (overnight camping facility) means a place utilized for the temporary storage of travel trailers, for camping purposes, where there is no permanent storage of mobile homes for year round occupancy, and where commercial activity is limited to service the needs of the temporary occupants of the travel trailer park.

Use means the principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

Variance. See *Zoning variance*.

Vehicle dealer means a person, firm, corporation, etc., licensed by the state to sell cars, trucks, motorcycles, recreational vehicles, boats and related parts, supplies and services.

Veterinary clinic means a place for the care, diagnosis and treatment of sick or injured animals, and those in need of medical or surgical attention. A veterinary clinic may include customary pens or cages

but not for the purpose of commercial boarding. A veterinary clinic may also be known as a veterinary hospital.

Video store means a commercial establishment whose principal function is the renting or sale of video materials such as dvd's, tapes and any other format capable of transmitting a picture, except those materials that would categorize the use as an adult video store as defined herein.

Wall, obscuring means a structure of definite height and location to serve as an opaque screen.

Wind energy system shall have the following meanings:

Large wind energy turbine means a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system.

Medium wind energy turbine means a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other components used in the system and does not exceed 250 kilowatts.

Monopole means towers that are constructed of open steel truss work or a single hollow tube of welded steel.

Shadow flicker means alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as a window at a dwelling.

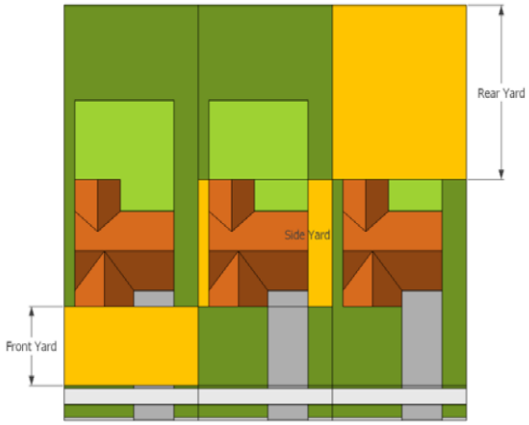
Small wind energy turbine means a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system and it does not exceed 30 kilowatts.

Yards means the open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this chapter, and as defined herein:

Front yard means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

Rear yard means an open space extending the full width of the lot the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard shall be opposite the assigned street frontage.

Side yard, interior means an open space between a main building and the interior side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the interior side lot line to the nearest point of the main building.



Zoning district. See *District*.

Zoning lot. See *Lot, zoning*.

Zoning map means the official map of the city, kept by the clerk, which visually depicts by area and identifies by name, various zoning districts throughout the city.

Zoning variance means a modification of the literal provisions of this chapter granted when strict enforcement of this chapter would cause practical difficulty owing to circumstances unique to the individual property on which the variance is granted.

(Ord. No. 1080, 4-16-2013)

Secs. 50-11—50-19. - Reserved.

ARTICLE III. - GENERAL STANDARDS

Sec. 50-20. - General standards.

The following rules of construction apply to the text of this chapter:

(1) Specific provisions shall control over general provisions.

(2) In the case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.

(3) The word "shall" is always mandatory and the word "may" is permissive.

(4) The words used in the present tense shall include the future; and words used in the singular shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

(5) A "building" or "structure" includes the whole or any part thereof and shall be used interchangeably.

(6) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," "occupied for," or other similar phrases.

(7) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(8) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:

a. "And" indicates that all the connected items, conditions, provisions or events shall apply.

b. "Or" indicates that the connected items, conditions, provisions or events shall apply singly or in any combination.

c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.

(9) Terms not herein defined shall have the meaning assigned to them in the Webster's Standard Dictionary.

(Ord. No. 1080, 4-16-2013)

Sec. 50-21. - Interpretation.

In its interpretation and application, the provisions of this chapter shall be held to be the minimum requirement, or in some instances, the maximum permitted limitation adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. This chapter is not intended to repeal, abrogate, annul or in any way impair or interfere with any existing provision of law or ordinance, or with any rule, regulation or permit previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises.

(Ord. No. 1080, 4-16-2013)

Sec. 50-22. - Vested rights.

Nothing in this chapter shall be interpreted or construed to give rise to any permanent vested right in the continuation of any particular use, use district or zoning classification, or any permissible activity therein, and such use, use district or zoning classification or activity is hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of the public health, safety and welfare unless otherwise permitted by law.

(Ord. No. 1080, 4-16-2013)

Sec. 50-23. - Changes and amendments.

(a) *Initiation of amendment.* The city council may, after planning commission recommendation, or on its own initiation, or after petition or request has been made, amend, supplement, or change the zoning district boundaries or the regulations herein, pursuant to the authority and procedures set forth in Public Act 110 of 2006, as amended. Text amendments may be proposed by any governmental body or any interested person or organization. Changes in district boundaries may be proposed by any governmental body, any person having a freehold interest in the subject property, or by the designated agent of a person having a freehold interest in the property.

(b) *Application for amendment.* A petition for a zoning ordinance text amendment, or an amendment to change the zoning classification of a particular property, shall be commenced by filing a petition with the planning commission on forms furnished by the building department. A fee in the amount set by resolution of the city council shall be paid to the director of finance at the time the petition is filed. All sums received under this section shall be placed in the general fund of the city to defray the expenses of administering this article. The petition shall explicitly describe the proposed amendment and shall be signed by the applicant. Petitions for rezoning of a specific site shall be accompanied by a plot plan or survey and shall contain the following information:

(1) Applicant's name, address, and telephone number.

(2) Scale, northpointe, and dates of submission and revision.

(3) Zoning classification of petitioner's parcel and all abutting parcels.

(4) Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 100 feet of the site.

(5) Dimensions, centerlines, and right-of-way widths of all abutting streets and alleys.

(6) Location of existing drainage courses, floodplains, and natural features.

(7) All existing and proposed easements.

(8) Location of all existing and proposed utilities.

(c) *Review procedures.* After the completed petition and all required supporting materials have been received and fees paid, the petition shall be reviewed in accordance with the following procedures:

(1) *Planning commission review.*

i. The petition shall be placed on the agenda of the next regularly scheduled meeting of the planning commission. The planning commission shall review the petition for amendment in accordance with section 50-23(d) and hold a public hearing in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended.

ii. Notice of the public hearing shall be given in the manner set forth in Public Act 110 of 2006 (MCL 125.3101 et seq.), as amended. If an individual property or several adjacent properties are proposed for rezoning, the planning commission shall give notice of the proposed rezoning to the owner of the property in question at least 15 days before the hearing.

(2) *Action by the planning commission and city council.*

i. Following the hearing on the proposed amendment, the planning commission shall make written findings of fact which it shall transmit together with the comments made at the public hearing and its recommendation to the city council.

ii. The city council may, by majority vote of its membership, adopt the proposed amendment, deny the proposed amendment whereby no application for a map amendment which has been denied shall be reconsidered for one year unless the planning commission determines there have been changes in the facts, evidence, and/or conditions in the case, or the city council may refer the proposed amendment to the planning commission for further recommendations with the specified time period whereby the city council may then either adopt the amendment with or without the recommended revisions or reject same.

(d) *Review consideration.* The planning commission and the city council shall, at a minimum, consider the following before taking action on any proposed amendment:

(1) Will the proposed amendment be in accordance with the basic intent and purpose of the zoning ordinance?

(2) Have conditions changed since the zoning ordinance was adopted?

(3) Will the proposed amendment further the comprehensive planning goals and policies of the city and is the proposed amendment consistent with the future land use map of the master plan? If conditions have changed since the master plan was last adopted, the proposal shall be consistent with recent development trends in the area and planning bests practices.

(4) Will the amendment correct an inequitable situation created by the zoning ordinance rather than merely grant special privileges?

(5) Will the amendment result in unlawful exclusionary zoning?

(6) Will the amendment set an inappropriate precedent resulting in the need to correct future planning mistakes?

(7) If a rezoning is requested, is the proposed zoning consistent with the zoning classification of surrounding land?

(8) If a rezoning is requested, could all requirements in the proposed zoning classification be complied with on the subject parcel?

(e) *Notice and record of amendment adoption.* Following adoption of an amendment by the city council, notice shall be published in a newspaper of general circulation in the city within 15 days after adoption in accordance with Public Act 110 of 2006 (MCL 125.3101 et seq.) as amended. The notice shall include either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment; the effective date of the amendment, and the time and place where a copy of the ordinance may be purchased or inspected. A record of all amendments shall be maintained by the city.

(Ord. No. 1080, 4-16-2013; Ord. No. 1154, 7-24-2018)

Sec. 50-24. - Submittal limitation.

A petition to change or modify a zoning ordinance district boundary or to change or modify any provision of this chapter that has been denied by city council, shall not be presented for consideration for one year from the date of denial unless it has been determined by the planning commission that new information or conditions exist which may impact the review of such request.

(Ord. No. 1080, 4-16-2013)

Sec. 50-25. - Conflict of laws.

Whenever this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by any other law or ordinance, the standards of this chapter shall govern. Whenever any other law, code or ordinance shall impose more stringent requirements than are imposed or required by this chapter, such other law, code or ordinance shall govern.

(Ord. No. 1080, 4-16-2013)

Sec. 50-26. - Uses not otherwise specified.

Other uses which have not been specifically mentioned may be processed under a special use permit if they possess unique or innovative operational or development characteristics. Any such use must be processed and reviewed in accordance with the procedures and requirements set forth in this article.

(Ord. No. 1080, 4-16-2013)

Sec. 50-27. - Conditional rezoning.

(a) *Intent*. The planning commission and the city council have recognized that, in certain instances, it would be advantageous to both the city and property owners seeking rezoning if a plan, along with conditions and limitations that may be relied upon by the city, could be proposed as part of a petition for rezoning. Therefore, it is the intent of this section to provide an election to property owners in connection with the submission of petitions seeking the amendment of this ordinance for approval of a rezoning with conditions, per Public Act 110 of 2006 (MCL 125.3101 et seq.), as amended.

(b) *Definitions*. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning.

Rezoning conditions mean conditions proposed by the applicant and approved by the city as part of an approval under this section, including review and recommendation by the planning commission, which shall constitute regulations in connection with the development and use of property approved with a rezoning condition in conjunction with a rezoning. Such rezoning conditions shall not authorize uses or developments of greater intensity or density and which are not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the conditional rezoning agreement), and may include some or all of the following:

(1) The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture, and other features shown on the CR plan.

(2) Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use, for example, and without limitation, units per acre, maximum usable floor area, hours of operation and the like.

(3) Preservation of natural resources and/or features.

(4) Facilities to address drainage/water quality.

(5) Facilities to address traffic and parking issues.

(6) Preservation of open space.

(7) A written understanding for permanent maintenance of natural resources, features, and/or facilities to address drainage/water quality, traffic, open space and/or other features or improvements; and, provision for authorization and finance of maintenance by or on behalf of the city in the event the property owner(s) fail(s) to timely perform after notice.

(8) Signage, lighting, landscaping, and/or building materials for the exterior of some or all structures.

(9) Permissible uses of the property.

(10) Preservation of historic structures or sites to preserve the history of the city.

(11) Donation of land for open space, using a land conservancy or other means, to protect the open space for future generations.

(12) Paving, making substantial improvements to, or funding of improvements to major roads where the entire community benefits.

(13) Construction and/or donation of community buildings where the need has been identified and defined by the city.

(14) Provide usable and contiguous open space amounting to at least 40 percent of the site, using the concept of clustering.

(15) Added landscaping, above and beyond what is required by ordinance.

(16) Reclamation and re-use of land, where previous use of land causes severe development difficulties, or has caused blight.

(17) Installation of streetscape on an arterial road, beyond what is required by ordinance, and where compatible with city guidelines concerning trees, streetlights, and landscaping.

(18) Drain and drainage improvements, beyond what is required by ordinance, using best management practices.

(19) Providing monuments or other landmarks to identify city boundaries.

(20) Such other conditions as deemed important to the development by the applicant.

Conditional rezoning (CR) agreement means a written agreement approved and executed by the city and property owner, incorporating a CR plan, and setting forth rezoning conditions, conditions imposed pursuant to Public Act 110 of 2006 (MCL 125.3101 et seq.), as amended, and any other terms mutually agreed upon by the parties relative to land for which the city has approved a rezoning with rezoning conditions. Terms of the CR agreement shall include an agreement and understanding of the following:

(1) That the rezoning with rezoning conditions was proposed by the applicant to induce the city to grant the rezoning;

(2) That the city relied upon such proposal and would not have granted the rezoning but for the terms spelled out in the CR agreement;

(3) That the conditions and CR agreement are authorized by all applicable state and federal laws and constitutions;

(4) That the CR agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the city;

(5) That the property in question shall not be developed or used in a manner inconsistent with the CR plan and CR agreement;

(6) That the approval and CR agreement shall be binding upon and inure to the benefit of the property owner and the city, along with their respective heirs, successors, assigns, and transferees;

(7) That, if a rezoning with rezoning conditions becomes void in the manner provided in this section, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established; and

(8) That each of the requirements and conditions in the CR agreement represent a necessary and reasonable measure which, when considered with all other conditions and requirements, are roughly proportional to the increased impact created by the use represented in the approved rezoning with rezoning conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.

Conditional rezoning (CR) plan means a plan of the property which is the subject of a rezoning with rezoning conditions, prepared by a licensed civil engineer or architect, that may show the location, size, height, design, architecture or other measure or feature for and/or buildings, structures, improvements and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the CR plan shall be determined by the applicant, subject to approval of the city council after recommendation by the planning commission.

(c) *Authorization and eligibility*.

(1) *Application.* A property owner shall have the option of making an election under this section in conjunction with a submission of a petition seeking a rezoning. Such election may be made at the time of the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning. The election shall be made by filing an application conforming with this section for approval of a conditional rezoning that would establish site-specific use authorization if the petition for rezoning is granted. Such election shall be to seek a rezoning with rezoning conditions pursuant to Public Act 110 of 2006 (MCL 125.3101 et seq.), as amended, which would represent a legislative amendment of the zoning ordinance.

(2) *Site specific regulations.* In order to be eligible for the proposal and review of a rezoning with rezoning conditions, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific regulations (to be set forth on a CR plan and in a CR agreement to be prepared) which are, in material respects, equally or more strict or limiting than the regulations that would apply to the land under the proposed new zoning district, as contained in 1 through 20 section 50-27(b) above.

(d) *Required application information.*

(1) *A CR plan, as defined in section 50-27(b) above*. The CR plan shall not replace the requirement for site plan review and approval, special land use approval, or subdivision or condominium approval, as the case may be.

(2) *Statement of rezoning conditions, as defined in section 50-27(b) above.* Rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the CR agreement).

(3) *A CR agreement, as defined in section 50-27(b) above*. The CR agreement shall be prepared by the applicant (or designee) and approved by the city attorney. The CR agreement shall incorporate the CR plan and set forth the rezoning conditions, together with any other terms mutually agreed upon by the parties (including the minimum provisions specified in the definition of the CR agreement, above).

(e) *Review and approval criteria.* The applicant shall have the burden of demonstrating that the following requirements and standards are met by the CR plan, rezoning conditions, and the CR agreement:

(1) *Enhancement of the project area*. Approval of the application shall accomplish, among other things, and as determined in the discretion of the city council, the integration of the proposed land development project with the characteristics of the project area and result in an enhancement of the project area as compared to the requested zoning change, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the use of a conditional rezoning.

(2) *In the public interest*. Sufficient conditions shall be included on and in the CR plan and CR agreement on the basis of which the city council concludes, in its discretion, that, as compared to the existing zoning and considering the site specific land use proposed by the applicant, it would be in the public interest to grant the rezoning with rezoning conditions; provided, in determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against, and be found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles, as presented to the city council, following recommendation by the planning commission, and also taking into consideration the special knowledge and understanding of the city by the city council and the planning commission.

(f) *Review process*.

(1) *Pre-application meeting*. Prior to the time of making application for a conditional rezoning, the applicant shall schedule a pre-application submission meeting with the city manager, the city planner, the city engineer, the city attorney, or their designees, for a preliminary review of the application for conditional rezoning and so that the applicant has a thorough understanding of the process. The applicant shall pay the city's costs and expenses incurred for this meeting.

(2) *Offer of conditions*. At the time of making application for amendment of this ordinance seeking a rezoning of property, or at least a later time during the process of city consideration of such rezoning, a property owner may submit an application for approval of a conditional rezoning to apply in conjunction with the rezoning.

(3) *Application*. The application, which may be amended during the process, shall include a CR plan proposed by the applicant and shall specify the rezoning conditions proposed by the applicant, recognizing that rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning.

(4) *Notice of public hearing*. The proposed rezoning together with rezoning conditions shall be noticed for public hearing before the planning commission as a proposed legislative amendment to the zoning ordinance in accordance with section 50-23.

(5) *Planning commission recommendation*. Following the public hearing and further deliberations as deemed appropriate by the planning commission, the planning commission shall make a recommendation to the city council on the proposed rezoning with rezoning conditions.

(6) *City council action*. Upon receipt of the recommendation of the planning commission, the city council shall commence deliberations on the proposed rezoning with rezoning conditions. If the city council determines that it may approve the rezoning with rezoning conditions, the city council shall specify tentative conditions and direct the city attorney to work with the applicant in the finalization of the proposed CR agreement.

(g) *Zoning map designation*. If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "CR conditional rezoning". The zoning map shall specify the new zoning district plus a reference to "CR" (for example, the district classification for the property might be B-3, general business with CR, conditional zoning, with a zoning map designation of B-3/CR) and use of the property so classified and approved shall be restricted to the permission granted in the CR agreement, and no other development or use shall be permitted.

(h) *Use of property*.

(1) *Generally*. The use of the property in question shall, subject to section 50-27(f)(2) below, be in total conformity with all regulations governing development and use within the zoning district to which the property has been rezoned, including, without limitation, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density.

(2) *Development subject to conditional rezoning requirements*. Development and use of the property shall be subject to the more restrictive requirements shown or specified on the CR plan, and/or in the other conditions and provisions set forth in the CR agreement, required as part of the conditional rezoning approval, and such CR plan and conditions and CR agreement shall supersede all inconsistent regulations otherwise applicable under the zoning ordinance.

(i) *Recordation of CR agreement*. A rezoning with rezoning conditions shall become effective following publication in the manner provided by law and after recordation of the CR agreement with the register of deeds, whichever is later.

(j) *Amendment to CR agreement.* Amendment of a CR agreement shall be proposed, reviewed and approved in the same manner as a new rezoning with rezoning conditions.

(k) *Expiration*. Unless extended by the city council for good cause, the rezoning with rezoning conditions shall expire following a period of two years from the effective date of the rezoning unless construction on the development of the property pursuant to the required permits issued commences within such two-year period and proceeds diligently and in good faith as required by ordinance to completion.

(1) *Extension of approval*. In the event the development has not commenced, as defined above, within two years from the effective date of the rezoning, the conditional rezoning and the CR agreement shall be void and of no effect. The property owner may apply to the city council for a one-year extension one time. The request must be submitted to the city before the two-year time limit expires. The property owner must show good cause as to why the extension should be granted.

(2) *Violation of the CR agreement*. If development and/or actions are undertaken on or with respect to the property in violation of the CR agreement, such development and/or actions shall constitute a nuisance per se. In such cases, a stop work order may be issued relative to the property and any other lawful remedies sought. Until curative action is taken to bring the property into compliance with the CR agreement, the city may withhold, or following notice, revoke permits and certificates, in addition to or in lieu of such other lawful action to achieve compliance.

(3) *City action upon expiration*. If the rezoning with rezoning conditions becomes void in the manner provided in above, then the city shall rezone the property to its former zoning classification in accordance with the zoning ordinance procedures. Additionally, the property owner may seek an alternative zoning designation. Until such a time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.

(Ord. No. 1156, 7-24-2018)

Secs. 50-28, 50-29. - Reserved.

ARTICLE IV. - ADMINSTRATION AND ENFORCEMENT

Sec. 50-30. - Penalty, equitable remedies.

(a) Whoever violates or fails to comply with any of the provisions of this chapter, or any permit, license or exception granted hereunder, or any lawful order of the building department, a building official, the zoning board of appeals or city council, issued pursuant to this chapter, shall be guilty of a misdemeanor.

(b) The owner of any building, structure or premises or part thereof which is in violation of this chapter, who has assisted knowingly in the commission of such violation, shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

(c) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(d) The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(Ord. No. 1080, 4-16-2013)

Sec. 50-31. - Enforcement.

This chapter shall be administered and enforced by a building official of the building department of the city or his or her designee, unless otherwise directed by city council. In the temporary absence of the building official or his or her designee, the city manager may designate a person to temporarily serve in this capacity.

(Ord. No. 1080, 4-16-2013)

Sec. 50-32. - Duties of the building official.

(a) The building department may grant occupancy permits or zoning compliance permits for each new use upon recommendation of the building official.

(b) May make inspections of building or premises necessary to carry out his or her duties in the enforcement of this chapter.

(c) The building department shall record all nonconforming uses existing on the effective date of the ordinance.

(d) Under no circumstances is the building department or building official permitted to make changes to this chapter in carrying out his or her duties.

(e) The building official shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant, despite violations of contracts such as private covenants or private agreements which may occur upon the granting of such permit.

(Ord. No. 1080, 4-16-2013)

Sec. 50-33. - One- and two-family residential plot plans.

The building official, or his or her designee, shall require that all applications for permits for one- and two-family residential units be accompanied by plans and specifications, including the following plot plan information:

(1) The actual shape, location and dimensions of the lot.

(2) The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structure already on the lot.

(3) The existing and intended use of the lot and of all such structures upon it.

(Ord. No. 1080, 4-16-2013)

Sec. 50-34. - Building permits, certificates of occupancy and zoning compliance permits.

(a) No building permit shall be issued for the erection, alteration or use of any building or structure or part thereof or for the use of any land which is not in accordance with this chapter.

(b) No vacant land and no existing use of land shall be changed to a different use group or type, unless a certificate of occupancy and/or zoning compliance permit is first obtained for the new or different use.

(c) No building or structure, or part thereof, shall be changed to or occupied by a use of a different use group or type unless a certificate of occupancy and/or zoning compliance permit is first obtained for the new or different use.

(d) No building or structure, or part thereof, shall be erected, altered, moved or repaired unless a building permit has first been issued. The terms "altered" and "repaired" include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress or other changes affecting or regulated by the city, except for minor repairs or changes as determined by the building official.

(e) A nonresidential building or tenant space shall not be occupied with a new use, whether the use is the same type of use that previously occupied the building or tenant space or a different use, until the building or tenant space has been inspected by the building official and fire marshal and a new occupancy permit has been granted.

(Ord. No. 1080, 4-16-2013)

Sec. 50-35. - Temporary uses.

Purpose. This section allows for the establishment of certain temporary uses of limited duration, provided that such uses do not negatively affect adjacent properties or municipal facilities, and provided that such uses are discontinued upon the expiration of a set time period. The construction or alteration of any permanent building or structure is not considered a temporary use.

(a) The building official may permit uses and the occupancy of structures that are consistent with the uses otherwise permitted in a zoning district, but which are temporary and do not require the construction of any capital improvement of a structural nature. In no case shall a use not otherwise allowable in a zoning district be permitted on a temporary basis.

(b) Temporary uses and the temporary occupancy of structures may be granted for periods of not more than 14 consecutive days nor more than 42 total days within a 12-month calendar year, except as follows:

(1) *Real estate sales offices.* Sales offices are allowed on residential development sites in any zoning district until all lots or houses are sold. Use of the sales office to market sites outside of the project is prohibited.

(2) *Temporary parking of construction equipment during construction.* Temporary use of non-loading areas for the parking or storage of tractor trailers, office trailers, construction equipment and materials, or intermodal shipping containers, or for construction worker parking, during construction or renovation, is allowed in all zoning districts, subject to the standards of this section.

(3) Outdoor sales of seasonal goods, including flowers, pumpkins, Christmas trees and holiday baskets, may be allowed for the duration of the applicable season, but in no case to exceed 90 consecutive days; provided, however, that retails sales and display of fireworks from a temporary facility shall only be allowed as provided for in section 50-91 of this article.

(c) Outdoor sales areas, except as otherwise provided in this chapter, are expressly prohibited. However, temporary outdoor sales may, be approved by the building official after obtaining a permit. No more than three temporary outdoor sales permits shall be issued for any given location within a single calendar year. In addition, one grand opening sale per business shall be permitted, provided the sale is conducted within 60 days from the day the use is first opened for business. The one-time grand opening sale shall be held for not more than 14 continuous days. Outdoor sales areas shall be subject to the following restrictions:

(1) The items proposed to be sold outdoors are related to and displayed immediately adjacent to an existing licensed place of business.

(2) The proposed sales area must constitute an accessory use to the principal use of the premises or as provided by a charitable or nonprofit organization.

(3) A minimum width of five feet shall be maintained as a pedestrian way in front of any business conducting an outdoor sale. No person licensed under this section shall display any goods or merchandise in such a manner as to interfere with pedestrian or vehicular traffic safety, nor shall any display violate any fire or police regulation, or this Code.

(d) The building official, in granting permits for temporary uses, including temporary outdoor sales, and for the temporary occupancy of structures shall do so under the following conditions:

(1) *Licensed commercial uses.* Temporary, commercial uses conducted by persons or entities lawfully authorized to conduct the use in question, when contained within temporary structures, but not including temporary sales as provided for section 50-36, are allowed only for the time period specified in subsection (a) above.

(2) All such users shall obtain a business license from the city clerk's office.

(3) A mobile food truck requires a license from the county health department as well as a business license from the city clerk.

(4) *Required permits.* All temporary uses shall obtain any permits required by other municipal departments, such as the clerk's office, the health department, the building safety department, or the police department.

(5) The granting of the temporary use shall be granted in writing stipulating all conditions as to time, nature of activities permitted and arrangements for removing the use and associates structures at the termination of such temporary permit.

(6) All setbacks, land coverage ratios, off-street parking requirements, lighting regulations, and other requirements of the City Code shall be considered so as to protect the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the city.

(7) In classifying uses as not requiring capital improvement, the building official shall determine that they are either demountable structures related to the permitted use of the land, or structures which do not require foundations, heating systems or sanitary connections.

(8) The use shall be in harmony with the existing general character of the district.

(9) No temporary structure shall be used for residential purposes and temporary residential use of property is not allowed.

(e) A written application (on a form provided by the city) for a temporary use permit required by this section shall be signed by the applicant and the legal owner of the property and shall be filed with the building department. The application shall be submitted at least ten days before the first date of the proposed temporary use.

(f) A fee established by resolution of the city council shall be paid at the time the application is filed.

(g) Upon compliance with the requirements of this section, the form and any other ordinances of the city that may be applicable being demonstrated to the satisfaction of the building official, the building department shall issue to the applicant a temporary use permit.

(Ord. No. 1080, 4-16-2013; Ord. No. 1137, 4-4-2017)

Sec. 50-36. - Reserved.

Editor's note— Ord. No. 1137, adopted Apr. 4, 2017, repealed § 50-36, which pertained to temporary sales and derived from Ord. No. 1080, 4-16-2013.

Sec. 50-37. - Hearings.

Whenever any section of this chapter shall refer to this section, notice of a public hearing shall be given in accordance with the applicable notice requirements of Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended, and set forth in this section.

(1) Not less than 15 days' notice of the time and place of the public hearing shall first be published in an official paper or a paper of general circulation in the city. Further, those properties within 300 feet of the property to be rezoned seeking special land use approval (as applicable) shall also be given not less than 15 days' notice of the time and place of such public hearing as required by law. Not less than 15 days' notice of the time and place of the public hearing shall first be given by mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the district or zones affected that registers its name and mailing address with the city clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained.

(Ord. No. 1080, 4-16-2013)

Sec. 50-38. - Fees.

Fees for inspections, permits, certificates or copies thereof required or issued under this chapter shall be collected by the building department in advance of issuance. The amount of such fees shall be established by resolution of city council and shall cover the enforcement costs of this chapter.

In addition, prior to the issuance of a building permit, the applicant shall file with the building department a performance guarantee in the form of cash deposit or certified check. The amount of such guarantee shall be as set forth by the city council as adopted by resolution and shall cover all improvements not normally covered in the building permit, i.e., berms, walls, landscaping, lighting, surfacing of drives, parking service drives, traffic control devices within the jurisdiction of the city, reclamation, etc. The guarantee shall include a schedule of costs assigned to the different improvements and approved by the city council. Moneys may be released to the applicant in proportion to work completed on the different elements after inspection of work and the approval of the building department. No partial release of funds shall exceed 90 percent of the guarantee, i.e., at least ten percent shall be retained by the city until all work has been completed and subsequently inspected and approved by the building department.

(Ord. No. 1080, 4-16-2013)

Sec. 50-39. - Declaration of nuisance, abatement.

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed, subsequent to the passage of this chapter and which is in violation of any of the

provisions thereof, is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

(Ord. No. 1080, 4-16-2013)

ARTICLE V. - SITE PLANS AND SPECIAL LAND USES

Sec. 50-40. - Generally.

(a) In order to provide sufficient information to properly review developmental proposals in the city, certain basic drawings and data are required. The data required are set forth in this section and all such information shall be filed with the building department. Following submission of the required information and verification of its completeness, the building department shall review the site plan for compliance with this section and all other applicable requirements of this chapter and the city. The review and recommendations of applicable city departments shall be considered together with those of the city planner, the city engineer and applicable city personnel.

(b) The site plan review requirements provide the essential tool necessary to promote compatible and functional layout of the site, both in terms of internal and external factors and compliance with the standards and requirements of this chapter. Efficient pedestrian and vehicular movements relative to the consideration of building groupings, the location of parking areas, service areas, access points and traffic flow within the site and adjacent development and thoroughfares are areas of concern.

(Ord. No. 1080, 4-16-2013)

Sec. 50-41. - Site plans required.

A site plan shall be submitted for approval of:

(1) Any new use or development or construction that requires a building permit, except single-family or two-family residential construction;

(2) Any change of use from a lower to a more intensive use which increases dwelling density, off-street parking or loading needs, traffic generation;

(3) Any use requiring special land use approval;

(4) Any planned unit development;

(5) The construction of masonry walls; and

(6) Any other items which the building official determines planning commission review is necessary.

(Ord. No. 1080, 4-16-2013)

Sec. 50-42. - Compliance with chapter.

(a) Every site plan submitted shall be in accordance with the requirements of this chapter. Required site plan information is specified on the site plan checklist form which is available from the building department. Site plans shall be forwarded to the planner, engineer and city department heads and checked for completeness and no plans will be processed unless they are complete and unless all fees are paid in accordance with the schedule of fees adopted by the city council.

(b) The site plan shall not be placed on the planning commission agenda until such time the building official determines the site plan is in compliance with the requirements of this chapter and is ready for planning commission review and action.

(Ord. No. 1080, 4-16-2013)

Sec. 50-43. - Review.

(a) In the process of reviewing the site plan, the following items shall be considered:

(1) Whether or not the proposed site plan is in accordance with all provisions and requirements of this chapter.

(2) The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and in relation to pedestrian traffic. Where one or more nonresidential driveways have been established prior to any redevelopment, one or more existing driveways may be permitted to remain subject to final site plan approval. The planning commission may reduce the number of driveways in existence to utilize access management practices. An approved permit, in compliance with the approved site plan, authorizing any curb cuts from the public agency having jurisdiction over any abutting public thoroughfare shall be furnished prior to the issuance of a building permit.

(3) The traffic circulation patterns within the site and the location and placement of buildings, parking areas and loading areas as they relate to:

a. Safety and convenience of both vehicular and pedestrian traffic on and adjacent to the site;

b. Satisfactory and harmonious relationships between the development on the site and the existing and prospective development of contiguous land and in adjacent neighborhoods; and

c. Necessary accessibility by emergency vehicles, etc.

(4) The minimizing of adverse effects on desirable environmental and physical characteristics of the site, as balanced against the reasonable development of the site.

(5) Whether or not landscaping, fences, walls and berms are in conformity with necessary screening requirements.

(6) Whether or not the proposed site plan is in accord with the spirit and purpose of this chapter and not inconsistent with, or contrary to, the objectives sought to be accomplished by this chapter and the principles of sound planning.

(7) For the purpose of promoting and protecting the public health, safety, convenience and general welfare of the inhabitants and the land resources of the city, provision is made herein for the submission and review of a site plan.

(Ord. No. 1080, 4-16-2013)

Sec. 50-44. - Action after review.

Upon reviewing a site plan, one of the following actions shall be taken:

(1) If the site plan meets all the requirements of this chapter and related development requirements and standards, the planning commission and/or city council shall approve such plan and shall record such approval on the site plan, filing one copy in the official site plan file and returning one copy to the applicant.

(2) If the site plan does not meet the requirements of this chapter and related development requirements and standards, the planning commission and/or city council shall deny such plan and shall record the reasons for such denial. The applicant may subsequently refile a corrected site plan under the same procedures followed for the initial submission.

(3) If minor corrections to the site plan are necessary, then such conditions shall be noted and conditional approval may be granted. One copy shall be retained in the official site plan file and one copy shall be returned to the applicant.

(Ord. No. 1080, 4-16-2013)

Sec. 50-45. - Modifying an approved site plan.

Any requests to modify or alter an approved site plan shall be submitted to the building department for processing. Minor modifications or alterations to a previously approved site plan may be approved by the building department provided the change does not:

(1) Alter the basic design or layout of the approved site plan; or

(2) Change or negate any condition that the planning commission may have placed on the site plan at the time of approval.

a. When considering whether an approved site plan may be reviewed and approved by the building department when modifications or alterations to the approved plan are proposed, the building department may consider the following conditions a minor modification or alteration to a previously approved site plan, when:

1. A change in the size (footprint) of a building does not result in:

i. The need for additional off-street parking spaces;

ii. A diminishing of any building setback to a point less than the minimum applicable setback requirement of the district;

iii. A reduction in the area of the site devoted to landscaping to less than the minimum applicable requirements of this chapter;

2. A change in the exterior appearance of the building that does not involve more than five percent of the entire exterior building wall surface of the building and which will not introduce exterior building wall materials that are not permitted by ordinance, nor change the basic color of the exterior walls of the building;

3. A change in the basic location of the principal building when the change does not adversely impact any other element of the site, including, but not necessarily limited to, the location, layout and number of off-street parking spaces, general site traffic and pedestrian circulation or the extent of site landscaping;

4. Modifications to general site access including the redesign or inclusion of acceleration and/or deceleration lanes as directed by the political jurisdiction in control of the right-of-way, boulevard entrances, or the inclusion of pedestrian access ways, including bicycle paths;

5. Modifications to the interior floor plan, provided the change does not result in the need for more off-street parking spaces, or a change in the location of any approved loading or unloading area, or drive-up service area;

6. There is a change in the location, design and size of an exterior sign that had been approved by the planning commission, provided the sign complies with the requirement of this chapter, pertaining to signs, as amended, but which does not increase the size or appearance of the approved sign;

7. There is any internal change to the location, layout, or number of off-street parking spaces required on the approved site plan; and

8. Modifications are requested by the city's public safety departments that will not adversely impact the minimum applicable requirements of this chapter.

b. When the building department determines that a proposed modification or alteration to an approved site plan constitutes greater changes than those above outlined in this section, the building department shall notify the applicant of its decision and forward the site plan to the planning commission for review and consideration.

c. The building official shall also:

1. Have the authority to consult with any other city department head, consultant or other appropriate agency regarding site plan issues.

2. Provide a report to the planning commission each month regarding the issues which the building department heard.

d. Any and all costs associated with the administrative review conducted by the building department shall be paid by the applicant prior to the issuance of a building permit.

(Ord. No. 1080, 4-16-2013)

Sec. 50-46. - Effective period.

The approval of a site plan shall be effective for a period of 12 months from the date of such approval unless otherwise specified in this chapter. If a building permit has not been obtained and construction commenced, the approval shall be null and void. Approval of a phase of an overall site plan does not constitute approval of the entire site plan. A one-year extension to the site plan approval may be granted by the planning commission/city council for good cause.

(Ord. No. 1080, 4-16-2013)

Sec. 50-47. - Notice of hearing.

Whenever a site plan requires planning commission review and approval prior to the issuance of a building permit, the planning commission shall provide notice to the residents within 300 feet of the site of the proposed project and shall take comments on the application up to and at the time the application is considered by the planning commission.

(Ord. No. 1080, 4-16-2013)

Sec. 50-48. - Intent.

Typically, various land use activities are provided for in one or more zoning districts. The criteria for such allocations are based upon similarities in the nature of the uses and their relationship to other uses and thoroughfares. Essentially, the zoning districts are established to coordinate with and provide for effectuation of the city's master land use plan in a logical and desirable manner. There are, however, various existing and specialized uses whose operational characteristics and influences require special consideration if they are to be effectively and reasonably permitted in the city. It is, therefore, the intent of this section to set forth the basic and specialized review process and requirements necessary to evaluate and control these uses within the city and further determine any other reasonable requirements which will provide for their development and operation without adversely affecting the public health, safety and welfare of the city as a whole.

(Ord. No. 1080, 4-16-2013)

Sec. 50-49. - Special land use permits; action by planning commission.

(a) Procedure for applying shall be as follows:

(1) Applications for special use permits shall be filed with the building department on a form provided by the city.

(2) Each application shall be accompanied by a fee in an amount as adopted by the city council.

(3) The application shall also include such information as required by Article V Site Plans and Special Land Uses.

(4) The completed application shall be signed by the fee holder of the affected property.

(b) As a part of completing a review and study of an application for a special land use approval, the planning commission shall hold a public hearing in accordance with section 50-37.

(c) Following the public hearing and deliberation of the standards below, the planning commission shall forward a copy of the application, the minutes of the public hearing and the commission's recommendation to the city council.

(d) The city council shall review and make the final determination on the application. Prior to approving any application for a special land use approval, the city council shall find adequate evidence that the proposed use:

(1) Will be harmonious with and in accordance with the general objectives of the master land use plan;

(2) Will be designed, constructed, operated and maintained in harmony with the existing and intended character of the general area and so that the use will not change the essential character of that area;

(3) Will not be hazardous or disturbing to existing or future neighboring uses;

(4) Will represent an improvement to property in the immediate vicinity and to the community as a whole;

(5) Will be served adequately by essential public services and facilities, such as highways, streets, drainage structures, sewer and water infrastructure, police and fire protection and refuse disposal, or that persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services;

(6) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community;

(7) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person or property or to the general welfare by reason of excessive smoke, fumes, glare, noise, vibration or odors; and

(8) Will be consistent with the intent and purposes of this chapter.

(e) In order to ensure that the proposed special land use approval fulfills the requirements of this article, the following shall apply:

(1) The planning commission may recommend and the city council may require such additional conditions and safeguards as deemed necessary for the protection of the health, safety, and general welfare and individual property rights as well as ensuring that the intent and objectives of this chapter are observed. The breach of any condition, safeguard or requirement and the failure to correct such breach within 30 days after an order to correct is issued by the city shall be reason for immediate revocation of the permit. Additional time for correction of the cited violation may be allowed by the city upon submission of proof of good and sufficient cause. Conditions and requirements stated as a part of special land use approval authorizations shall be continuing obligations of the holders of such permits and are binding upon their heirs and assigns and upon any persons taking title to the affected property while such special use permit is in effect. Accordingly, the special land use approval and any conditions shall be recorded with the Macomb County Register of Deeds.

(2) The discontinuance of a special land use approval for 12 months or more after a specified time may be grounds for the termination of the permit. Renewal of a special use permit may be granted after a new application, review and determination by the city council, after recommendation of the planning commission. The special land use approval may also require that a specified percentage of authorized construction be completed within a stated time as a condition of the issuance of the permit.

(3) No application for a special use permit which has been denied by the city council shall be resubmitted until the expiration of one year from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions sufficient to justify reconsideration by the planning commission. Each reapplication will be treated as a new application.

(Ord. No. 1080, 4-16-2013)

ARTICLE VI. - ZONING BOARD OF APPEALS

Sec. 50-50. - Establishment and membership.

(a) The zoning board of appeals shall perform its duties and exercise its powers as provided in Public Act No. 110 of 2006 (MCL 125.3101 et seq.) as amended, and in such a way that the objectives of this chapter shall be observed, public safety secured, and substantial justice done. The board shall consist of seven members all appointed by the mayor with the consent of the city council. Appointments shall be for a period of three years.

(b) One regular member may be a member of the city council, but shall not serve as chair of the zoning board of appeals. An employee or contractor of the city may not serve as a member of the zoning board of appeals.

(c) The mayor, with the consent of the city council, may appoint not more than two alternate members to the zoning board of appeals. An alternate member may be called as specified to serve as a member of the zoning board of appeals in the absence of a regular member, if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve on the case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the zoning board of appeals.

(d) No member or alternate member of the zoning board of appeals shall serve as a member of the planning commission. Also, no member of the planning commission shall serve as a member or alternate member of the zoning board of appeals.

(Ord. No. 1080, 4-16-2013)

Sec. 50-51. - Meetings.

Meetings of the zoning board of appeals shall be held at the call of the chairperson and at such other times as the board may determine or specify in its rules of procedure. The chair, or in the absence of the chair, the acting chair of the zoning board of appeals may administer oaths and compel the attendance of witnesses. All hearings conducted by the zoning board of appeals shall be open to the public. The board shall adopt its own rules of procedure and keep a record of its proceedings showing the vote of each member upon each question or, if a member is absent or fails to vote, the record shall indicate the absence or state the reason for the member's failure to vote. After each meeting, the zoning board of appeals shall file a copy of the minutes in the office of the Eastpointe City Clerk, and that record shall become a public record. The concurrent vote of a majority of the total members of the board shall be necessary to render a decision.

(Ord. No. 1080, 4-16-2013)

Sec. 50-52. - Appeals.

(a) An appeal may be taken to the zoning board of appeals by a person aggrieved or by an officer, department, or board of the city. In addition, a variance may be applied for and granted under section 4 of the Uniform Condemnation Procedures Act, Public Act No. 87 of 1980 (MCL 213.54) and as provided for in Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended. The appellant shall file an application with the board, on forms furnished by the building department. An application for an appeal shall specify the grounds for the appeal.

(b) Following receipt of a written request to appear before the zoning board of appeals, the board shall fix a reasonable time for the hearing at the request and give notice in the manner set forth in this chapter and Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended.

(c) At the hearing, a party may appear in person or may be represented by agent or attorney.

(d) The building department shall forthwith transmit to the zoning board of appeals all the papers and other documents that constitute the record upon which the appeal was taken. The final decision of the zoning board of appeals on an appeal shall be in the form of a motion. The motion shall clearly state that the decision of the zoning board of appeals reversed, modified or affirmed, in whole or in part, the administrative appeal that was before the board.

(e) The decision of the zoning board of appeals shall be final. A party aggrieved by the decision of the board may appeal that decision to the county circuit court as provided in Sections 605 and 606 of the Zoning Enabling Act (PA 110 of 2006), as amended.

(Ord. No. 1080, 4-16-2013)

Sec. 50-53. - Stay of proceedings.

An appeal shall stay all proceedings in furtherance of the action unless the building department certifies to the zoning board of appeals, after notice of appeal is filed that a stay would, in the opinion of the department, cause imminent peril to life or property. In such a case, the proceedings shall not be stayed other than by a restraining order which may be granted by the circuit court.

(Ord. No. 1080, 4-16-2013)

Sec. 50-54. - Fees for appeals.

A fee in the amount set by resolution of the city council shall be paid to the director of finance at the time the notice of appeal is filed. All sums received under this section shall be placed in the general fund of the city to defray the expenses of administering this chapter.

(Ord. No. 1080, 4-16-2013)

Sec. 50-55. - Powers.

(a) *Generally.* The zoning board of appeals shall not alter or change the zoning district classification of any property, nor grant a use variance that would allow a use to be established in a zoning district in which the use would not otherwise be permitted. However, the board may act on those matters where this chapter provides for an administrative review, interpretation, exception or special approval permit and may authorize a variance as defined in this section, and/or state law.

(b) *Administrative review.* The board may hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decisions or refusal made by the building department, planning commission or any other administrative official or body in carrying out or enforcing this chapter, except as otherwise prohibited in this section.

(c) *Variances.* Where, owing to special conditions, a literal enforcement of this chapter would involve practical difficulties with implementation of this chapter, the board may, upon appeal, authorize a variation or modification of this chapter and may impose conditions and safeguards it determines are necessary, so that the public health, safety and general welfare may be secured and substantial justice done. No such variance or modification of this chapter shall be granted unless it appears by competent, material and substantial evidence that all of the following facts and conditions exist:

(1) There are unique circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or class of uses in the same district or zone.

(2) Such variance or modification is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same district or zone in which the property is located.

(3) The granting of such variance or modification will not be materially detrimental to the public health, safety and general welfare or be materially injurious to the other property or improvements in such zone or district in which the property is located.

(4) The granting of such a variance will not adversely affect the purposes or objectives of this chapter or the city's master plan.

(d) *Determinations.* In consideration of all appeals and proposed variations from this chapter, the board shall first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets, increase the danger of fire, endanger the public safety, unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or general welfare of the inhabitants of the city.

(e) *Limitations on authority.* Nothing herein contained shall be construed to give or grant to the board the power or authority to alter or change this chapter or the zoning map, such power and authority being reserved to the city council in the manner provided by law.

(Ord. No. 1080, 4-16-2013)

Sec. 50-56. - Notice of hearings.

The zoning board of appeals shall make no recommendation except after a public hearing has been conducted in accordance with section 50-37.

(Ord. No. 1080, 4-16-2013)

Sec. 50-57. - Effective period of orders.

No order of the zoning board of appeals permitting the erection or alteration of a building shall be valid for a period longer than one year, unless a building permit for such construction or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(Ord. No. 1080, 4-16-2013)

Secs. 50-58—50-59. - Reserved.

ARTICLE VII. - ZONING DISTRICTS

Sec. 50-60. - Districts established.

For the purpose of this chapter, the city is hereby divided into the following zoning districts.

(1) Residential districts.

One- and Two-Family Residential Districts

a. R-1 One-Family Residential District;

b. R-2 Two-Family Residential District;

Multiple-Family Residential Districts

c. RT Townhome Residential District;

d. RM-1 Multiple-Family Residential District (low rise); and

e. RM-2 Multiple-Family Residential District (mid rise).

(2) Nonresidential districts.

Office and Business Districts

a. OS-1 Office Service District;

b. B-1 Community Business District;

c. B-2 Downtown District (allows for mixed use);

d. B-3 General Business District;

Industrial Districts

e. I-1 Light Industrial District; and

f. P-1 Vehicle Parking District.

(3) Mixed use district.

a. PD Planned Development District.

b. Redevelopment Ready Sites.

(Ord. No. 1080, 4-16-2013)

Sec. 50-61. - Uses not otherwise specified.

Other uses which have not been specifically mentioned in any district may be processed as a permitted use or as a special use as determined by the building official and if they possess unique or innovative operational or development characteristics.

(Ord. No. 1080, 4-16-2013)

Sec. 50-62. - Zoning district requirements—Generally.

All buildings and uses permitted in any zoning district shall be subject to the applicable standards of this chapter.

(Ord. No. 1080, 4-16-2013)

Sec. 50-63. - Zoning district boundaries.

The boundaries of the zoning districts are hereby established as shown on the official zoning map of the city. The official zoning map and copies of the map are on file at the office of the city clerk as well as the city building department, with all notations, references, and other information shown thereon are incorporated by reference.

(Ord. No. 1080, 4-16-2013)

Sec. 50-64. - Zoning district boundaries interpreted.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerline of streets, highways or alleys, shall be construed to follow such centerline.

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(3) Boundaries indicated as approximately following city limit lines shall be construed as following city limit lines.

(4) Boundaries indicated as parallel to, or extensions of features indicated in subsections (1) through (3) of this section, shall be so construed.

(5) Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(6) Where physical or natural features existing on the ground are at variance with those shown on the official zoning map, in other circumstances not covered by subsections (1) through (4) of this section, or where a property owner or applicant disagrees with the interpretation of the zoning map, the zoning board of appeals shall interpret the district boundaries.

(7) Insofar as some or all of the various districts may be indicated on the official zoning map by lines which, for the sake of map clarity, may not fully divide public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.

(8) In the event that the zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the city council may, by resolution, adopt a new zoning map. The new zoning map may correct drafting or other errors or omissions in the prior zoning map, but no such corrections shall have the effect of amending the original zoning map or any subsequent amendment.

(Ord. No. 1080, 4-16-2013)

Sec. 50-65. - Zoning of vacated areas.

Whenever any park, commons, outlet, or any street, alley or other public way, or portion thereof in the city shall be vacated, such park, commons, outlet, or any street, alley or other public way, or portion thereof, shall automatically be classified in the same zoning district as the property to which it attaches, unless otherwise recommended by the planning commission.

(Ord. No. 1080, 4-16-2013)

Secs. 50-66—50-69. - Reserved.

ARTICLE VIII. - ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS

Sec. 50-70. - R-1 One-Family Residential District.

(a) *Intent.* The R-1 One-Family Residential Districts are designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density, one-family detached dwellings along with other residentially related facilities which serve the residents in such districts.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet
Minimum lot size	6,000
Minimum lot width	50 feet
Maximum lot coverage	35 percent (The maximum lot coverage permitted for all buildings may be increased by one percent for every 100 square feet of lot area that the lot is less than 4,000 square feet. In no case shall the maximum amount of lot coverage for all buildings exceed 45 percent of the total area of the lot.
Setbacks	
Front	25 (Where front yards of greater or less depth than above specified exist in front of dwellings on more than 50 percent of the lots of record on one side of a street in any block in such district, the minimum required front yard setback for any building thereafter erected or placed on any lot in such block shall be not less, but need not be greater than, the average depth of the front yards of existing buildings along said frontage in the block.)
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline

Toepfer and Stephens Avenues	43 feet from centerline
Each side	Four, 13 (Total)
Rear	30
Parking setbacks	
Front	n/a
Each side	n/a
Rear	n/a
Building	
Height	30
Stories	Two
Minimum floor area	Minimum square footage/ground floor minimum square footage
One-story	880/880
One- and one-half story	880/800
Two-story	880/624

In the R-1 District, lots of 50 feet or greater in width shall have a minimum of 13 feet between single-family detached dwellings.

(c) *Principal uses permitted.* In the R-1 One-Family Residential Districts, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

(1) One-family detached dwellings.

(2) Family child care home, registered by the State Department of Human Services for the care and keeping of up to six minor children.

(3) Foster family home, registered by the State Department of Human Services for the care and keeping of up to four minor children.

(4) Adult foster care family home, registered by the State Department of Human Services for the care and keeping of up to six adults.

(5) Foster family group home, registered by the State Department of Human Services for the care and keeping of more than four but less than seven minor children.

(6) The private growing of vegetables, fruits, flowers, shrubs and trees, provided such use is not operated for commercial purposes. This shall not apply to bona fide farming operations.

(7) Publicly owned and operated libraries, parks, parkways and recreational facilities.

(8) Cemeteries which lawfully occupied land at the time of adoption of the ordinance.

(9) Public and parochial or other private elementary schools offering courses in general education.

(10) Home occupations, provided the following conditions are met:

a. They are conducted wholly and entirely within the principal dwelling. If the home occupation is to be conducted within a detached garage or accessory building, the use may be processed and reviewed as a special land use approval.

b. They are located either in the basement of the principal dwelling (subject to the building code), or when they are not located in the basement, they shall not occupy more than 25 percent of the floor area of the principal dwelling, excluding the basement.

c. They are conducted only by the inhabitants thereof as defined in this chapter, there being no other employees or assistants employed in connection with a home occupation.

d. No article shall be made or sold or offered for sale except such as may be produced or provided by the inhabitants.

e. There shall be no equipment or machinery used in connection with a home occupation which is industrial in nature, or which will have a negative impact on adjacent residential property.

f. They do not change the character of the residential appearance, or the orientation of the dwelling unit as a residential use.

g. They will not require internal or external alterations or construction other than that which may be required to meet local or state safety or construction code standards, as authorized by the city.

h. No home occupation shall be carried on to an extent that will require parking in excess of that required for a residential building by this chapter.

i. They have no signs, advertising devices or other manifestation located on the exterior of the dwelling structure or within any yard area which suggests or implies the existence of a home occupation.

j. The home occupation does not include clinics, hospitals, barber or beauty shops, tearooms, tourist homes, kennels, millinery shops or any other use similar to the above use, or which does not meet the above requirements. Further, such use shall not violate any state or federal law.

k. The home occupation complies with the licensing requirements of article II of chapter 12, pertaining to licensing, as amended, if required.

l. Home occupations shall be reviewed by the building department. The building department may forward the request to the planning commission for its review. When the building department or the planning commission has determined that the above conditions are met, the building department shall issue an occupancy permit with conditions enumerated thereon. Once established, no home occupation shall deviate from the above required conditions. No home occupation shall be continued when the same shall be found by the building department to be a nuisance or to be in violation of the above conditions due to noise, electrical interference, dust, smoke, odor, vibration, traffic congestion, reduction of parking, or reduction in the overall living environment of the dwelling or the surrounding area.

(11) Accessory buildings and uses, customarily incidental to any of the above permitted uses referenced in subsection (c)(1) through (10) of this section and the requirements of section 50-160.

(12) Keeping of chickens, provided the following conditions are met:

a. Any person residing in the R-1 one-family residential districts, in a single-family detached structure, desiring to keep live chickens shall first obtain a license from the city and that person may keep not more than three hen chickens within the city for personal use only and not for any business or commercial use. Completed license applications shall be submitted to the building department along with the fee which shall be determined by city council resolution. Applications shall set forth the name and residence of the applicant, the purpose and number of hen chickens sought to be kept, and include any drawings or other information required by the building department. Applicants must be in compliance with all city codes and ordinances at the time of application. In addition, the keeping of hen chickens shall not be permitted unless consent, in writing, is obtained by the applicant from all adjoining property owners which consent shall be on a form provided by the building department. The building department shall conduct an inspection of the proposed chicken coop and shall issue a license where the application is in compliance with all requirements, regulations and ordinances of the city. Approved license holders shall also schedule an inspection by the animal control officer within 30 days of license issuance. Failure to schedule an inspection shall result in an automatic revocation of the license. If an inspection identifies noncompliance with any of the requirements set forth in subsection c of this section, the permit holder shall have 15 days to achieve compliance with the requirements or the building department may revoke the license or seek prosecution of the violation under section 50-30. Licenses shall be valid for up to two years, shall be non-transferable, site-specific and shall expire on December 31 of the second year of issuance. A person who wishes to continue keeping chickens shall obtain a new license prior to expiration of the previous license, provided the animal control officer makes an inspection and approves the request for a renewal. Application for a new license shall be pursuant to the procedures and requirements applicable at the time a person applies for a new license.

b. Notwithstanding this section, private restrictions on the use of property shall remain enforceable. Private restrictions include but are not limited to deed restrictions, neighborhood association by-laws, and covenant deeds.

c. A person residing in a R-1 one-family residential district, in a single-family detached structure, who keeps hen chickens shall comply with all of the following requirements:

1. Keep no more than three hen chickens at any time unless an additional amount is otherwise provided for by the ordinances of the city.

2. Roosters or male chickens and any other type of fowl or poultry are prohibited.

3. Slaughtering of any chickens at the property is prohibited.

4. Chickens shall be maintained in a fully enclosed structure or a fenced enclosure and shall be kept in the enclosed structure or fenced enclosure at all times. Fenced

enclosures are subject to all fence provisions and restrictions in the City of Eastpointe Zoning Ordinance. An enclosed structure shall be constructed of permanent materials and shall be properly maintained in accordance with the property maintenance code adopted by the city in section 10-79, as amended.

5. Chickens shall not be kept in any location on the property other than in the backyard. For purposes of this section, "backyard" means that portion of a lot enclosed by the property s rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family structure and extending to the side lot lines.

6. No enclosed structure shall be located within any side or rear yard setback area. An enclosed structure or fenced enclosure shall not be located closer than ten feet to any residential structure on adjacent property.

7. All structures and enclosures for the keeping of chickens shall be constructed and maintained so as to prevent rats, mice, or other rodents or vermin from being harbored underneath or within the walls of the structure or enclosure.

8. All feed and other items associated with the keeping of chickens likely to attract rats, mice, or other rodents or vermin shall be secured and protected in sealed containers.

9. Chickens shall be kept in compliance with the Michigan Department of Agriculture Generally Accepted Agricultural and Management Practices for the Care of Farm Animals, as it relates to laying chickens, as amended, except as otherwise provided in this section.

10. Any contact of chickens pursuant to this section by children shall be under the supervision of an adult.

11. Any violation of any of these provisions may be prosecuted as provided in section 50-30.

(d) *Special land use approvals.* The following uses shall be permitted in the R-1 One-Family Residential District, subject to the conditions imposed for each use and subject further to the review and recommendation of approval of the planning commission to the city council as provided for in section 50-49:

(1) Churches and other facilities normally incidental thereto subject to the following conditions:

a. Buildings of greater than the maximum height permitted in the R-1 Districts shall provide an additional setback from any property line one additional foot for every one foot the building or buildings that exceed the maximum building height limitations of the district.

b. All access to the site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master plan or county thoroughfare plan). The planning commission may approve alternative access configurations as outline in section 50-167.

(2) Public, parochial and private intermediate or secondary schools offering courses in general education.

a. Access to the site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master land use plan or county thoroughfare plan). The planning commission may approve alternative access configurations as outline in section 50-167.

(3) Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of such building within the district in order to serve the immediate vicinity.

a. Public buildings and uses shall not include any outdoor storage of materials and/or vehicles and shall be consistent in appearance and perspective with the residential development around it to the greatest extent possible as determined by the planning commission.

(4) Private non-profit recreational areas and community centers such as sports fields, community pools, and fitness centers subject to the following conditions:

a. The proposed site for any of the uses permitted herein shall have at least one property line abutting a major thoroughfare as designated in the city's master land use plan or the county thoroughfare plan. The planning commission may permit such uses on property that does not abut a major thoroughfare upon finding the proposed use will be designed and operated in such a manner as to not adversely impact the surrounding neighborhood and roadways. The planning commission may also approve alternative access configurations as outline in section 50-167.

b. Front, side and rear yards shall be at least 80 feet wide, and shall be landscaped in trees, shrubs and grass. The planning commission may reduce the required setbacks upon a finding that the reduction will not impact the surrounding properties and neighborhood and that appropriate screening and buffering has been provided.

c. Whenever a swimming pool is constructed, the pool area shall be provided with a protective fence six feet in height and entry shall be provided by means of a controlled gate in addition to all applicable requirements of the Michigan Building Code.

d. Off-street parking shall be at a rate of one space for every 300 square feet of usable floor area, provided, however, that the planning commission may modify the off-street parking requirements in those instances wherein it is specifically determined that a significant percentage of users will originate from the immediately adjacent areas, and will therefore be pedestrian.

e. Community center shall mean and include non-profit entities that provide recreational, leisure, educational, child care, social, religious, and cultural services to the community, but shall not include entities engaged in substance abuse counseling or reentry services for formerly institutionalized persons. No community center may incorporate sleeping facilities or otherwise provide for residential occupancy.

(5) Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education, all subject to the following conditions:

a. Any use permitted herein shall be on a site of such size and so located that the proposed use will be compatible with the adjacent development.

b. All access to such site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master plan or county thoroughfare plan). The planning commission may approve alternative access configurations as outline in section 50-167.

c. Provide a building setback of not less than 25 feet from any property line. The building shall set back one additional foot (beyond the initial 25-foot requirement) for each foot it exceeds 25 feet in height.

(6) Private pools when they are accessory to a principal permitted use and are located within the rear yard only, and provided further, that they meet the following requirements:

a. Private pools shall not require planning commission review and approval.

b. The outside edge of the pool shall be set back from any side or rear lot line a distance at least equal to the side yard setback as specified in section 50-150. In no instance shall this setback be less than ten feet from any side street or alley right-of-way.

c. There shall be a distance of not less than four feet between the outside pool wall and any building located on the same lot.

d. No swimming pool shall be located less than 35 feet from any front lot line.

e. No swimming pool shall be located in an easement.

f. All areas containing swimming pools shall be completely enclosed by a fence not less than four feet in height. The gates shall be a self-closing and latching type, with the latch on the inside of the gate not readily available for children to open. Gates shall be capable of being securely locked when the pool is not in use for extended periods. Fences of four to six feet in height may be permitted provided they meet the requirements of section 50-161 relating to fences. These requirements are in addition to all those applicable requirements of the Michigan Building Code.

(7) Cemeteries provided that:

a. Not more than 51 percent of the land in the residential unit in which the cemetery is to be located is in recorded plats; and

b. All access to such site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master plan or county thoroughfare plan). The planning commission may approve alternative access configurations as outline in section 50-167.

(8) Adult foster care small group home, registered by the state consumer and industry services and approved to house not more than 12 foster care occupants.

(9) Halfway homes, facilities for substance abuse treatment and the like.

(10) Accessory buildings and uses customarily incidental to any of the permitted uses.

(11) Wind energy systems.

a. *Purpose and intent.* The purpose of this section is to provide a safe, effective and efficient use of wind energy turbines in order to reduce the consumption of fossil fuels in producing electricity; to preserve and protect public health, safety, welfare and quality of life by minimizing the potential adverse impacts of wind energy turbines; and to establish standards and procedures by which the siting, design, engineering, installation, operation and maintenance of wind energy turbines shall be governed.

b. *General regulations.* Small wind energy systems, medium wind energy systems and large wind energy systems shall be permitted in all zoning districts as a special use and subject to the following:

1. Height and type.

i. Only monopole construction shall be permitted and said systems shall be attached to a monopole only.

ii. The total height of a wind energy system tower, including maximum extension of the top of the blade, shall not exceed the maximum height for structures permitted in the zoning district.

2. Setbacks. A wind energy system tower shall be set back a distance equal to its total height from:

i. Any public road right-of-way, unless written permission is granted by the governmental entity having jurisdiction over the road;

ii. Any overhead utility lines, unless written permission is granted by the affected utility;

iii. All property lines;

iv. And the minimum setback requirements for the zoning district in which the system shall be located, except support cables, if provided, shall be anchored to the ground no closer than ten feet to any property line.

3. Access.

i. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

ii. The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.

4. Speed controls. All systems shall be equipped with manual and automatic over speed controls.

5. Electric lines. All electrical wires associated with a wind energy systems, except those necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be located underground.

6. Signal interference. No wind energy system shall be located in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.

7. Noise.

i. Audible noise or the sound pressure level from the operation of the wind energy system shall not exceed a rating of 50 dBA, or the ambient sound pressure level plus five dBA, whichever is greater, for more than ten percent of any hour, measured at the property line of the subject property.

ii. Proof from the manufacturer that the system is capable of meeting these noise requirements shall be provided at the time a permit is requested.

8. Shadow flicker.

i. At the time a permit is requested, the applicant shall conduct a written analysis of potential shadow flicker regarding structures within 300 feet of the wind energy system.

ii. The analysis shall identify the location of shadow flicker that may be caused by the wind energy system and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year.

iii. The analysis shall identify problem areas where shadow flicker may affect the occupants of the structures and describe measures that shall be taken to eliminate or mitigate the problems at the time a permit is requested.

9. System limit. Only one wind energy system whether small wind, medium wind or large wind energy system, shall be allowed per residential dwelling unit or commercial structure.

10. Abandonment.

i. A wind energy system that is out-of-service for a continuous 12-month period will be deemed to have been abandoned.

ii. If the wind energy system is determined to be abandoned, the owner shall remove the entire system at the owner's sole expense within 30 days of receipt of the notice of abandonment from the city.

iii. If the wind energy system is not removed within 30 days after receipt of notice of abandonment, the city may remove or secure the removal of the system with its actual costs and reasonable administrative charges be drawn, collected and/or enforced from under any security or bond posted at the time of application or alternatively, be charged as a lien against the property.

11. Permit requirements and procedures.

i. A building permit shall be required for the installation of all wind energy systems.

ii. A site plan drawing of the proposed system shall be required at the time an application for permit is made.

iii. An applicant shall submit said application and the required fees with the building department and shall post a bond sufficient to cover the expense of the city for removing an abandoned wind energy system.

iv. At the time an application is made or sought, the structural design of the system and tower shall be signed and sealed by a professional engineer registered in the state, certifying that the design complies with all the standards set forth for safety and stability in all applicable codes in effect in the state and all sections referred to herein.

(e) *Required conditions.* The following conditions where applicable shall apply to all uses permitted in the district:

(1) No building or structure shall be permitted except in conjunction with a principal permitted use.

(2) All single-family dwelling buildings shall comply with the applicable requirements of sections 50-168.

(3) All single-family attached or detached dwelling buildings developed in clusters shall comply with the applicable requirements of section 50-151.

(4) Except as otherwise regulated in this section, see section 50-151 limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum dwelling unity density permitted, and building setbacks and development options.

(5) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards as they may apply to various uses permitted in the district.

(6) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping as they may apply to various uses permitted in the district.

(7) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses as they may apply to various uses permitted in the district.

(8) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter as they may apply to various uses permitted in the district.

(9) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013; Ord. No. 1129, 3-1-2016; Ord. No. 1134, 3-28-2017)

Sec. 50-71. - R-2 Two-Family Residential District.

(a) *Intent.* The R-2 Two-Family Residential District is designed to afford a transition of use in existing housing areas by permitting new construction or conversion of existing structures between adjacent residential, commercial, office, thoroughfare or other uses which would affect the residential character. This district also recognizes the existence of older residential areas of the city where larger houses have been or can be converted from one-family to two-family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization. This district also allows the construction of new two-family residences where slightly greater densities are reasonable.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet

Minimum lot size	3,500
Minimum lot width	30 feet
Maximum lot coverage	35 percent (The maximum lot coverage permitted for all buildings may be increased by one percent for every 100 square feet of lot area that the lot is less than 4,000 square feet. In no case shall the maximum amount of lot coverage for all buildings exceed 45 percent of the total area of the lot.
Setbacks	
Front	25 feet
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each side	Ten/20 (Total)
Rear	30 feet
Parking setbacks	
Front	n/a
Each Side	n/a

Rear	n/a
Building	
Height	30
Stories	Two
Minimum floor area	Minimum square footage/ground floor minimum square footage
	800/800

(c) *Principal uses permitted.* In the R-2 Two-Family Residential District, no building or land shall be used, except for one or more of the following specified uses, unless otherwise provided in this chapter:

(1) All uses permitted and as regulated in the R-1 One-Family Residential District.

(2) Two-family dwellings.

(3) Accessory buildings and uses customarily incidental to any permitted uses.

(d) *Special land use approvals.* The following uses shall be permitted in the R-2 Two-Family Residential District, subject to the conditions imposed for each use and subject further to the review and recommendation of approval of the planning commission to the city council as provided for in section 50-49:

(1) Wind energy systems (section 50-70(d)).

(e) *Required conditions.* The following conditions where applicable shall apply to all uses permitted in the district:

(1) No building or structure shall be permitted except in conjunction with a principal permitted use.

(2) All single-family and two-family dwellings shall comply with the applicable requirements of sections 50-168 and 50-169.

(3) All single-family attached dwelling developed in clusters shall comply with the applicable requirements of section 50-151.

(4) Except as otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum dwelling unity density permitted, and building setbacks and development options.

(5) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.

(6) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.

(7) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.

(8) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.

(9) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Secs. 50-72—50-79. - Reserved.

ARTICLE IX. - MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

Sec. 50-80. - RT Townhome Residential District.

(a) *Intent.* The RT Townhome Residential District is designed to provide sites for lower density townhome dwellings and related uses which will serve as zones of transition between major thoroughfares and/or nonresidential uses and lower density districts, typically on parcels which may be otherwise difficult to develop. This district is intended to preserve the basic single-family character and density of an area without introducing higher density multiple-family uses. The RT Townhome Residential District may also permit the preservation of natural features of the site when such development would not conflict with the existing and potential land use patterns in the area.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet
Minimum lot size	At least 3,000 square feet of land area shall be provided for each one-bedroom dwelling unit. An additional 500 square feet shall be provided for each additional bedroom.
Minimum lot width	n/a
Maximum lot coverage	30 percent
Setbacks	
Front	25 feet
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline

Toepfer and Stephens Avenues	43 feet from centerline
Each side	Ten
Rear	30
Parking setbacks	
Front	25 feet
Each side	n/a
Rear	n/a
Building	
Height	30
Stories	Two

(c) *Principal uses permitted.* In the RT Townhome Residential District, no building or land shall be used, except for one or more of the following specified uses, unless otherwise provided in this chapter.

(1) All uses permitted and as regulated in the R-2 Two-Family Residential Districts.

(2) Townhome dwellings.

(3) Accessory buildings and uses customarily incidental to any permitted or special land use.

(d) *Special land use approvals*. The following uses shall be permitted in the RT Townhome Residential District, subject to the conditions imposed for each use and subject to the review and recommendation of approval of the planning commission to city council:

(1) Churches and other facilities normally incident thereto subject to the following conditions:

a. Buildings of greater than the maximum height permitted in the RT District shall provide an additional setback from any property line one additional foot for every one foot the building or buildings that exceed the maximum building height limitations of the district.

b. All access to the site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master plan or county thoroughfare plan).

The planning commission may approve alternative access configurations as outline in section 50-167.

(2) Public, parochial and private intermediate or secondary schools offering courses in general education.

a. Access to the site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master land use plan or county thoroughfare plan). The planning commission may approve alternative access configurations as outline in section 50-167.

(3) Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education.

(4) Hospitals, medical centers, urgent care facilities, and the like.

(5) Housing for the elderly (senior citizen housing) and the like.

(6) Wind energy systems (section 50-70(d)).

(e) *Required conditions.* The following conditions where applicable shall apply to all uses permitted in the district.

(1) In the case of townhome developments, a site plan shall be submitted for review and approval prior to issuance of a building permit.

(2) All access to the site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master plan or county thoroughfare plan). The planning commission may approve alternative access configurations as outline in section 50-167.

(3) Under this section the attaching of up to six dwellings shall be permitted. An offset of at least ten feet shall be provided along each facade of the building between each livable unit. This may be modified by the planning commission upon a finding that the proposed architecture of the building meets the intent of this chapter. Each dwelling unit shall have a living space near grade level and shall not have one dwelling under or above another.

(4) A townhome development shall be located and arranged to avoid any disruption in the continuity of public streets and/or utilities.

(5) Points of ingress and egress shall be minimized along public thoroughfares and shall be located and arranged to avoid undesirable traffic patterns with adjacent land uses and abutting public thoroughfares.

(6) All single-family dwellings shall comply with the applicable requirements of sections 50-168 and 50-169.

(7) All single-family attached dwellings developed in clusters shall comply with the applicable requirements of section 50-151.

(8) Except as otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum dwelling unity density permitted, and building setbacks and development options.

(9) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.

(10) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.

(11) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.

(12) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.

(13) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Sec. 50-81. - RM-1 Multiple-Family Residential District.

(a) *Intent.* The RM-1 Multiple-Family Residential District is designed to provide sites for intermediate density multi-family dwelling structures and related uses which will generally serve as zones of transition between nonresidential districts and higher density multiple-family districts and lower density one-family districts. The RM-1 Multiple-Family District is further provided to service the limited needs for an apartment type of unit in an otherwise predominantly lower density, single-family residential community.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet
Minimum lot size	At least 2,000 square feet of land area shall be provided for each one bedroom dwelling unit. An additional 500 square feet shall be provided for each additional bedroom.
Minimum lot width	n/a
Maximum lot coverage	30 percent
Setbacks	
Front	25 feet
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each side	Ten
Rear	30

Parking setbacks	
Front	25
Each side	n/a
Rear	n/a
Building	
Height	30
Stories	Two and one-half

(c) *Principal uses permitted.* In the RM-1 Multiple-Family Residential District, no building or land shall be used, except for one or more of the following specified uses, unless otherwise provided in this chapter:

(1) All uses permitted and as regulated in the RT Townhome District.

(2) Multiple-family dwellings.

(3) Accessory buildings and uses customarily incidental to any permitted use.

(d) *Special land use approvals.* The following uses shall be permitted in the RM-1 Multiple-Family District, subject to the conditions imposed for each use and subject to the review and recommendation of approval of the planning commission to city council:

(1) General hospitals, when the following conditions are met:

a. All access to the site shall be to an existing or planned major thoroughfare, freeway service drive, or collector street (as defined in the city's master plan or county thoroughfare plan). The planning commission may approve alternative access configurations as outline in section 50-167.

b. The minimum setback for all two-story structures shall be at least 100 feet from all property lines. The planning commission may reduce the required setbacks upon a finding that the reduction will not impact the surrounding properties and neighborhood and that appropriate screening and buffering has been provided.

(2) Housing for the elderly (senior citizen housing) when the following conditions are met:

a. All dwellings shall consist of at least 350 square feet per unit, not including kitchen and sanitary facilities. The planning commission may reduce the required floor area requirements in the instance that federal or state funded low or fixed income units are being provided.

b. All housing for the elderly shall be provided as a planned development consisting of cottage type living quarters, apartment dwelling units, rooming units, or a mix of all of these, but such developments shall include central dining, indoor and outdoor recreation facilities, a central lounge and workshops.

c. Elderly housing developments may also contain service-oriented uses, such as central laundry facilities, a drugstore, barber and beauty shops.

(3) Convalescent care homes (nursing homes) when the following conditions are met:

a. There shall be provided on the site not less than 1,500 square feet of open space for each bed in the home, which land area shall provide for landscaping, yard requirements and accessory uses.

b. The minimum building setback shall be 50 feet from any property line. The planning commission may reduce the required setbacks upon a finding that the reduction will not impact the surrounding properties and neighborhood and that appropriate screening and buffering has been provided.

(4) Adult foster congregate care facility registered by the state consumer and industry services and approved to house not less than 20 occupants receiving foster care, provided the following conditions are met:

a. Off-street parking shall be provided in accordance with the applicable requirements of sections 50-220 and 50-221.

b. If an outdoor trash receptacle is used for the disposal of refuse, it shall be located in the rear yard and screened in accordance with the requirements of section 50-236.

c. Off-street parking shall be located in the rear yard or within the non required area of an interior side yard.

d. Loading, unloading of supplies and materials shall take place in the rear yard, or within a non required interior side yard.

e. All applicable requirements of Act 218 of the Public Acts of 1979, as amended, shall be met.

(5) Adult foster care large group home registered by the state consumer and industry services and approved to house not less than 13 but not more than 20 foster care occupants.

(6) Adult foster care small group home, registered by the state consumer and industry services and approved to house not more than 12 foster care occupants.

(7) Halfway homes, facilities for substance abuse treatment and the like.

(8) Wind energy systems (section 50-70(d)).

(e) *Required conditions.* The following conditions where applicable shall apply to all uses permitted in the district:

(1) No building or structure shall be permitted except in conjunction with a principal permitted use.

(2) All single-family dwellings shall comply with the applicable requirements of sections 50-168 and 50-169.

(3) All single-family attached dwellings developed in clusters shall comply with the applicable requirements of section 50-151.

(4) Except as otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum dwelling unity density permitted, and building setbacks and development options.

(5) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.

(6) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.

(7) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.

(8) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.

(9) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Sec. 50-82. - RM-2 Multiple-Family Residential District.

(a) *Intent.* The RM-2 Multiple-Family Residential District (mid rise) are designed to provide sites for high density multiple-dwelling structures adjacent to high traffic generators commonly found in the proximity of large acreage nonresidential development areas abutting major thoroughfares and expressways. This district is further provided to serve the residential needs of persons desiring apartment-type accommodations with central services as opposed to the residential patterns found in other residential districts. These districts are further designed to provide transition between traffic generators and other residential districts through the requirements of lower coverage which, in turn, will result in more open space.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In feet
Minimum lot size	At least 1,200 square feet of land area shall be provided for each one bedroom dwelling unit. An additional 500 square feet of site area shall be provided for each additional bedroom.
Minimum lot width	n/a
Maximum lot coverage	30 percent
Setbacks	
Front	
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline

Toepfer and Stephens Avenues	43 feet from centerline
Each Side	Equal to the height of the building
Rear	Equal to the height of the building
Parking setbacks	
Front	25 feet
Each Side	n/a
Rear	n/a
Building	
Height	48 feet
Stories	Five

(c) *Principal uses permitted.* In the RM-2 Multiple-Family Residential District (mid rise), no building or land, except as otherwise provided in this chapter, shall be used except for one or more of the following specified purposes.

(1) All principal uses permitted in the RM-1 Multiple-Family Residential District meeting the requirements of such section, with the exception of one-family and two-family dwellings, which shall be expressly prohibited.

(2) Accessory buildings and uses customarily incidental to any permitted use.

(d) *Special land use approvals.* The following uses may be permitted in the RM-2 Multiple-Family Residential District (mid-rise), subject to the conditions imposed for each use and subject to the review and recommendation of approval of the planning commission to the council:

(1) Mid-rise apartments, subject to the following conditions:

a. All such structures shall be developed on a site of at least two acres in area.

b. The site shall have its ingress and egress directly onto a major thoroughfare or expressway service drive.

c. Accessory buildings and uses customarily incidental to any of the above permitted uses.

(2) Minor retail and personal service uses when such uses are clearly accessory to the residents of a mid-rise building.

a. Such uses shall be located within the walls of the main structure.

b. No identifying sign for any such business use shall be visible from the exterior of the building.

c. Such uses shall not exceed 25 percent of the floor area at grade level or 50 percent of a subgrade level, and shall be prohibited on all other floors.

(3) A sit-down restaurant when such use will not conflict with basic residential parking and calculation requirements.

(4) Wind energy systems (section 50-70(d)).

(e) *Required conditions.* The following conditions where applicable shall apply to all uses permitted in the district:

(1) No building or structure shall be permitted except in conjunction with a principal permitted use.

(2) All single-family attached dwellings developed in clusters shall comply with the applicable requirements of section 50-151.

(3) Except as otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum dwelling unity density permitted, and building setbacks and development options.

(4) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.

(5) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.

(6) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.

(7) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.

(8) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Secs. 50-83—50-89. - Reserved.

ARTICLE X. - OFFICE AND BUSINESS DISTRICTS

Sec. 50-90. - OS-1 Office Service District.

(a) *Intent.* OS-1 Office Service District is designed to accommodate uses such as offices, banks and business services which can serve as transitional areas between residential and business districts and to provide a transition between major thoroughfares and residential districts. Permitted uses are oriented to those occurring within a building with a landscaped setting and are, therefore, more in harmony with adjacent residential areas.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In feet

Minimum lot size	n/a
Minimum lot width	n/a
Setbacks	
Front	Five feet
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each side	Zero
Rear	20 (If the rear yard of a lot in any of these districts abuts an improved (hard-surfaced) public alley right-of-way, and any required screening barrier is, or will be, located on the opposite side of the alley, the alley right-of-way may be used in satisfying the minimum rear yard setback requirement of the district.)
Parking setbacks	
Front	Five
Each side	n/a
Rear	n/a

Building	
Height	15
Stories	One
The planning commission may permit a building over one story and 15 feet in height (but not to exceed two stories and 30 feet) after special land use approval.	

(c) *Principal uses permitted.* In the OS-1 Office Service District, no building or land shall be used, except for one or more of the following specified uses, unless otherwise provided in this chapter:

(1) Office buildings for any of the following or similar occupations: executive, administrative, professional, accounting, writing, clerical, veterinary (no outside runs or kennels permitted), stenographic and drafting.

(2) Medical and dental offices, but not including those offering industrial clinic emergency room services.

(3) Banks, credit unions, savings, and loan associations and similar uses, with drive-in facilities as an accessory use only.

(4) Child care centers.

(5) Offices of nonprofit professional, civic and religious organizations.

(6) Business schools.

(7) Other uses similar to the above uses.

(8) Accessory structures and uses customarily incidental to the permitted uses.

(d) *Special land use approvals*. The following uses shall be permitted in the OS-1 Office Service District, subject to the conditions imposed for each use and subject to the review and recommendation of approval of the planning commission to city council:

(1) Specialized retail activities, such as a pharmacy, medical aides, optical or prosthesis, provided the following conditions are met:

a. Any such use shall be accessory to a permitted use and located within the same building.

b. The floor space set aside for the interior display and sale of such merchandise shall not exceed 25 percent of the usable floor area of the building.

(2) Multi-family units constructed to the standards set forth for RM-1 Multiple-Family Residential District may be approved when the following conditions are met:

a. Multi-family dwellings may be permitted in areas where there is an existing mixture of multiple and nonresidential uses. The site shall provide for adequate setbacks, parking and outdoor living space. Small apartment sites between two nonresidential uses shall be avoided to provide for the more orderly development of office uses and thereby avoid people living in an isolated location surrounded by activities with more intensive development characteristics.

b. Multi-family development may be permitted in areas not presently containing a mixture of office and multi-family uses when such development meets the following conditions:

1. The site is of such size and shape that it will provide for a self sufficient residential environment meeting all of the conditions of subsection (d)(2)a. of this section.

2. The site shall be located on the exterior end of an OS-1 Office Service District and shall serve as a transition to other adjacent residential use districts.

(3) Veterinary offices (with outdoor runs or kennels).

(4) Churches and other places or worship.

(5) Wind energy systems (section 50-70(d)).

(e) *Required conditions.* The following conditions, where applicable, shall apply to all uses permitted in this district:

(1) Permitted uses in the OS-1 Office Service Districts shall contain all storage of goods and material for sale and/or distribution within the building.

(2) The parking of any commercially used or licensed vehicle with a rated capacity of one ton or more is not permitted other than for normal deliveries of short duration.

(3) Parking or storage of disabled vehicles in any off-street parking lot is prohibited.

(4) The overnight storage of vehicles is prohibited.

(5) Except where otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, the minimum size of lot by permitted use, the maximum dwelling unit density permitted, and building setbacks.

(6) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.

(7) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.

(8) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.

(9) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.

(10) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Sec. 50-91. - B-1 Community Business District.

(a) *Intent.* The B-1 Community Business District is designed and intended to serve as a district of land use transition between major thoroughfares and more intense nonresidential uses and residential neighborhoods. It is therefore, the intent of the B-1 district to limit the type of commercial land use permitted in the district to the lower profile, less intense type of day-to-day convenience and comparison shopping, and service uses that serve the community.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet
Minimum lot size	n/a

Minimum lot width	n/a
Setbacks	
Front	
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each Side	Zero
Rear	20 (If the rear yard of a lot in any of these districts abuts an improved (hard-surfaced) public alley right-of-way, and any required screening barrier is, or will be, located on the opposite side of the alley, the alley right-of-way may be used in satisfying the minimum rear yard setback requirement of the district.)
Parking setbacks	
Front	Five
Each side	n/a
Rear	n/a

Building	
Height	15 feet
Stories	One
The planning commission may permit a building over one story and 15 feet in height after special land use approval.	

(c) *Principal uses permitted.* In the B-1 Community Business District, no building or land for outdoor sales shall be used, except for one or more of the following specified uses, unless otherwise provided in this chapter:

(1) Any principal permitted use in the OS-1 Office Service Districts, but subject to the regulations applicable in this section.

(2) Generally recognized retail businesses which supply commodities on the premises, including, but not limited to, groceries, meats, dairy products, baked goods or other foods, cellular phones, coffee shops, dry goods, clothing, hobbies, crafts, appliances, or hardware.

(3) Personal service establishments which perform services on the premises, including but not limited to, repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors or barbershops, photographic studios and self-service laundries.

(4) Dry cleaning establishments or pick-up stations dealing directly with the consumer, but not including central dry cleaning plants serving more than one retail outlet.

(5) Post office and other federal, state, or county offices.

(6) Churches or other places of worship and their related uses existing in the district at the time of adoption of the ordinance.

(7) Business schools and private technical training facilities operated for profit, but not including dormitories.

(8) Private clubs, fraternal orders and lodge halls.

(9) Restaurants, excluding drive thrus.

(10) Resale shops, second hand stores, and consignment shops (but not including pawn shops).

(11) Retail sales and display of fireworks from a permanent location.

(12) Retail sales and display of fireworks from a temporary facility such as a tent, trailer, stand, area covered by canopy, etc., provided all other applicable requirements for peddlers, solicitors, etc., are met.

(13) A lawfully existing nonconforming use of a building and land in combination, or a lawful use of land that may become nonconforming on the date of adoption of this chapter. Should any such nonconforming use cease to exist on the property for any reason for a period of 12 consecutive months, or for 18 months during any three-year period, any subsequent use of the building or land shall conform to the regulations specified in this chapter for the zoning district in which the land is located.

(14) Other uses similar to those above.

(15) Accessory structures and uses customarily incidental to any permitted use.

(d) *Special land use approvals.* The following uses shall be permitted in the B-1 Community Business District, subject to the conditions imposed for each use and subject to the review and approval of the planning commission:

(1) Gasoline filling stations (including quick change oil sales) for the sale of gasoline, oil and minor accessories, provided:

a. No repair work is done;

b. Towing or service trucks or any other commercially used or licensed vehicle shall be parked or stored indoors on the premises;

c. No disabled or damaged vehicles are parked or stored on the premises;

d. All pump islands are placed no closer than 20 feet from any required frontage lawn panel or right-of-way line; and

e. All canopy structures are placed no closer than ten feet to any street or alley right-of-way line, and have a ground to ceiling clearance of at least 13 feet.

(2) Publicly owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations, gas regulator stations, and water and sewage pumping stations; all without storage yards.

(3) Mortuary establishments, including a caretaker's residence, provided the following conditions are met:

a. Adequate vehicular assembly area for a funeral procession shall be provided off-street, in addition to required off-street parking.

b. The service and loading area shall be obscured from adjacent residential areas.

(4) Outdoor eating areas (of more than ten persons), subject to the following conditions:

a. It is accessory to a sit-down restaurant on the same property.

b. Adequate off-street parking is provided in addition to parking required for the principal use based on outdoor seating capacities.

c. May be located in any yard on the premises occupied by the principal use, but not in any public right-of-way.

d. Shall be fenced with an appropriate fence, wall, or other acceptable means as determined by the planning commission.

e. The outdoor eating area is made part of the license of the principal use.

f. Outdoor seating areas of ten persons or less may be approved administratively subject to the above conditions.

(5) Accessory seasonal open air sales area, provided:

a. All such outdoor facilities are designed as an integral part of a principal permitted use on the same premises;

b. Such outdoor sales are limited to the retail sale of plant material, lawn furnishings and landscaping amenities, play equipment and garden supplies, including lawn care and gardening appliances;

c. Such outdoor sales area is limited to locations at the ends of the principal building mass where they may extend outward from the building into any interior side or rear yard, except when a yard abuts a residential district, the sales area shall be restricted to a location within any non required interior side or rear yard. No such sales area shall extend outward from the building into any exterior side or front yard area;

d. Space may be provided in conjunction with a permitted outdoor sales area for the loading of customer vehicles only, except when area is in a yard that abuts a residential district, the location restrictions of subsection (d)(5)c. of this section shall apply;

e. The entire area shall be enclosed with building walls that shall represent a physical extension of the principal building, including the same exterior building wall materials and same color material as the principal building, except for the purposes of display and to provide light and air to the interior display area; exterior walls of the accessory outdoor sales area may also consist of decorative ornamental metal fencing material. Except where gates are provided, all such fencing shall be placed on top of a continuous wall structure, the height of which shall not be less than three feet; and

f. To aid in its review of a site plan for an accessory outdoor sales area, the planning commission may require submittal of drawings of sufficient detail and scale to clearly depict and identify by name, the type of decorative ornamental metal fencing materials that will be used in conjunction with such areas.

(6) Movie theaters, play houses, assembly halls, concert halls and similar places of assembly, provided their activities are conducted within enclosed buildings.

(7) Business establishments which install and service as well as sell electronic equipment for motor vehicles, provided:

a. An area completely enclosed within the principal building is provided for the installation and testing of such devices; and

b. Such area is sufficiently soundproofed so that the pressure levels of sound emanating from the installation and/or testing of any electronic system or device which is designed and expressly intended to generate, or possessing the capability of generating intense pressure levels of sound, shall not carry beyond the property lines of the premises on which the use is located.

(8) Retail sales establishment whose principal function is the sale of alcoholic beverages liquors provided that they are located at least 500 feet from any school, church, public library, or day care center.

(9) Wind energy systems (section 50-70(d)).

(e) *Required conditions.* The following conditions shall apply to all uses permitted in this district:

(1) Permitted uses in the B-1 Community Business District shall contain all storage of goods and materials for sale and/or distribution within the building.

(2) The parking of commercial licensed vehicles will be permitted in the rear yard only, and all such vehicles shall be clearly incidental to the principal permitted use on the property, and any such vehicle shall be limited to operable vehicles with a current license which are driven from the site on a regular basis and shall not include those used for storage, sales and/or advertising.

(3) Parking or storage of disabled vehicles in any off-street parking lot is prohibited.

(4) Except where otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, and building setbacks.

(5) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.

(6) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.

(7) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.

(8) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.

(9) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Sec. 50-92. - B-2 Downtown District.

(a) *Intent*.

(1) Develop a fully integrated, mixed use, pedestrian orientated environment with building containing commercial, residential and office uses.

(2) Create a synergy of uses within the DDA area to support economic development and redevelopment in accordance with the City of Eastpointe Master Plan as well as the Eastpointe DDA Design Framework Plan.

(3) Minimize traffic congestion, inefficient surface parking lots, infrastructure costs and other impacts by promoting a compact, mixed use pedestrian friendly district.

(4) Regulate building height to achieve appropriate scale along streetscapes to ensure proper transitions to nearby residential neighborhoods.

(5) Create a definable sense of place of the downtown area with a pedestrian oriented, traditional urban form with bold innovations in architecture.

(1) *Regulating plan.*

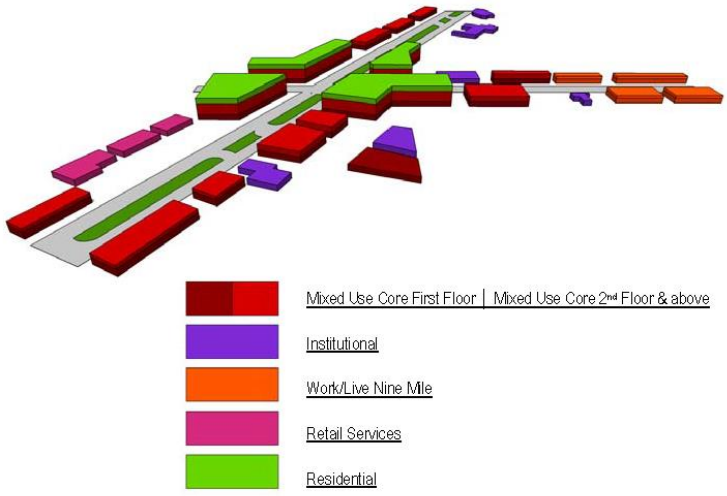
a. A regulating plan has been adopted for the entire downtown development area and further divides the downtown into three main zones. These include:

1. Mixed use core;

2. Institutional/municipal;

3. Work/live nine mile.

These zones shall be the same as depicted within the DDA Design Framework Plan.

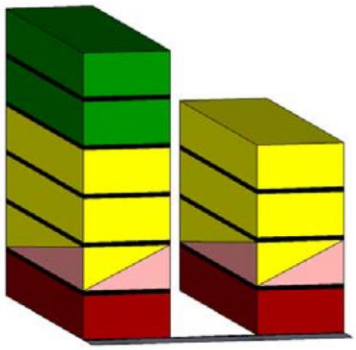


(2) Each zone has its own requirements for building form, height and use as follows:

a. Building use.

P = Permitted Use SLU = Special Land Use NP = Not Permitted			
Use	Mixed Use Core	Institutional/ Municipal	Work/Live Nine Mile
Residential (First Floor)	NP	NP	P
Residential (Second Floor and Above)	P	P	P
Home Occupations	P	P	P
Educational Facilities (Public or Private) (First Floor)	NP	P	NP
Educational Facilities (Public or Private) (Second Floor and Above)	P	P	P
Professional Offices (First Floor)	P	P	P
Professional Offices (Second Floor and Above)	P	P	P
Service Uses (First Floor)	P	P	P
Service Uses (Second Floor and Above	P	P	P
City Uses and Buildings	P	P	P
General Retail	P	SLU	SLU
General Retail (with drive thru or drive in)	SLU	SLU	NP
General Retail (with outdoor storage, display or sales)	SLU	SLU	NP
Parking Structure	SLU	SLU	NP

*City uses may include city-owned parking lots and structures.

Mixed Use Core Floor 1—Commercial Floor 2—Office/Residential Floor 3 and above—Residential Floor 5 & 6 Bonus Floors Residential		**Work/Live Nine Mile** Floor 1—Commercial Floor 2—Office/Residential Floor 3 and above—Residential

b. Building placement.

1. Mixed use core.

i. Front build to line: Zero feet from front property line.

The front facade of the building must be built on the front property line for a minimum of 60 percent of the lot width. Depending on the architecture of the building, the proposed uses, and nature of the lot, the planning commission may approve deviations from this requirement. Balconies for residential units may not extend into a public right-of-way.

ii. Side yard setback: Zero feet from side property line.

If windows or door openings exist, a minimum side yard setback of ten feet shall be provided.

iii. Rear yard setback: 20 feet from rear property line.

2. Live/Work Nine Mile.

i. Front build to line: 15 feet from front property line.

Depending on the architecture of the building, the proposed uses, and nature of the lot, the planning commission may approve deviations from this requirement. Balconies may not extend into a public right-of-way.

ii. Side yard setback: Zero feet from side property line.

If windows or door openings exist, a minimum side yard setback of ten feet shall be provided.

iii. Rear yard setback: 20 feet from rear property line.

c. Permissible building encroachments.

Awnings may extend into a public right-of-way, over a sidewalk, over dedicated parking areas, but shall not extend over a property line in separate ownership.

For awnings which extend over a pedestrian area, a minimum clearance of eight feet shall be provided. If the area is for automobiles or maneuvering of automobiles a minimum clearance of 14 feet must be provided.

d. Use of public right-of-way or other outdoor private space.

1. The following uses may be permitted into a public right-of-way or on a public sidewalk:

i. Outdoor cafe area, including tables;

ii. Outdoor sales space;

iii. Outdoor signage (permitted by the city);

iv. Street vendors;

v. Other outdoor uses as deemed appropriate by the city.

2. A permit shall be obtained from the city building department (or other appropriate department as necessary) prior to the use of any public right-of-way or public sidewalk. The following shall be conditions of the permit:

i. A minimum of one-half of the width of the sidewalk shall be maintained clear and unobstructed.

ii. Any use that requires the installation of a fence or other permanent structure shall provide assurance that should the outdoor use cease, that the fence or structure shall be removed.

e. Building height.

1. The minimum building height shall be two stories and 24 feet in height.

2. The maximum building height shall be six stories and 72 feet in height (if a building height bonus is approved as outlined in this section).

3. Existing buildings which are less than two stories in height may receive a waiver to the minimum height requirements of this chapter. In considering whether to grant a deferment, the planning commission shall consider the following factors amongst any other factors it determines to be pertinent:

i. The change in use is determined by the planning commission to be minor in nature and therefore does not justify the additional story(s) to be constructed.

ii. The applicant can provide documented analysis from a certified architect or structural engineer that the cost of the improvements to the building to achieve the minimum height requirement is not justifiable.

iii. An alternative design for the building facade is presented that generally meets the intent of the chapter.

f. Building height bonus.

1. A building height bonus of two stories or 24 feet (constituting a fifth and sixth story) may be permitted.

i. If a building height bonus is sought, the application shall be reviewed as a special land use approval to ensure that the design and impacts of building will not negatively impact the surrounding properties or public spaces.

ii. The commission may require that the additional stories be set back from the outer wall of the first four stories of the building to ensure that adequate light and views are maintained. This provision may be applied to any facade of the building to ensure proper building scale and massing relative to surrounding buildings and uses.

g. Building appearance.

1. Building material.

i. Buildings located within the downtown shall be constructed with decorative face brick on all sides of the building which will be visible from a public space, including road rights-of-way, sidewalks, parks, etc.

ii. The rear of the building which abuts an alley, parking or future parking area shall also be constructed of decorative face brick, similar to that of the front facade.

iii. The planning commission may approve alternative materials such as stone, glass, metal, etc., when it can be shown that the alternative material provides architectural interest and is found to be consistent in architectural design of those buildings on the same block (either side of street).

2. Entranceway.

i. A building entry shall be oriented on the front facade of the building. Additional building entries are encouraged to be provided on the side or rear of the building as well to encourage additional pedestrian access.

ii. The front entranceway shall generally be recessed from the remainder of the front facade.

iii. Garage doors or other similar service doors shall not be permitted on the front facade of the building.

3. Windows/transparency.

i. A minimum of 60 percent of the front first floor facade shall consist of windows or doors which are transparent.

ii. Window signs within the downtown may only cover a maximum of 25 percent of the window area.

iii. Window signs shall not be solid or opaque in nature. Window signs shall be individual letters and/or graphics applied to the window. Signs such as "open" or those providing hours of operation shall not be subject to this provision.

4. Roof design.

i. All rooftop mounted equipment shall be shielded from public view by parapets, roof extensions, etc., which are architecturally consistent with the remainder of the building.

h. Improvements within a public right-of-way.

1. All improvements within a public right-of-way shall meet the established guidelines for the DDA.

(3) Parking.

a. Parking lot location.

1. Parking shall not be permitted between the front facade of the building and the right-of-way(s) that the building fronts upon.

2. Parking which abuts a residential district shall be set back a minimum of five feet from the property line. The five-foot setback shall be planted with screening trees and shrubs which include evergreens.

b. Parking lot connection.

1. Each parking lot shall be designed in a manner in which the interconnection of parking lots is feasible through the use of stubbed maneuvering lanes. A cross access and use agreement shall also be provided guaranteeing access to adjoining properties.

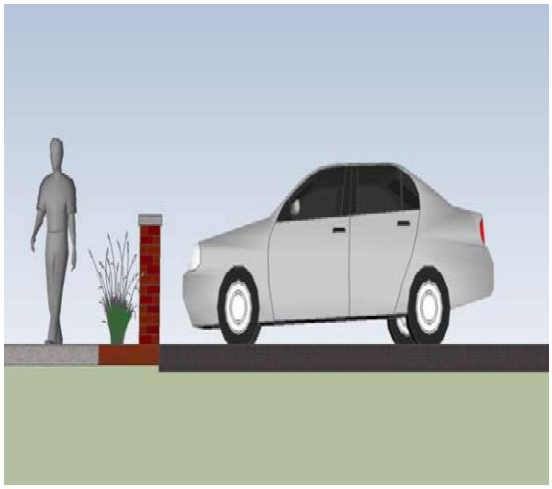
c. Parking lot screening.

1. All parking areas shall provide a three-foot tall decorative brick wall between the parking area and the adjacent street right-of-way. This provision shall not apply to those parking areas which are adjacent to public alleys.

2. The decorative brick wall shall be accented with landscape plantings which soften the transition from parking space to the pedestrian space of the sidewalk.

3. The planning commission may approve other alternative means of providing the same level of screening. This may also include breaks or openings in the wall to allow for pedestrian access to the parking lot or adjoining sidewalk.

4. Where a parking lot is located adjacent to a residential district a six-foot tall decorative brick wall shall be located along the mutual property line between the parking lot and the residence for the full extent of the parking lot/property line.



d. Parking requirements.

1. Because this district is intended to encourage pedestrian/transit friendly design and compact mixed-use development that requires less reliance on automobiles, the parking required by this chapter may be reduced or waived by the planning commission as follows:

i. Providing shared parking whereby the planning commission may reduce the total parking required by multiple uses upon a showing that the required parking is not necessary due to overlap of uses.

ii. By providing a payment or a fee in lieu for the creation of a more centralized parking structure. The fee for each parking space shall be established by resolution of the city council and may be adjusted from time to time based on current land and development costs.

iii. Where an off-street parking garage is in proximity to the site as determined appropriate by the planning commission.

iv. Driveway access to off-street parking lots shall be provided via the existing public alley system or through cross access agreements where available. If neither is available, driveways shall be located to provide safe separation from street intersections. Driveways shall be aligned with driveways on the opposite side of the street or offset to avoid turning movement conflicts when permitted.

e. Parking structure.

1. Those facades that front a public thoroughfare shall provide an architectural scheme similar to a traditional storefront.

2. Access to the parking structure shall be limited to side streets or alley ways where ever feasible. If side street or alley access is not permissible, the planning commission may allow for a driveway access to either Gratiot Avenue or Nine Mile Road upon review of proper driveway spacing, clear vision, and stacking area being provided.

3. The parking structure shall meet all requirements of the zone in which it is located, including: setback, building height, etc.

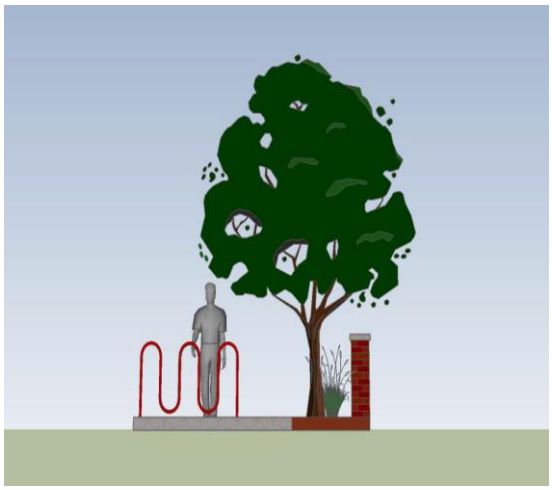
(4) Sidewalks.

a. Sidewalks of a minimum of ten feet in width (along Gratiot Avenue) and five feet in width along all other streets shall be provided. The sidewalks shall be consistent with the design and standards required by the city and the DDA shall be provided along the entire lot width of the property.

b. Sidewalks shall not be required in those areas where the DDA has already constructed pedestrian sidewalks which are consistent with their adopted standards.

(5) Bicycle facilities.

a. All sites shall be designed to accommodate bicycle travel. This shall include the provision of bike racks near each entrance of the building and/or near the designated parking lot area. Bicycle rack parking shall be provided at a rate of one rack space for each ten automobile spaces that would normally be required by ordinance and the design of the racks shall be generally consistent with those provided by the DDA.



(6) Community amenities.

a. Other community amenities such as benches, informational kiosks, artwork, etc. shall be permissible in public spaces and shall be consistent with the adopted standards and guidelines of the DDA.

(7) Signs.

a. Awning and canopy signs.

1. Awning and canopy signs shall be permitted on awnings and canopies subject to the following controls.

i. Letters and logos on awnings or canopies shall be regulated as wall signs and shall meet all applicable requirements for wall signs.

a. The following minimum vertical clearance above a sidewalk or pavement area shall be provided:

1. Store front awning or canopy, eight feet.

2. Freestanding canopy, 14 feet.

b. The written message or logo must be affixed flat to the face of any awning or canopy.

b. Projecting and marquee signs.

1. Projecting and marquee signs shall be permitted subject to the following controls:

i. The written message must be affixed flat to the vertical face of any marquee.

ii. A minimum vertical clearance of 14 feet shall be provided beneath any projecting or marquee sign which is located in a parking area or projects over a driveway. In all other areas, a minimum vertical clearance of ten feet shall be provided beneath any projecting or marquee sign.

iii. Limitations imposed by this article on projection of signs from the face of the wall of a building or structure shall not apply to projecting or marquee signs.

iv. The total sign area shall not exceed that of a wall sign permitted for the same building.

v. A projecting or marquee sign shall be permitted in lieu of a freestanding sign on the same premises.

c. Wall signs.

1. The permissible square footage of wall signage may be split amongst more than one sign provided the maximum square footage of all signs does not exceed that permitted and all signs are coordinated in terms of appearance and design.

2. Wall signs shall not be permitted on the side of a building which abuts a residentially used or zoned property.

3. The planning commission may permit an increase of up to an additional 15 percent of the total permissible area for wall signage. The reasons for any increase shall be documented in the planning commission decision and shall generally be based on the architectural compatibility, sign placement, sign visibility, etc.

(8) Outdoor eating areas (of more than ten persons), subject to the following requirements:

a. They are located and maintained entirely on privately owned land (not within the public right-of-way or other public property, see (9) below).

b. They are accessory to a sit-down restaurant on the same premises.

c. They shall be reviewed and approved by local or county health agencies.

d. They shall be fenced with an appropriate fence, wall, or other acceptable means as determined by the planning commission.

e. The outdoor eating area is made part of the license of the principal use.

f. Outdoor seating areas of ten persons or less may be approved administratively subject to the above conditions.

(9) Sidewalk sit-down restaurants or cafes. The city may issue a revocable permit to an eating and drinking establishment, on a limited portion of the public sidewalk adjacent to the business or otherwise located on city-owned property or right-of-way, provided:

a. The sidewalk on which the cafe is to be located is flat, is in good repair and is physically separated from the abutting street by a raised curb;

b. The location of the cafe on the sidewalk will not interfere with the clear vision of motorists on the adjoining street, particularly at any intersection of the sidewalk with another street or alley;

c. The location of the cafe on the sidewalk will not unduly encumber clear and safe passage of pedestrians on the sidewalk;

d. All tables and chairs shall be located inside the approved area on the sidewalk towards the building to which it is accessory;

e. All construction involved in the establishment and maintenance of a sidewalk cafe shall be of a temporary nature and subject to review and approval by the city, or by the jurisdiction in control of the right-of-way;

f. All eating areas shall be provided with trash receptacles. The property owner or operator of the establishment shall keep the area clean and free of all paper, trash, refuse and debris;

g. The eating area may be covered by a temporary structure such as a canopy or awning, or umbrella-type shades affixed securely to a table or to the sidewalk, in a manner acceptable to the city or the jurisdiction in control of the right-of-way. Any such temporary structure or umbrella shall be completely within the area on the sidewalk approved for the cafe;

h. The seating area of the sidewalk cafe must satisfy the applicable requirements of the state construction code with respect to the amount of seating, spacing and points of ingress and egress;

i. No outdoor cooking will be permitted in any sidewalk cafe permitted in this subsection;

j. Materials used in conjunction with a sidewalk cafe, including tables, chairs and wait stations shall be fully and completely removed from the sidewalk and kept elsewhere, when the cafe is closed for the season;

k. Applications to establish a sidewalk cafe shall be the responsibility of the applicant. The application shall be submitted to the building department for review and approval. In conducting its review, the building department may require submittal of a scaled drawing of the proposed sidewalk cafe, including the location and area of the sidewalk involved, the arrangement of tables and chairs, wait stations, etc.;

l. Application for a sidewalk cafe shall not be approved by the building department until approval to operate the use in the public right-of-way has been received in writing from the city or the jurisdiction in control of the right-of-way; and

    1. The applicant has executed a statement agreeing, at the applicant's expense, that the city, its officials, employees and its consulting agents and agencies, are held harmless from, and indemnifying them for and defending them (with legal counsel acceptable to them through any appellate proceedings they wish to pursue until a final resolution, settlement or compromise approved by them) from any liability for loss, damage, injury or casualty to persons or property caused or occasioned by or rising from any act, use, or occupancy or negligence by or of the applicant and any of its agents, agencies, servants, visitors, licenses, or employees occurring during the term of this agreement or any extended term;

    2. The applicant has furnished the city with a certificate or other evidence indicating that the applicant has a policy or policies of insurance against damage to public property, against bodily injury, including death, to one person and against more than one person, in amounts agreeable to the city. The certificate of insurance shall show the city as a certificate holder and an insured and shall provide that coverage may not be terminated without 30 days prior written notice in the city. Such insurance must provide coverage of the city and its officials, employees and its consulting agents and agencies for any occurrence during the term of the permit. Upon request, the applicant shall provide the city with a copy of the insurance policy or policies; and

3. The applicant has secured and is maintaining all legally required works disability compensation and unemployment compensation insurance.

m. A sidewalk cafe may display on the sidewalk in conjunction with the sidewalk cafe, a temporary freestanding sign which shall not be more than five feet in height and which shall not have more than six square feet of display area per side. The sign shall display only the name of the cafe and the menu of the day. The sign shall be placed within the area designated for the sidewalk cafe.

n. Prior to issuance of a permit by the building department, a permit fee in an amount established by the city council shall be paid by the applicant to the city. The permit shall include the dates and duration of the sidewalk cafe. Any permits so issued shall be subject to revocation by the city for the applicant's failure to meet or to maintain the area of the sidewalk cafe in strict accordance with all applicable state, county or local requirements.

(10) *Required conditions.* The following conditions, where applicable, shall apply to all uses permitted in this district:

a. Except as may be otherwise permitted in this district, uses permitted in the B-2 Downtown District shall contain all storage of goods and materials for sale and/or distribution within the building.

b. Business establishments in the B-2 Downtown District shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.

c. All business, servicing or processing, except for off-street parking, loading and unloading and those open air uses permitted in the district, shall be conducted within completely enclosed buildings.

d. The parking of commercial used or licensed vehicles will be permitted in the rear yard only and any such vehicle shall be clearly incidental to the permitted use. The parking of any such vehicle shall be limited to operable vehicles which are moved off the site on a regular basis and shall not include those used for storage, sales and/or advertising.

e. Parking or storage of disabled vehicles in any off-street parking lot is hereby prohibited.

Downtown Redevelopment Initial Steps

Downtown Redevelopment (Step 2)

Downtown Redevelopment (Step 3)

Downtown Redevelopment (Step 4)

(Ord. No. 1080, 4-16-2013; Ord. No. 1121, § 1, 5-19-2015)

Sec. 50-93. - B-3 General Business District.

(a) *Intent*. The B-3 General Business District is designed to provide sites for more diversified business uses which would often be incompatible with the types of more limited uses permitted in the other commercial districts. Many of the business uses permitted in the district are thoroughfare oriented and as such, generate greater volumes of traffic and activities which must be specifically considered to minimize adverse effects on adjacent properties.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet
Minimum lot size	n/a
Minimum lot width	n/a
Setbacks	
Front	
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each Side	0
Rear	20 (If the rear yard of a lot in any of these districts abuts an improved (hard-surfaced) public alley right-of-way, and any required screening barrier is, or will be, located on the opposite side of the alley, the alley right-of-way may be used in satisfying the minimum rear yard setback requirement of the district.)

Parking setbacks	
Front	Five
Each side	n/a
Rear	n/a
Building	
Height	35
Stories	n/a

(c) *Principal uses permitted.* In the B-3 General Business Districts, no building or land used for outdoor sales shall be used, except for one or more of the following specified uses, unless otherwise provided in this chapter:

(1) Any retail business or service establishment permitted in the B-1 community business district as a principal permitted use.

(2) Automatic pull through car wash when completely enclosed in a building.

(3) Public transit stations.

(4) Wholesale business or service establishments.

(5) Laundry and dry-cleaning establishments performing their operations on the premises.

(6) Veterinary hospitals or clinics as well as dog day care facilities, provided all activities are conducted within a totally enclosed and soundproof building.

(7) Tattoo parlors and the like.

(8) Gun sales and repair.

(9) Outdoor eating areas either on private or public property or right-of-way as regulated in the B-2 district.

(10) Other uses similar to those above.

(11) Residential units, provided that no dwelling unit shall be located on the ground floor of any building and subject to the following minimum floor area requirements:

a. Efficiency unit: 450 square feet.

b. One bedroom: 500 square feet.

c. Two bedroom: 600 square feet.

d. Three or more bedrooms: 700 square feet, plus 200 square feet for each bedroom over three.

(12) Accessory structures and uses customarily incidental to any above permitted uses.

(d) *Special land use approvals.* The following uses shall be permitted in the B-3 General Business Districts, subject to the conditions hereinafter imposed for each use, and subject further to review and recommendation of approval by the planning commission to the city council.

(1) Any special land use approvals in the B-1 District, not otherwise listed in the B-3 District, subject to the conditions specified for each use in the district.

(2) Tire, battery, muffler, quick change oil and undercoating stores, including stores which provide tire repair, wheel balancing, shock absorber replacement and wheel alignment, but not including general or major motor vehicle repair, subject to the following conditions:

a. There shall be no outside display of any parts and/or products.

b. Any repair and/or replacement activity shall be conducted within a totally enclosed building.

c. All new, used and/or discarded parts shall be stored within a completely enclosed building or within an area that is screened from view in accordance with the applicable requirements of article XX of this chapter.

d. The outside parking of vehicles awaiting service shall be limited to two vehicles per service bay, and any vehicles awaiting repair that are parked outside shall be kept within an area that will screen the vehicles from view. In no case shall a vehicle be kept for more than seven continuous days.

(3) General motor vehicle repair as defined in this chapter, including undercoating and towing services. The outside parking of vehicles awaiting service shall be limited to two vehicles per service bay, and any vehicles awaiting repair that are parked outside shall be kept within an area that will screen the vehicles from view. In no case shall a vehicle be so kept for more than seven continuous days.

(4) Drive in, fast food carry-out and fast food sit-down restaurants as defined in this chapter, subject to the following conditions:

a. A setback of at least 60 feet from the right-of-way and/or property line of any existing or proposed street must be maintained. The planning commission may reduce the required setbacks upon a finding that the reduction will not impact the surrounding properties and neighborhood and that appropriate screening and buffering has been provided.

b. Access points shall be located at least 60 feet from the intersection of any two streets as measured from the road right-of-way line. The planning commission may reduce the required setbacks upon a finding that the reduction will not impact the safety of the abutting roadways.

(5) Veterinary hospitals or clinics as well as dog day care facilities with outdoor activities.

(6) Plant material nurseries for the retail sale of plant materials not grown on the site and sales of lawn furniture, playground equipment, garden supplies, etc. provided further that such uses shall comply with the following requirements:

a. The use may extend to any interior side or rear lot line, except when those lot lines abut a residential district then no such use shall extend into any required setback for a principal building.

b. No part of the use shall extend into any required front or exterior side yard setback requirements of the district.

c. Such outdoor sales are limited to the retail sale of plant material, lawn furnishings and landscaping amenities, play equipment, garden supplies, including lawn care and gardening appliances, and other similar materials as determined by the building official and/or planning commission;

d. Space may be provided in conjunction with a permitted outdoor sales area for the loading of customer vehicles only, except when area is in a yard that abuts a residential district;

e. The entire area shall be enclosed with building walls that shall represent a physical extension of the principal building, including the same exterior building wall materials and same color material as the principal building, except for the purposes of display and to provide light and air to the interior display area; exterior walls of the accessory outdoor sales area may also consist of decorative ornamental metal fencing material. Except where gates are provided, all such fencing shall be placed on top of a continuous wall structure, the height of which shall not be less than three feet; and

f. To aid in its review of a site plan for an accessory outdoor sales area, the planning commission may require the submittal of drawings to clearly depict and identify the type of decorative ornamental fencing materials that will be used in conjunction with such area.

(7) Gasoline service stations for the sale of gasoline, oil and general motor vehicle repair, including oil change, lubricating services and towing services, subject to the following conditions:

a. The curb cuts for access to a service station shall not be permitted at locations that will tend to create traffic hazards on the abutting streets. Entrances shall be not less than 25 feet from a street intersection (measured along the road right-of-way line) or from any adjacent residential districts. The planning commission may limit the number of access drives based on the proximity and alignment to other adjacent driveways.

b. The servicing of vehicles shall be limited to those which may be serviced during a normal workday. The parking of any vehicle overnight, outside a completely enclosed building, is not permitted. The foregoing restriction shall not apply to operable vehicles of those employees working at the station plus two service vehicles utilized solely by the service station.

c. The outside parking of vehicles awaiting service shall be limited to two vehicles per service bay, and any vehicles awaiting repair that are parked outside shall be kept within an area that will screen the vehicles from view. In no case shall a vehicle be so kept for more than seven continuous days.

d. No disabled or damaged vehicles are parked or stored on the premises;

e. All pump islands are placed no closer than 20 feet from any required frontage lawn panel or right-of-way line; and

f. All canopy structures are placed no closer than ten feet to any street or alley right-of-way line, and have a ground to ceiling clearance of at least 13 feet.

(8) Self storage facilities, subject to the following conditions:

a. All access to the facility will be from a major thoroughfare as designated on the city's master land use plan for future land use map, as amended, the Long Range Master Plan of the Macomb County Department of Roads, or the State of Michigan Long Range Transportation Plan.

b. No direct access to a storage unit shall be provided on those facades of a building which directly front a property line.

c. An office area may be provided on the property.

d. Except for trash receptacles, no outdoor storage of any kind shall be permitted either as the principal use or as a use accessory to the principal use.

(9) Commercial recreational uses of an outdoor nature (i.e., baseball, softball, tennis, racquetball, motocross, skateboard, amusement parks, etc.)

a. All access to the facility will be from a major thoroughfare as designated on the city's master land use plan for future land use map, as amended, the Long Range Master Plan of the

Macomb County Department of Roads, or the State of Michigan Long Range Transportation Plan.

b. The location of the facility will not adversely affect the development and/or utilization of adjacent land use areas;

c. All exterior site lighting will be directed downward and into the property and away from any abutting residential land use;

d. All exterior site noise generated by participants, equipment or traffic within the site shall be controlled in such a manner that these characteristics of a commercial recreation use shall not impact any adjacent land use;

e. The hours of operation will be compatible with adjacent land use; and

f. The screening requirements of this chapter shall apply to the extent that all outdoor activities associated with the use shall be effectively screened from view from any adjacent land use.

(10) Adult entertainment.

a. Location regulations.

1. No adult entertainment use shall be located within 1,000 feet of any other adult entertainment use or within 600 feet of any of the following uses:

i. All class C establishments licensed by the state liquor control commission.

ii. Pool or billiard halls.

iii. Coin-operated amusement centers.

iv. Teenage discos or dancehalls.

v. Ice or roller skating rinks.

vi. Pawnshops.

vii. Indoor or drive-in movie theaters.

viii. Any public park.

ix. Any church.

x. Any public or private school having a curriculum including kindergarten or any one or more of the grades one through 12.

xi. Any public building.

xii. Any other regulated use as defined herein.

2. Such distance shall be measured along the center line of the street or address between two fixed points on the center lines determined by projecting straight lines at right angles from the part of the uses set forth in this subsection nearest to the contemplated location of the structure containing the adult entertainment use and from the contemplated location of the structure containing the adult entertainment use.

3. No adult entertainment use shall be located within 600 feet of any area zoned residential. Such required distance shall be measured by a straight line between the nearest point of the boundary line of a residential zoning district to the nearest building wall or contemplated building wall of the building intended to house an adult entertainment use.

4. Any adult entertainment use shall be contained in a freestanding building. Enclosed malls, commercial strip stores or, common wall structures and multiple uses within the same structure, do not constitute freestanding buildings.

5. No adult entertainment use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not regulated as an adult entertainment use. This subsection shall apply to any display, decoration, sign, show window or other opening.

b. Intent. It has been demonstrated that the establishment of adult entertainment businesses in business districts which are immediately adjacent to and which serve residential neighborhoods has deleterious effects on both business and residential segments of the neighborhood, causing blight and a downgrading of property values. A prohibition against the establishment of more than two regulated uses within 1,000 feet of each other serves to avoid the clustering of certain businesses, which, when located in close proximity to each other, tend to create a marginal atmosphere. However, such prohibition fails to avoid the deleterious effects of blight and devaluation of both business and residential property values resulting from the establishment of adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult motion picture arcades, adult motels, adult massage parlors, adult model studios, adult sexual encounter centers and adult cabarets in a business district which is immediately adjacent to, and which also serves adjoining residential neighborhoods. Concern for the pride in the orderly planning, development and preservation of the integrity of a residential neighborhood should be encouraged and fostered by those businesses and those persons who might otherwise comprise the business and residential integrity of the neighborhood. The planning commission and the city council should therefore be guided by the expressed will of those businesses and residences which are immediately adjacent to the proposed location of, and therefore, most affected by, the existence of any adult bookstore, adult motion picture, adult mini-motion picture theater, adult cabaret, etc.

c. The council may waive the limiting regulations of this section if all of the following are found:

1. The proposed use will not be contrary to the public interest or injurious to the nearby properties, and the spirit and intent of this chapter will be observed.

2. The proposed use will not enlarge or encourage the development of an undesirable area.

3. The person seeking to establish the adult entertainment use shall include a petition which affirmatively demonstrates the approval of the proposed adult entertainment use by at least 50 percent of the persons owning or occupying premises within a radius of 600 feet of the proposed use. The petitioner shall attempt to contact all occupied premises within this radius, and must maintain a list of all addresses at which no contact was made. The person who circulates the petition requesting approval shall subscribe to a sworn affidavit attesting to the fact that the petition was circulated, that the person who circulated the petition personally witnessed the signatures on the petition and that, to the best of his or her knowledge, the same were affixed to the petition by the person whose name appeared thereon. The city council shall not consider the application until such petition has been filed and verified to the satisfaction of the city council.

(11) Arcades.

a. Any such use shall not be located closer than 100 feet to any residential district.

b. All access to the facility will be from a major thoroughfare as designated on the city's master land use plan for future land use map, as amended, the Long Range Master Plan of the Macomb County Department of Roads or the State of Michigan Long Range Transportation Plan.

c. The location and hours of operation of the facility, together with its users, shall not adversely affect the development and utilization of adjacent and neighboring properties. Particular concern shall be given to adverse effects resulting from congregation and/or loitering on the premises, including areas outside the building. The applicant, together with the owner of the building, shall agree that all necessary measures shall be taken to avoid any adverse effects

and that any problems relating to the arcade operation that persist for more than a total of 30 days will result in immediate revocation of the certificate of occupancy for the arcade.

(12) Outdoor sales space including repair facilities for the sale of new or used automobiles, camper trailers, recreational vehicles, the rental of trailers, motor vehicles including watercraft, and mobile and modular homes shall be permitted only in the B-3 General Business District, subject to the following conditions:

a. The surface area dedicated for sales of such vehicles, trailers and homes shall be constructed of either asphalt or concrete and shall be properly drained.

b. The site shall be located on Eight, Nine, or Ten Mile Roads or Gratiot Avenue. Further, a new outdoor sales space shall not be permitted to be located within 500 feet (as measured from property line to property line) from another outdoor sales location regulated under this section unless the facility is located on a divided highway.

c. The minimum square footage of a lot utilized for the purposes of outdoor sales space as regulated by the section shall be 10,000 square feet.

d. Ingress and egress points shall be located at least 60 feet from the intersection of any two streets.

e. Any servicing of vehicles, including major motor repair and refinishing shall be subject to the following requirements:

1. All such activities shall occur within a completely enclosed building.

2. Partially dismantled and/or damaged vehicles, along with any new or used or discarded parts and supplies shall be stored within a completely enclosed building or within an area in the rear yard that is screened from view.

3. There shall be no external evidence, beyond the building, by way of dust, odor, vibration or noise, of any operations conducted on the premises.

f. Adequate off-street parking spaces which are separate from any display, sale or storage areas shall be provided.

g. Areas dedicated or otherwise utilized for the display of vehicles shall be designed in accordance with the requirements for a standard parking area in terms of parking space size, access, and maneuvering lane width, including adequate maneuvering lanes for access and emergency purposes as reviewed and approved by the city.

h. Adequate maneuvering for delivery trucks shall be provided to and from the site which does not require backing in or out from the street or the blocking of any travel lanes.

i. Devices for the transmission or broadcasting of voices and/or music shall be prohibited.

j. The outside parking of vehicles waiting service shall be limited to two vehicles per service bay, and any vehicles awaiting repair that are parked outside shall be kept within an area that will screen the vehicles from view, but in no case shall a vehicle be so kept for more than seven continuous days.

(13) Pawnbrokers.

a. All access to the facility will be from a major thoroughfare as designated on the city's master land use plan for future land use map, as amended, the Long Range Master Plan of the Macomb County Department of Roads, or the State of Michigan Long Range Transportation Plan.

b. Shall not be located within 1,000 feet of any other pawnbroker, nor within 300 feet of any of the following uses:

1. All class C establishments licensed by the state liquor control commission;

2. Pool or billiard halls;

3. Coin-operated amusement device centers;

4. Teenage discos or dancehalls;

5. Ice or roller skating rinks;

6. Adult entertainment uses;

7. Indoor or drive-in movie theaters;

8. Any public park;

9. Any church;

10. Any public or private school having a curriculum including kindergarten or any one or more of grades one through 12; and

11. Residential uses;

12. Any other regulated use as defined herein.

Such distance shall be measured along the center line of the street or address between two fixed points on the center line determined by projecting straight lines at right angles from the part of the uses set forth in this subsection nearest to the contemplated location of the structure containing the pawnbroker use and from the contemplated location of the structure containing the pawnbroker use.

c. Shall be contained in a freestanding building. Enclosed malls, commercial strip stores, common wall structures and multiple uses within the same structure do not constitute freestanding buildings.

d. The location and hours of operation shall be such that the facility, together with its users, shall not adversely affect the development and utilization of adjacent and neighboring properties.

e. The city council may waive the limiting regulations of this section if all of the following are found:

1. The proposed use will not be contrary to the public interest or injurious to nearby properties, and the spirit and intent of this chapter will be observed.

2. The proposed use will not enlarge or encourage development of an undesirable area.

3. Persons seeking approval shall include a petition which affirmatively demonstrates the approval of the proposed use by at least 50 percent of the persons owning or occupying premises within a radius of 300 feet of the proposed use. The petitioner shall attempt to contact all occupied premises within this radius and must provide a list of all addresses in which no contact was made. The circulator of the petition requesting approval shall subscribe to a sworn affidavit attesting to the fact that the petition was circulated, that the circulator personally witnessed the signatures on the petition and that, to the best of his or her knowledge, the same were affixed to the petition by the persons whose names appeared thereon. The council shall not consider the application until such petition has been filed and verified to the satisfaction of the council.

(14) Dancehalls.

a. No such building or use shall be closer than 100 feet to any residential district;

b. Access to the site shall be directly from a major thoroughfare;

c. The location and hours of operation of the facility, together with its patrons, shall not adversely affect the development and utilization of adjacent and neighboring properties. Particular concern shall be given to adverse effects resulting from congregation and/or loitering on the premises, including areas outside the building. The applicant, together with the owner of the building shall agree that all necessary measures shall be taken to avoid any

adverse effects, and any problems relating to the dancehall operation that persist for more than a total of 30 days will result in immediate revocation of the certificate of occupancy for the dancehall.

(15) Towing services and ancillary storage facilities as a principal use.

(16) Charity poker rooms and other gambling type facilities.

(17) Hookah lounges and the like.

(18) Gun ranges and the like.

(19) Kennels, dog day care, and similar facilities.

(20) Wind energy systems (section 50-70(d)).

(21) Residential units 450 square feet or smaller, provided that no dwelling unit shall be located on the ground floor of any building.

(e) *Required conditions.* The following conditions shall apply to all uses permitted in this district:

(1) Except as may be otherwise permitted in this district, uses permitted in the B-3 General Business District shall contain all operations and storage of goods and materials for sale and/or distribution within the building.

(2) Unless otherwise noted, business establishments in the B-3 General Business District shall be retail or service establishments dealing directly with consumers. All goods purchased on the premises shall be sold at retail on the premises where produced.

(3) The parking of commercial used or licensed vehicles will be permitted in the rear yard only and any vehicle shall be clearly incidental to the permitted use. The parking of any vehicle shall be limited to operable vehicles which are moved off the site on a regular basis and shall not include those used for storage, sales and/or advertising.

(4) Parking or storage of disabled vehicles in any off-street parking lot is prohibited.

(5) Except where otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, and building setbacks.

(6) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.

(7) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.

(8) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.

(9) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.

(10) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013; Ord. No. 1155, 7-24-2018)

Secs. 50-94—50-99. - Reserved.

ARTICLE XI. - INDUSTRIAL DISTRICTS

Sec. 50-100. - I-1 Light Industrial District.

(a) *Intent.* The I-1 Light Industrial District is designed to primarily accommodate wholesale activities, warehouses and industrial operations whose external, physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts. The I-1 District is

structured to permit, along with any specific use, the manufacturing, compounding, processing, packaging, assembly or treatment of finished or semi finished products from previously prepared material. The processing of raw material for shipment in bulk form to be used in an industrial operation at another location shall not be permitted. The general goals of the I-1 District include, among others, the following specific uses:

(1) To provide sufficient space, in appropriate locations, to meet the needs of the city's expected future economy for all types of light manufacturing and related uses.

(2) To protect abutting residential districts by separating them from manufacturing activities, and by prohibiting the use of such industrial area for new residential development.

(3) To promote manufacturing development which is free from danger of fire, explosion, toxic and noxious matter, radiation and other hazards, and from offensive noise, vibration, smoke, odor and other objectionable influences.

(4) To protect the most desirable use of land in accordance with a well considered plan.

(5) To protect the character and established pattern of adjacent development, to conserve, in each area, the value of land and buildings and other structures, and to protect the city's tax base.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet
Minimum lot size	n/a
Minimum lot width	n/a
Setbacks	
Front	Six feet
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline

Each side	Ten feet
Rear	20 (If the rear yard of a lot in any of these districts abuts an improved (hard-surfaced) public alley right-of-way, and any required screening barrier is, or will be, located on the opposite side of the alley, the alley right-of-way may be used in satisfying the minimum rear yard setback requirement of the district.)
Parking setbacks	
Front	Six feet
Each side	Five feet
Rear	Five feet
Building	
Height	30 feet
Stories	Two

(c) *Principal uses permitted.* In the I-1 Light Industrial Districts, no building or land shall be used, except for one or more of the following specified uses, unless otherwise provided in this section:

(1) Any use charged with the principal function of basic research, design and pilot or experimental product development, when conducted within a completely enclosed building.

(2) Any of the following uses when the manufacturing, compounding or processing is conducted wholly within a completely enclosed building.

a. Warehousing and wholesale establishments.

b. The manufacture, compounding, processing, packaging or treatment of products such as, but not limited to, bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery and tool, die, gauge and machine shops.

c. The manufacture, compounding, assembling or treatment of articles or merchandise from previously prepared materials.

d. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.

e. Manufacture of musical instruments, toys, novelties, stamps or other molded products.

f. Manufacture or assembly of electrical appliances, electronic instruments and devices.

g. Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.

h. Central dry cleaning plants or laundries, provided that such plants do not deal directly with retail consumers.

i. All public utilities, including buildings, necessary structures, storage yards and other related uses.

(3) Warehouse, storage and transfer, electric or gas service buildings and yards, public utility buildings, telephone exchange buildings, electrical transformer stations and substations, gas regulator stations, water and gas tank holders, railroad transfer and storage tracks, railroad rights-of-way and freight terminals.

(4) Municipal uses such as water treatment plants and reservoirs, sewage treatment plants and all other municipal buildings and uses, including outdoor storage.

(5) Greenhouses.

(6) Office buildings offering administrative, clerical or general services as the principal use of the property or as a use accessory to a principal permitted use.

(7) Other uses of a similar and no more objectionable character to the above uses.

(8) Accessory buildings and uses customarily incidental to any permitted uses.

(d) *Special land use approvals.* The following uses shall be permitted in the I-1 Light Industrial Districts, subject to the conditions imposed for each use and subject to review and approval by the planning commission.

(1) General and major motor vehicle repair subject to the following conditions:

a. All operations are conducted in a completely enclosed building.

b. The outside parking of vehicles awaiting service shall be limited to two vehicles per service bay, and any vehicles awaiting repair that are parked outside shall be kept within an area that will screen the vehicles from view. In no case shall a vehicle be so kept for more than seven continuous days.

(2) Buffing, polishing, and metal plating, subject to appropriate measures to prevent noxious results and/or nuisances.

(3) Indoor uses such as, but not limited to, general sports facilities, including; tennis, racquetball, gymnastics, as well as trade or industrial schools or industrial clinics.

(4) Accessory outdoor storage areas when such areas are screened from view in accordance with the applicable requirements of article XX of this chapter pertaining to screening and landscaping, and are setback at least 20 feet from any public right-of-way line to obscure any such storage area from any adjacent property and right of-way.

(5) Retail uses and services.

(6) Testing laboratories.

(7) Mortuary establishments.

(8) Kennels, dog day care, and similar facilities.

(9) Trucking facilities.

(10) Outdoor theaters subject to the specific requirements in the B-3 District for the use.

(11) Radio and television towers, public utility microwave and public utility television transmitting towers and their attendant facilities, but not including telecommunication towers.

(12) Telecommunications towers with the conditions set out in section 50-171.

(13) Junkyards and places for dismantling, wrecking and disposing or salvaging of the junk and/or refuse material of agricultural and motor vehicles, glass and other materials of a similar nature.

a. All laws of the city, county and state, as applied to these activities, shall be complied with.

b. No such use shall be allowed within 300 feet of any residential district.

c. Open burning of materials or the open burning of junk cars is hereby prohibited.

d. Any storage area shall be obscured from public view and entirely enclosed by an eight-foot high obscuring wall (it is noted that this exceeds typical permitted wall heights).

(14) Commercial recreational uses of an outdoor nature (i.e., baseball, softball, tennis, motocross, skateboard, amusement parks, etc.) subject to the specific requirements in the B-3 District for the use.

(15) Adult entertainment subject to the specific requirements in the B-3 District for the use.

(16) Pawnbrokers, secondhand dealers and junk dealers subject to the specific requirements in the B-3 District for the use.

(17) Gun ranges.

(18) Sales, warehousing and storage of consumer fireworks.

(19) Wind energy systems (section 50-70(d)).

(20) Other uses of a character similar to the above uses.

(e) *Required conditions.* The following conditions, where applicable, shall apply to all uses permitted in this district:

(1) Except as may be otherwise permitted in this district, uses permitted in the I-1 Light Industrial District shall contain all storage of goods and materials for sale and/or distribution within the building.

(2) All business, servicing or processing, except for off-street parking, loading and unloading, shall be conducted within completely enclosed buildings.

(3) The parking of commercial used or licensed vehicles will be permitted in the rear yard only and any such vehicle shall be clearly incidental to the permitted use. The parking of any such vehicle shall be limited to operable vehicles which are moved off the site on a regular basis and shall not include those used for storage, sales and/or advertising.

(4) Parking or storage of disabled vehicles in any off-street parking lot is prohibited.

(5) Except where otherwise regulated in this section, see section limiting the height and bulk of buildings, and building setbacks.

(6) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.

(7) Consult article XX of this chapter, regarding compliance with the requirements of screening and landscaping.

(8) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.

(9) Consult article XXII of this chapter regarding exceptions to certain regulations of this chapter.

(10) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Sec. 50-101—50-109. - Reserved.

ARTICLE XII. - VEHICULAR PARKING DISTRICT

Sec. 50-110. - P-1 Vehicular Parking District.

(a) *Intent.* The P-1 Vehicular Parking District is intended to permit the establishment of areas to be used solely for off-street parking of private passenger vehicles as a use accessory to a principal use. This district will generally be provided by petition or request to serve a use district which has developed without adequate off-street parking facilities. It can also serve, where applicable, as a district of land use transition between a nonresidential district and a residential district.

(b) *Regulations (also see Schedule of Regulations).*

Lot	In Feet
Minimum lot size	n/a
Minimum lot width	n/a
Setbacks	
Front	25 feet
Eight Mile, Gratiot and Kelly	102 feet from centerline
Nine and Ten Mile Roads	60 feet from centerline
Toepfer and Stephens Avenues	43 feet from centerline
Each side	n/a
Rear	n/a
Parking setbacks	
Front	12 feet

Each Side	n/a
Rear	n/a
Building	
Height	Ten feet
Stories	n/a

(c) *Principal uses permitted*. Premises in a P-1 Vehicular Parking District shall be used only for off-street vehicular parking areas and shall be developed and maintained subject to the regulations in this section.

(d) *Special land use approvals.* In those instances where it can be clearly shown that the proper and functional use of a trash receptacle cannot be achieved on the same parcel as the principal use, the planning commission may permit a trash receptacle to be located in a developed or developing off-street parking lot in a P-1 District, provided the following conditions are met:

(1) The trash receptacle will be used only by the principal use for which the off-street parking lot is provided.

(2) The trash receptacle is located next to the improved public alley or improved private access drive and can be accessed and serviced directly from the improved public alley or improved private access drive.

(3) Wind energy systems (section 50-70(d)).

(e) *Required conditions.* The following conditions, where applicable, shall apply to development in the P-1 District:

(1) Parking areas in the P-1 Vehicular Parking Districts shall be accessory to, and for use in connection with, one or more business or industrial establishments located in adjoining business or industrial districts or in connection with one or more existing professional or institutional office buildings, institutions or multiple-dwelling developments.

(2) Parking areas shall be contiguous to an RM-1 or RM-2 Multiple-Family Residential District or a nonresidential district. There may be a private driveway or public street or alley between the P-1 District and such contiguous districts.

(3) The parking area shall be used solely for the parking of private passenger vehicles as defined in this chapter and shall not be used as a loading and unloading area or for the parking or storage of disabled vehicles.

(4) No commercial repair work or service of any kind, or sale or display thereof, shall be conducted in such parking area.

(5) No signs of any kind, other than signs designating entrances, exits and conditions of use shall be maintained on such parking area.

(6) No building, other than one for the shelter of attendants, shall be erected upon the premises and it shall not exceed ten feet in overall height.

(7) Application for P-1 District rezoning shall be made by submitting a dimensioned layout of the area requested showing the intended parking.

(8) Consult section 50-150 regarding setbacks applicable to parking lots in the district.

(9) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout.

(10) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.

(11) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses as they may apply to various uses permitted in the district.

(12) Consult article IV of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Secs. 50-111—50-119. - Reserved.

ARTICLE XIII. - PLANNED DEVELOPMENT OPTION

Sec. 50-120. - PD planned development option.

(a) *Intent.* It is the implied intent of the PD planned development option to encourage quality development by providing for a diversified mix of land use. It is further the intent of this mixed use option to encourage quality design innovation by minimizing specific height, bulk, density and area standards, giving the applicant freedom to configure buildings, parking and related site amenities in ways that would otherwise be discouraged or curtailed under the standards of conventional zoning districts. Freedom from extensive layout controls is intended to encourage utilization of a site in ways that will more fully satisfy the site review criteria set forth in the PD option, so long as it is clearly understood that the absence of such regulatory standards in no way implies, or is to be interpreted to mean, that such critical site layout standards are excused or may be ignored with respect to development in the PD option. To the contrary, proper building setbacks and the thoughtful location and tasteful application of site amenities shall be considered as crucial design elements of any development proposed under the guidelines of the PD option and will be subject to careful review and evaluation by the city. Site plans which minimize or show little regard for such amenities will be subject to rejection by the city.

(b) *Application process.* The PD planned development option shall be processed as a special land use request. An application for development under this section shall be made in accordance with the following procedures.

(1) Submittal of an application for development under this option shall first be made to the planning commission for its review and recommendation to the city council. The process shall follow the procedures for special land use review.

(2) A recommendation from the planning commission to the city council to approve the planned development application may be made upon a finding that:

a. Development will consist of a mix and density of land use types when that type of mix and density is found by the planning commission and the city council to be appropriate for the property on which it is proposed; and

b. The specific types of land uses and densities proposed and the proposed layout of the site is acceptable to the city.

(3) Once the preliminary site plan has been approved by the council, no development shall take place therein and no use shall be made of any part thereof, until final site plan approval has been given by council, and then only in accordance with the approved site plan or in accordance with an approved amendment to that plan.

(c) *Application content.*

(1) The contents of an application submittal shall include:

a. A legal survey of the exact area being requested for development under this section;

b. Proof of ownership of the land or an option to purchase land being requested for development, with notarized documentation from the landowner approving of the rezoning request; and

c. A written report (including plans and graphics as necessary) containing an assessment of the impact that the development will have on the site, surrounding area and city in general. The report shall consist of at least the following:

1. A statement as to the general vegetation characteristics of the site, in terms of type, coverage and quality and how those areas will be integrated into the site.

2. A statement explaining in detail the full intent of the application, indicating the specifics of the type of development proposed for the site including details of the proposed residential number and types of units as well as the square footage of nonresidential use;

3. A statement as to the effect the intended use of the property will have on adjacent properties in terms of line of sight, light, drainage, air, traffic, noise, hours of operation, etc.;

4. The preliminary plan submitted shall show how the site conforms to any streets, roads or other public conveyances, as well as public utility layouts, including drainage course systems;

5. Preliminary drawings indicating the general architecture of the proposed building or buildings including overall design and types of exterior wall materials to be used and how the proposed architectural design and facade materials will be complimentary to existing or proposed uses within the site and on surrounding lands; and

6. A clear designation on each building depicted on the site plan of its specific use, i.e., residential, retail, commercial, service commercial, office, etc.

(d) *Review of preliminary planned development application.*

(1) The planning commission, upon receipt of an application to develop under the PD planned development section, shall first set a public hearing date for review of the application.

(2) Once the public hearing has been conducted, the planning commission, in considering a request to approve a preliminary planned development application, may recommend approval of the request to city council only after it finds that:

a. The request is being made with the full intent of developing the land in strict accordance with the requirements of the PD section and proper assurances are in place to guarantee such;

b. The uses proposed for development as presented on the submitted site plans are compatible with existing and planned uses on adjacent lands;

c. The area being requested for approval is either fully served by public utilities, including water and sanitary sewer, or will be fully served through the improvement of such public utilities to the site at the time of development; and

d. The preliminary site plan is in compliance with the review criteria set forth in this section and other applicable requirements of this chapter.

e. The application is consistent with the planning standards of section 50-49.

(3) Further, the planning commission prior to approval shall find that the following conditions are met:

a. The plan satisfies the intent of this section with respect to the use of land and principal and accessory use relationships within the site, as well as with uses on adjacent sites.

b. All existing or proposed streets, roads, utilities and marginal access service drives, as may be required provide logical extensions of the existing systems.

c. The plan meets all applicable standards of this section relating to building height, bulk, dwelling unit density, building setback guidelines, off-street parking and preliminary site engineering requirements.

d. There exists a reasonably harmonious relationship between the placement of buildings on the site and buildings on adjoining lands, and there is functional compatibility between all structures on the site and structures within the surrounding area to ensure proper relationships between:

1. One building to another, whether on-site or on adjacent land, i.e., entrances, service areas and mechanical appurtenances; and

2. Street, road, parking areas and public utility layouts approved for the area.

3. Upon review of the preliminary site plan by the planning commission, the planning commission shall forward its findings and recommendations, along with all plans and supporting documents, to the city council for its review.

(4) The city council shall review the preliminary site plan with regard to the planning commission's recommendations and the review requirements and conditions of this section. The city council may approve the preliminary site plan, provided that the city council finds the application appropriate.

(e) *Review of final planned development application.*

(1) A final detailed site plan shall be prepared and submitted to the planning commission for its review and recommendation to city council. The final site plan shall:

a. Meet all the applicable requirements:

b. Include plans and drawings illustrating in detail all physical layouts as indicated on the approved preliminary site plan, as well as exterior building wall elevation drawings detailed parking plans, landscaping plans and other physical plan details such as exterior site lighting, signs, etc., being proposed. Supporting documentation in the form of building plans and schedules of construction may also be requested.

c. The planning commission, in making its review of the design and architecture, shall, be satisfied that there exists a reasonably harmonious relationship between the location of buildings on the site and on abutting properties and that there is reasonable design and architectural compatibility between all structures on the site and structures within the surrounding area to ensure proper relationships between:

1. Building views and site lines as well as private and semi-private spaces;

2. Landscape planting, off-street parking areas and service drives on adjacent lands; and

3. The architecture of the proposed buildings, including overall design and building wall materials used. Architectural design and exterior building wall material should be complimentary to existing or proposed buildings within the site and the surrounding area. Care shall be taken to ensure that contrasts will not be out of character with existing building design and exterior building wall materials or create an adverse effect on the economic stability and value of the surrounding buildings.

(2) The final site plan, along with all supporting documentation, shall accompany the planning commission's recommendations for final review by the city council. The council, in reviewing the final site plan, shall find that:

a. The final site plan is in conformity with the preliminary site plan and meets the conditions of this section;

b. The dedication of public rights-of-way and/or planned public open spaces, where proposed on the site plan, or as may be otherwise required, shall be made or properly assured;

c. In residential use areas, any prorated open space has been irrevocably dedicated and retained as open space for park, recreation and related uses, and all such lands meet the requirements of the city; and

d. All master deed and other applicable legal documents (such as development agreements, easements, rights-of-way, etc.) have been reviewed and approved.

(3) When the city council shall find that all such conditions are met, it may grant final site plan approval. The granting of final site plan approval shall constitute final approval of the planned development. Development under the PD option shall rely upon the plan submitted and all supporting documentation. The plan, therefore, is basic to the planned development approval. Approval by the council of the planned development application, the final approved site plan and all supporting documents shall be recorded with the subject property at the Macomb County Register of Deeds.

(f) *Amendments to an approved planned development application.*

(1) Revisions to an approved preliminary or final site plan shall require the resubmittal of plan revisions to the building department for an administrative review. The building department, in making its review, may require such revisions to be resubmitted to the planning commission and city council for review and approval when, in its opinion, such revisions constitute a major or significant change in the previously approved plans, or when it feels such changes may compromise the intent and review standards of the PD section. Significant changes include, by way of example only and not as a limitation, increased dwelling unit size or density, increased nonresidential use areas, loss of substantial amounts of parking or relocation of buildings. The planning commission and city council, in making a review of a revised site plan, shall find that all revisions forwarded to them for review and approval meet all applicable requirements and guidelines of this section, including its general intent. If approved, such amendments shall be recorded along with all original information at the Macomb County Register of Deeds.

(g) *Timeframe of approval of an approved planned development application.*

(1) Approval of a preliminary site plan shall be effective for a period of one year from the date of preliminary approval by council. Approval of a final site plan shall be effective for a period of two years from the date of final approval by council. If substantial development is not evidenced on the site within two years from the date of final approval by council, all site plan approvals may be terminated. For the purpose of this section, the term "substantial" shall mean that at least 25 percent of the development shall be in place, or well under construction on the site, within two years from the date of final site plan approval by the city council.

(h) *Phasing of an approved planned development application.*

(1) If development is to be undertaken in phases, the first development phase shall include not less than 25 percent of the total development proposed for the site, and shall include all infrastructure, including streets, relating to the phase, as well as all indoor and outdoor recreation facilities and community buildings that relate to the entire development. Each development phase shall be clearly identified on the site plan with a phase development line and identified as to which phase it is, i.e., phase 1, etc. All such data pertaining to each phase shall be clearly enumerated on the site plan by phase including the land area, in square feet or acres, which is involved in each phase.

(i) *Permitted uses.* The following specified uses shall be permitted in a planned development:

(1) Single-family dwellings.

(2) Multiple-family dwellings.

(3) Planned commercial centers and retail uses.

(4) Offices and office-related uses.

(5) Office-research facilities, including experimental and testing laboratories, provided that no product shall be manufactured, warehoused or otherwise stored on site.

(6) Convention or conference centers, including hotels, auditoriums, theaters, assembly halls, concert halls or similar places of assembly.

(7) Banquet halls and restaurants.

(j) *Height, bulk, density and area standards.*

(1) Standards that apply to all development permitted in the PD section are outlined in this section. Since it is the intent of the PD section to encourage quality development through flexibility in land uses, design, and use relationships, only the following specified development control standards, in addition to those specified in this section, shall specifically apply:

a. The minimum distance between nonresidential buildings, between nonresidential buildings and multiple-family buildings and between multiple-family buildings shall be subject to the formula provided in footnote (9) of section 50-151(a).

b. All buildings shall be located at least 25 feet from any public street right-of-way line and at least 30 feet from any single-family district.

c. Any setback requirements may be modified by the planning commission or by the city council at the time of site plan review if it is found that the height and/or bulk of a building is such that a greater or lesser setback would be warranted in the interests of promoting the general health, safety, welfare and common good of the community, or in the interests of improving the visual aesthetics of the site.

d. Multiple-family dwellings may be permitted, subject to the following applicable conditions:

1. Except for housing intended solely for the elderly (senior citizen housing) and except for multiple-family dwellings occupying the upper floors of multi-story mixed-use buildings, no multiple-family dwelling building shall exceed a height of 35 feet or three stories.

2. Multiple-family residential buildings of two stories or less shall be subject to the dwelling unit density limitations and floor area requirements of the RM-1 District as set forth in section 50-151.

3. Multiple-family residential buildings consisting of three stories shall not exceed a maximum of 37 total rooms per acre which shall be the number used to apply the room assignment ratios set forth in footnote (8) of section 50-151(a).

4. Multiple-family residential dwellings.

i. When established as a part of a mixed-use building, multiple family dwellings shall be located only in the upper floors of such buildings)

5. Multiple-family dwellings, when occupied solely as housing for the elderly (senior citizen housing), shall be subject to the standards of sections 50-81 and 50-151; and

6. Except for multiple-dwelling units in the upper floors of multi-story buildings, for which there is not maximum dwelling unit density, for the purposes of determining overall dwelling unit density, the dwelling unit density limitations shall apply to an area within the residential development of the site that is to be devoted to that particular type of multiple-family development. These areas shall be clearly delineated on the site plan, and the area in square feet of each of these multiple dwelling areas, along with the

proposed dwelling unit density of each, i.e., the number of rooms proposed, shall be noted in a legend on the site plan.

e. No off-street parking shall be located closer than ten feet to any public street right-of-way line or any other peripheral site boundary.

(k) *Required conditions.* The following conditions, where applicable, shall apply to all uses permitted and regulated in this section:

(1) The applicant shall submit a detailed cost estimate for the installation of all public utilities, streets and stormwater retention systems proposed for the entire development for review by the city. The city council may require submittal of a surety bond or bonds in an amount or amounts equal to the costs estimated for each phase of the above improvements, plus ten percent, as a requirement necessary to receive final site plan approval from the council.

(2) All business, servicing or processing, except for off-street parking, loading and unloading, shall generally be conducted within completely enclosed buildings.

(3) The inconspicuous outdoor parking of commercially used or licensed vehicles will be permitted only when the vehicle is clearly incidental to a permitted use. The parking of any such vehicle shall be limited to operable vehicles which are moved off the site on a regular basis and shall not include those used for storage, sales and/or advertising.

(4) Parking or storage of disabled vehicles in any off-street parking lot is prohibited.

(5) Except where otherwise regulated in this section, see section 50-150 limiting the height and bulk of buildings, and building setbacks.

(6) Consult article XIX of this chapter regarding compliance with the requirements of off-street parking, loading and layout standards.

(7) Consult article XX of this chapter regarding compliance with the requirements of screening and landscaping.

(8) Consult article XXI of this chapter regarding compliance with the requirements of nonconforming uses.

(9) Consult article II of this chapter regarding administration and enforcement.

(Ord. No. 1080, 4-16-2013)

Secs. 50-121—50-129. - Reserved.

ARTICLE XIV. - GRATIOT AVENUE CORRIDOR OVERLAY ZONE

Sec. 50-130. - Gratiot Avenue Corridor Overlay Zone.

(a) The intent of the Gratiot Avenue Corridor Overlay Zone is to:

(1) Improve traffic operations;

(2) Reduce potential for crashes;

(3) Improve pedestrian and transit environments; and

(4) Preserve the vehicular carrying capacity of Gratiot Avenue through regulations on the number, spacing, placement and design of access points.

Published reports and recommendations by the Michigan Department of Transportation (MDOT) show a relationship between the number of access points and the number of crashes.

Recognizing the existing built character and downtown land use characteristics in the City of Eastpointe, this chapter intends to apply the MDOT access management standards where practical, but to allow flexibility in their application, given the unique needs of this more urbanized area. Development along Gratiot Avenue contains an interconnected, grid street pattern and urban building form that is highly conducive to downtown activity. This chapter intends to complement efforts to make Gratiot Avenue and Downtown Eastpointe more walkable by improving the transit and non-motorized environments by limiting the amount of direct access to Gratiot Avenue and thus the number of potential vehicle to pedestrian crashes. The segment of Gratiot Avenue within Eastpointe is characterized by a median road design that naturally restricts turning movements to a single direction, which present unique traffic operations; therefore, this chapter places more emphasis on the design and spacing of driveways from signalized intersections and median crossovers.

(b) This overlay zone shall apply to all land with frontage along Gratiot Avenue. The following applications must also comply with the standards of this section.

(1) *New or enlarged building or structure.* Any new principal building or structure, or the enlargement of any principal building or structure by more than 25 percent.

(2) *Land division, subdivision or site condominium.* Any land division or subdivision or site condominium development, including residential development.

(3) *Change in use or intensity of use.* Any increase in intensity of use or any increase in vehicle trips generated.

(c) The following regulations of this section shall be considered by the planning commission:

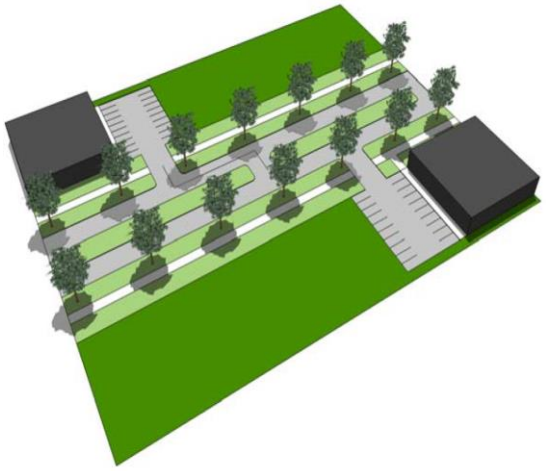
(1) *Compliance with the corridor plan.* Access shall generally be provided as shown in the Gratiot Avenue Corridor Improvement Plan.

(2) *Number of access points.* The number of resulting access points shall be the fewest necessary to provide reasonable access to the site. Each lot shall be permitted one access point, which may consist of any individual driveway, a shared access with an adjacent use, or access via a service drive.

(3) *Additional access points.* Additional access points may be permitted by the planning commission upon a finding that all other standards are met and/or if a traffic impact study is submitted that justifies a need for additional access due to safety reasons or where a poor level of service will result from fewer access points.

(4) *Spacing and offset from intersections.* Access points shall be either directly aligned or spaced/offset as far from intersections as practical, especially signalized intersections. A minimum spacing or offset of 150 feet is preferred.

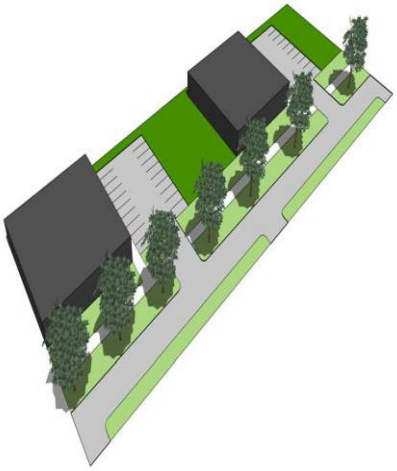
(5) *Consideration of median crossovers.* Access points along median sections of Gratiot Avenue shall be located in consideration of median crossovers. The city supports MDOT policies to limit the number of median crossovers to maintain traffic flow and reduce the potential for accidents. Access points shall directly align with or be offset a sufficient distance from median crossovers to allow for weaving across travel lanes and storage with the median. A minimum offset of 250 feet is preferred.



(d) *Spacing of access points on same side of road.*

(1) Access points shall provide the following spacing from other access points along the same side of the public street (measured from centerline to centerline as shown on the figure), based on the posted speed limit along the abutting road segment according to the following table, or where full compliance cannot be achieved, access shall be spaced as far apart as practical.

Posted speed limit	Along Gratiot Avenue	Along other roads
35 mph or less*	245 ft.*	150 ft.*
40 mph	300 ft.	185 ft.
45 mph	350 ft.	230 ft.
*Unless greater spacing is required by MDOT or required to meet other standards herein.		



(e) *Consideration of adjacent sites*.

(1) Where the subject site adjoins land that may be developed or redeveloped in the future, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future.

(f) *Shared driveways.*

(1) Where direct access consistent with the above regulations cannot be achieved, access should be provided via a shared driveway or service drive. Where implemented, shared access or service driveways should be accompanied by an executed access agreement, signed by all the effected property owners.

(g) *Access design.*

(1) Where practical given right-of-way constraints, access points shall be designed with radii, tapers and other geometrics as determined by MDOT that are required to minimize the impacts of inbound right turns on traffic flow.

(h) *Review procedure.*

(1) Applications shall be reviewed according to the procedures set forth in article V.

(i) *Submittal information.*

(1) Along with any other required information, developments subject to review shall submit:

a. Detailed information showing existing access points on adjacent sites; proposed access points; changes to existing access; and any information requested by the city that is needed to review site access.

b. The planning commission may require submittal of a traffic impact report, prepared by a qualified traffic engineer, to verify the need for additional access points or to justify a modification.

c. Where it is determined by the certain site plan submittal requirements are not necessary to the review and understanding of the site, the planning commission may waive the site plan requirements and allow submittal of a scaled drawing that provides sufficient detail to review site access.

(j) *Modification of plan standards.*

(1) The planning commission may waive certain requirements of this section upon consideration of the following:

a. The proposed modification is consistent with the general intent of the standards of this overlay zone and the recommendations of the Gratiot Avenue Corridor Improvement Plan and published MDOT guidelines.

b. MDOT staff endorses the proposed access design.

c. Driveway geometrics have been improved to the extent practical to reduce impacts on through traffic flow.

d. The modification is for an access point that has, or is expected to have very low traffic volumes (less than 50 in and out bound trips per day) and is not expected to significantly impact safe traffic operations.

e. Shared access has been provided, or the applicant has demonstrated it is not reasonable.

f. Such modification is the minimum necessary to provide reasonable access, will not impair public safety or prevent the logical development or redevelopment of adjacent sites and is not simply for convenience of the development.

(Ord. No. 1080, 4-16-2013)

Secs. 50-131—50-139. - Reserved.

ARTICLE XV. - REDEVELOPMENT READY SITES

Sec. 50-140. - Redevelopment ready sites.

(a) Due to the age of many of the structures within the city, it is often necessary to create regulations which are flexible and allow for minor modifications in the strict enforcement of the zoning ordinance. In reviewing the redevelopment of nonconforming nonresidential sites which are being redeveloped or have otherwise been removed, destroyed, or otherwise substantially modified; the planning commission may modify the following requirements of the ordinance in finding that the modifications are appropriate and acceptable since the overall modifications or redevelopment bring the site closer to conformance with the intent and regulations of the zoning ordinance:

(1) A structure location which does not meet the required setback provided the location represents an overall reduction in the nonconformity and that no easements or rights-of-way are encumbered;

(2) Driveways, provided the driveway number, spacing, and general layout provide a more beneficial and safe layout and pattern for circulation for vehicles as well as pedestrians;

(3) Size, location and intensity of greenbelt and general landscape requirements;

(4) Parking lot and maneuvering lane paving and curbing requirements.

(b) In modifying these requirements the planning commission shall clearly note as to what the site, economic or other conditions are which justify the waiving or modifying of the standard(s).

(c) The planning commission and city council may place appropriate conditions or requirements on any waiver or modification of the requirements noted above.

(Ord. No. 1080, 4-16-2013)

Sec. 50-141. - Process.

Any site which seeks approval under this section of the zoning ordinance shall be considered a planned unit development and shall be processed as and follow the same review procedures of a special land use approval.

(Ord. No. 1080, 4-16-2013)

Sec. 50-142. - Consistency of uses.

Nothing in this section shall permit a use which is not otherwise permissible within the underlying zoning district.

(Ord. No. 1080, 4-16-2013)

Secs. 50-143—50-149. - Reserved.

ARTICLE XVI. - SCHEDULE OF REGULATIONS

Sec. 50-150. - Schedule of regulations.

Zoning District	Minimum Lot Size For Each Unit		Maximum Height of Structures		Minimum Yard Setback			Minimum Parking Setback			Max. % of Lot Area Covered	Min. Floor Area Per Dwelling Unit
	Area in Sq. Ft. or Acre	Width in Ft.	Stories	Ft.	Front	Each Side	Rear	Front	Each Side	Rear		
R-1	6,000 (a, b)	50 (a, b)	2	30	25 (c, p)	4 (13 total) (c, d, e, f, g)	30	—	—	—	35 (h)	(o)
R-2	3,500	30	2	30	25 (c, d, p)	10 (20 total) (d, e, f, g)	30 (d)	—	—	—	35 (h)	(o)
RT	I	—	2	30	25 (j, m, p)	10 (j)	30 (j)	25	—	—	30	(o)
RM-1	I	—	2½	30	25 (k, m, p)	10 (k)	30 (k)	25	—	(r)	30	(o)
RM-2	I	—	5	48	(k, l, m, p)	(k, l)	(k, l)	25	—	(r)	30	(o)

OS-1	—	—	1	15	5 (p)	(e)	20(n)	5(q)	—	(r)	—	—
B-1	—	—	1	15	(p)	(e)	20(n)	5(q)	—	(r)	—	—
B-2	—	—	See 50-92	See 50-92	See 50-92	See 50-92	See 50-92	See 50-92	See 50-92	See 50-92	See 50-92	—
B-3	—	—	—	35	(p)	(e)	20(n)	5(q)	—	(r)	—	—
I-1	—	—	2	30	6 (p)	10	20(n)	6	5	5 (r)	—	—
P-1	—	—	—	10	25 (p)	—	—		—	(r)	—	—
PD	See section 50-92											

(Ord. No. 1080, 4-16-2013)

Sec. 50-151. - Footnotes to schedule of regulations.

Zoning District	Minimum Lot Size for Each Unit		Maximum Height of Structures		Minimum Yard Setback			Minimum Parking Setback			Maximum % of Lot Area Covered	Minimum Floor Area Per Dwelling Unit
	Area in Sq. Ft. or Acre	Width in Feet	Stories		Front	Each Side	Rear	Front	Each Side	Rear		
R-1	6,000 (1)	50 (1)	2	30	25 (2,13) 25	4(13 Total) (2,3,4,5,6) 10 (20 Total)	30	-	-	-	35 (h)	(12)
R-2	3,500 (1)	30 (1)	2	30	(2,3,13) 25	(3,4,5,6)	30 (3)	-	-	-	35 (h)	(12)
RT	—	-	2	30	(9,13) 25	10 (9)	30 (9)	25	-	-	30	(12)
RM-1	—	-	2½	30 46	(9, 13)	10 (9)	30 (9)	25	-	-	30	(12)
RM-2	—	-	5	(9, 10)	(13) 5	(9, 10)	(9, 10) 20	25 5	-	-	30	(12)
OS-1	-	-	1	15	(15)	(4)	(11) 20	5	-	-	-	-
B-1	-	-	1 See 50-	15 See	(13) See	(4) See	(11) See	See	See	See	See	-
B-2	-	-	92	50-92	50-92	50-92	50-92 20	50-92	50-92	50-92	50-92-	-
B-3	-	-	-	35	(13) 6	(4)	(11) 20	5	-	- 5	-	-
I-1	-	-	2	30	(13) 25	10	(11)	6	5	-	-	-
P-1	-	-	-	10	(13)	-	-	-	-	-	-	-
PD							See Section 50-92					

(a) The following footnotes shall apply to the schedule of regulations.

(1) Those existing lots which do not meet the minimum site area and/or lot width requirements shall be consider legal nonconforming lots.

(2) Where front yards of greater or less depth than above specified exist in front of dwellings on more than 50 percent of the lots of record on one side of a street in any block in such district, the minimum required front yard setback for any building thereafter erected or placed on any lot in such block shall be not less, but need not be greater than, the average depth of the front yards of existing buildings along said frontage in the block.

Churches and church buildings shall set back from any property line one additional foot for every one foot the building or buildings that exceed the maximum building height limitations of the district.

Public or private colleges, universities and other such institutions of higher learning shall provide a building set back of not less than 25 feet from any property line. The building shall set back one additional foot (beyond the initial 25-foot requirement) for each foot it exceeds 25 feet in height.

(3) In the R-1 district, lots of 50 feet or greater in width shall have a minimum of 13 feet between single-family detached dwellings.

In the R-1 district, lots having at least 40 feet, but less than 50 feet of width at the minimum required front yard setback line, shall have a total side yard setback of 12 feet with a minimum of three feet on one side, but in no case shall the minimum distance between two dwellings be less than 12 feet.

In the R-1 district, lots that are less than 40 feet wide at the minimum required front yard setback line may reduce their combined total side yard requirement by six inches for each one foot or that the lot is less than 40 feet wide. The width of each side yard shall not be reduced to less than three feet, except the minimum distance between any two single-family detached dwellings shall not be less than ten feet.

In the R-2 districts, lots used for a one-family dwelling shall comply with the applicable standards of the R-1 district.

(4) In the following districts, the minimum exterior (street) side yard setback shall be provided:

District	R-1	R-2	OS-1	B-1	B-2	B-3	I-1
Setback	5 ft.	10 ft.	5 ft.	5 ft.	0 ft.	0 ft.	6 ft.

(5) In the R-1 district, any accessory building on a corner lot shall be set back from the side street a distance equal to the setback of the dwelling on the interior lot.

(6) In the R-1 district, except for an accessory building, every lot on which a nonresidential building or structure is constructed, a side yard of not less than 20 feet in width shall be provided. In addition, one additional foot of setback shall be provided for every five feet that the building or structure exceeds 35 feet in overall length along the side yard.

(7) In the R-1 district, the percent of maximum lot coverage permitted for all buildings may be increased by one percent for every 100 square feet of lot area that the lot is less than 4,000 square feet. In no case shall the maximum amount of lot coverage for all buildings exceed 45 percent of the total area of the lot.

(8) In the RT district, at least 3,000 square feet of land area shall be provided for each one bedroom dwelling unit.

In the RM-1 district, at least 2,000 square feet of land area shall be provided for each one bedroom dwelling unit.

In the RM-2 district, at least 1,200 square feet of land area shall be provided for each one bedroom dwelling unit.

An additional 500 square feet of site area shall be provided for each additional bedroom.

(9) In the RM-1 and RM-2 districts, the minimum distance between any two buildings shall be regulated according to the length and height of buildings, but in no instance shall the distance be less than 25 feet.

Parking may be permitted within a required side or rear yard, but shall not cover more than 30 percent of the area of any required yard and no parking space; vehicle maneuvering lane or service drive shall be located closer than 15 feet from any exterior wall of a dwelling unit. Parking shall be permitted within garages or within the driveways of each individual unit.

The formula regulating the required minimum distance between two buildings in the RM-1 and RM-2 districts is as follows:

$$S = \frac{La+Lb+2(Ha+Hb)}{6}$$

where: S = Required minimum horizontal distance between any wall of building A and any wall of building B.

LA = Total length of building A.

LB = Total length of building B.

HA = Height of building A.

HB = Height of building B.

(10) In the RM-2 district, the minimum building setback from any exterior property line shall be at least equal to the height of the building.

(11) In the OS-1, the B-districts and the I-1 district, if the rear yard of a lot in any of these districts abuts an improved (hard-surfaced) public alley right-of-way, and any required screening barrier is, or will be, located on the opposite side of the alley, the alley right-of-way may be used in satisfying the minimum rear yard setback requirement of the district.

(12) No one-family dwelling shall be erected or altered that has less than the following minimum floor area on the ground floor. Ground floor shall mean the first story or the building footprint at grade level: (For those units which do not have a basement, an additional 100 square feet is required.)

Dwelling Type	Minimum Square Footage	Ground Floor Minimum Square Footage
One story	880	880
One and one-half story	880	800
Two story	880	624
Two family	800	800

No building used as a multiple dwelling hereafter erected or whose bearing walls are structurally altered shall provide dwelling units with less than the following floor areas:

Dwelling Type	Square Feet Required
Efficiency	450
One bedroom	500
Two bedroom	600
Three bedroom	700
Four bedroom	800

(13) In no event shall the street wall of a building be established nearer to the street than:

Road	Setback
Eight Mile, Gratiot and Kelly	102
Nine and Ten Mile Roads	60
Toepfer and Stephens Avenues	43

(b) Open space preservation option. This development option is offered as an alternative means of single-family residential development in all of the city's residential districts. The intent of the development option is to provide for the creation and preservation of open space areas within residential development as mandated in section 506 of Public Act No. 110 of 2006 (MCL 125.3506) This is to be achieved by allowing for a reduction in the minimum lot area and lot width requirements of a residential district, or through the attaching of a one-dwelling unit to another over a limited portion of a common party wall. This modification shall be accomplished without any attended increase in the number of lots or dwelling units that would be permitted if the property were developed in the conventional manner.

(1) Discretionary use of this option. Development of residential zoned property in the city under the development alternatives offered in this section shall be at the option of the property owner or developer.

(2) Pre-application meeting. Prior to submitting an application to develop property under the guidelines of this option, the applicant shall request a pre-application meeting. The purpose of the meeting is to acquaint the applicant with how the option works and the potential advantages that may be gained from it. If the applicant has prepared a concept plan showing use of the option

on the property, the plan may be presented at the pre-application meeting. The applicant and his or her engineer or designer shall attend the meeting along with city personnel,

(3) Application. An application to develop land under the open space preservation option may be obtained from the city building department.

a. Application form. The application form shall include all information and plans requested on the form.

b. Existing conditions drawing. An existing conditions drawing, prepared at an appropriate engineers, by a registered land surveyor or registered civil engineer, showing in detail all the natural features on the site, including individual trees that are four inches or more in caliper chest high, topography at two-foot intervals (or less as appropriate), utility easements and other easements, along with all street and alley rights-of-way, driveways, buildings and structures.

c. Preliminary site plan. If the concept plan presented at the pre-application meeting was prepared as set forth in this subsection, it may be submitted as the preliminary site plan. The preliminary site plan shall:

1. Be superimposed over the existing conditions drawing, and prepared by a registered land surveyor, registered civil engineer or a registered landscape architect.

2. Show the location of all proposed streets and alleys and their rights-of-way, utility easements, individual lots or home sites and their individual size in square feet, or the building footprint for attached dwellings, a typical detailed drawing showing minimum required setback dimensions, the area of the open space in square feet or acres and the percent the open space makes up of the net usable property acreage.

3. Provide all other applicable information and comply with all the applicable conditions set forth in article V and the city's site plan review check list.

4. In the case of attached dwelling units, provide floor plans and exterior building wall elevation drawings of a typical dwelling unit showing its common wall relationship to the abutting dwelling unit, including any attached garages.

5. Sufficient site data as required by the city to establish engineering feasibility for the development as proposed on the preliminary site plan.

d. Application submittal. The applicant shall pay to the city all applicable review fees as established by the city at the time of submittal of the application for review. The city shall make certain that the application forms are complete and the required number of plans has been submitted.

e. Preliminary plan review. If the application is in order, the city shall review the plans in accordance with its established site plan review procedures. Acceptance of an application does not guarantee site plan review at the next planning commission meeting.

1. The applicable review personnel shall review the site plan and return their comments to the city in accordance with the city's review procedures.

2. Upon receipt of review comments from the review personnel, the city shall schedule the application for review by the planning commission, provided review personnel have determined that the plan is sufficient to be presented to the planning commission.

3. Following its review of the application, the planning commission may:

i. Grant preliminary plan approval. Preliminary approval may be conditioned on resolution of any concerns expressed by the city, its review personnel, or by the planning commission. Conditions shall be satisfied prior to final plan approval being considered.

ii. Table approval pending further changes if the planning commission determines after its review that too many critical or major concerns remain to be resolved, it may table its review pending the necessary changes being made to the application.

If tabled, the applicant shall make the necessary changes and resubmit a proper number of revised plans to the city for review. The procedure for reviewing a revised plan shall be the same as outlined herein for the initial review.

iii. Deny preliminary plan approval. The planning commission may deny the applicant preliminary site plan approval if compliance with any technical requirement of this chapter is not met.

4. The granting of preliminary site plan approval by the planning commission shall give the applicant leave to prepare a final site plan for review by the planning commission.

f. Final plan review. Final plan approval shall not be granted until all of the following conditions are met:

1. Any conditions attached to preliminary plan approval by the planning commission shall be satisfactorily resolved prior to submittal of a final site plan for review by the city.

2. A sufficient number of final plans, as required by the city being submitted.

3. Upon receipt of the final plans, the building department shall stamp the date of receipt on each plan and forward a copy of the stamped plans to the applicable review personnel for their review and comment.

4. The applicable review personnel shall examine the final plans and forward their comments in writing to the building department.

5. When the building department finds the final plans to be in order, it shall schedule the final plans for review by the planning commission.

6. After reviewing the final plan, the planning commission may grant final plan approval, provided all conditions that may have been attached to preliminary site plan approval have been satisfactorily addressed. The planning commission may grant a conditional final plan approval if it deems appropriate based on the number and complexity of items which need to be addressed.

7. The planning commission may table acting on the final plans pending any changes or revisions that need to be made to the plan before final approval will be given, or it may deny final plan approval if any technical concerns remain unresolved.

g. Dwelling density limitations.

1. Dwelling density shall be based on the number of dwellings permitted in each single-family district as outlined in this subsection. The area of the property that may be used to compute dwelling density shall be the gross area of the site, less any existing peripheral public road or alley rights-of-way or other unbuildable areas.

2. The number of single-family dwellings by zoning district is set forth as follows:

R-1 District 7.0 dwellings per acre.

h. Lot area, lot width and building setback requirements. The following minimum lot area and lot width requirements shall apply:

1. Individual lots or home sites shall be subject to the following standards:

i. Lot area. The minimum area of each lot shall be not less than the minimum required to ensure that all the applicable building setback requirements of the district are met.

ii. Lot width. The minimum lot width of each lot shall be not less than the minimum required to ensure that all applicable building setbacks of the district are met.

iii. Building setbacks. The minimum applicable building setback requirements of the R-1.

2. Attached dwelling units shall be subject to the following conditions:

i. Attached limitations. A dwelling unit may be attached to another dwelling unit so long as not more than two exterior walls of the dwelling unit and not more than 50 percent of each such wall may be in common with the wall of another dwelling unit. A garage attached to a dwelling unit may have one wall fully in common with the wall of another garage, so long as the garage wall that is attached to the dwelling unit it is intended to serve, does not exceed the common wall overlap limitation of this subsection. Dwelling units may also be attached one to another by means of an architectural feature or detail that does not form interior room space.

ii. Dwellings per cluster. Not more than three dwelling units shall be attached together in a cluster, unless otherwise permitted by the planning commission.

iii. Roof line limitations. Except where dwelling units are attached together over a portion of a common party wall, no other part or portion of the roof of a dwelling unit shall be in common with the roof of any other dwelling unit, except where a garage shares one wall fully in common with one wall of another garage, a continuous roof line may extend over both garages.

iv. Building setbacks. The minimum applicable building setback requirements of the R-1 District.

i. Interior street system. A system of interior streets shall be designed to provide for the safe and convenient circulation of motor vehicles within the development in accordance with the following requirements:

1. All public streets shall be built to applicable local public street standards and shall be located in public street rights-of-way.

2. When permitted by the city, private service drives shall be hard-surfaced drives built to applicable city requirements. The minimum width of a private service drive shall be 22 feet. A 27-foot wide private service drive may allow parking along one side, so long as such parking is clearly posted.

j. Open space preservation. Land to be placed in perpetuity as open space shall meet the following requirements:

1. Land to be set aside as open space within the development shall comprise at least 20 percent of the land area of the property used to compute dwelling density, as stipulated in Public Act No. 179 of 2001, as amended. Land reserved shall not include, land designated as a lot, unit or home site on the plan, subdivision plat, land within any minimum required building setback, land within any right-of-way, etc.

2. Land designated as open space within the development shall, to the extent practical, be located within convenient walking distance of a majority of the lots, or attached building envelopes.

3. All land set aside as open space shall be set aside for that purpose and that purpose only. Once established and reserved as open space, no part of any open space so established shall thereafter be converted to land for development or for any other use without the express approval of the city and the residents living within the development. In no event shall any reduction in open space area result in less than 20 percent of the net usable land area of the property being reserved as open space or in more units than would normally be permitted in that zoning district.

4. The open space portion of the property should include any ponds or streams, wetlands, woodlands or stands of timber, or areas of steep topography, but such features need not make up all the open space of the site.

5. Open space shall extend to as many lots and home sites as possible. In those instances where open space in an existing development extends to a common property line of a proposed new development, at least a portion of the open space in the new development shall join the open space in the abutting development. Such open space connections shall not be dead-end open space areas, but shall be designed to allow pedestrian and bicycle riding access from one such development to another. When a residential open space preservation development abuts a commercial development, or undeveloped land that is zoned for commercial use, open space of sufficient width to permit connecting the two sites together via a trail or pathway, shall be provided.

6. All open space shall be clearly stipulated in any covenants placed on the development as area or areas to be set aside in perpetuity as open space.

k. Assurance of open space preservation. The area of the property to be preserved as open space shall be subject to the following preservation assurances:

1. Single-family site condominiums. The location of all open space areas shall be described by legal description in the master deed. A general description of what the open space areas contain will be included. These areas shall be set forth as open space areas which are to be preserved as open space areas.

   Open space areas may be identified as common areas, as defined in Public Act No. 59 of 1978 (MCL 559.101 et seq.). All areas of any open space that will require maintenance shall be so identified in the master deed and the manner in which these areas will be maintained shall be clearly spelled out in the association's bylaws.

2. Single-family subdivision plat. The location of all open space areas shall be described by legal description, along with a general description of what the open space areas will contain. These areas shall be set forth as open space areas to be preserved as open space in the form of protective covenants or deed restrictions. The covenants shall also require the forming of an association of home owners who shall be governed by association bylaws. The bylaws shall clearly spell out the responsibilities of the homeowners' association, including how all open space areas required in subsection (b)(3)j. of this section, will be maintained by the association.

3. City approval. A master deed, protection covenants or deed restrictions, and the bylaws of the association of homeowners, as required in this subsection, shall be subject to review and approval by the planning commission. Of particular importance to the city shall be assurance that all open space areas are properly set aside for such purposes, and those elements of the open space areas that will require maintenance will be properly cared for. The city may refer such documents to the city attorney for review and comment. The city, at its discretion, may require the assigning of a second party to partner with the development in securing the open space areas. A second party could be a land conservancy or similar land preservation organization.

l. Life of approvals. The granting of preliminary site plan approval by the planning commission shall be good for one year, commencing on the date of approval and terminating on the same date one year later. The granting of final site plan approval by the planning commission shall be good for one year, commencing on the date of approval and terminating on the same date one year later. If after the granting of preliminary site plan approval, but before the one year termination date, a revised site plan is submitted and approved by the planning commission, the one-year expiration date will be one year from the date of revised site plan approval. This same procedure shall apply to time limitations for final site plan approval as well.

(Ord. No. 1080, 4-16-2013; Ord. No. 1119, § 1, 5-19-2015)

Secs. 50-152—50-159. - Reserved.

ARTICLE XVII. - SUPPLEMENTAL REGULATIONS

Sec. 50-160. - Accessory uses.

(a) *Accessory buildings.* Accessory buildings, except as otherwise permitted in this chapter, shall be subject to the following regulations:

(1) Where the accessory building is structurally attached to a main building, it shall be subject to all regulations of the main building.

(2) Accessory buildings shall only be permitted in the rear yard.

(3) In the single-family and two-family districts no more than two accessory buildings shall be permitted per residential lot. No accessory building or combination of accessory buildings on a single lot shall contain more than 900 square feet in total floor area.

(4) No detached accessory building shall be located closer than ten feet to any main building unless it is attached nor shall it be located closer than three feet to any side or rear lot line, except as otherwise provided for in the individual use districts.

(5) In no instance shall an accessory building be located within a dedicated easement or right-of-way.

(6) No detached accessory building in the R-1, R-2, RT, RM-1 and RM-2 Districts shall exceed one story and/or 15 feet in height, measured from the ground at the base of the building to the ridge line of the roof. Accessory buildings in all other districts may be constructed to the permitted maximum height of structures in the district.

(7) On corner lots, accessory buildings shall be placed at least two feet from the lot line opposite the side street line. On lots exceeding 40 feet in width, the entrance to the garage shall be not less than 18 feet from the side street line. Garages attached to and made structurally a part of the principal building shall not extend beyond the side of the building on the side street line.

(8) These provisions shall be applied to all tent like or fabric structures which have poles which extend to the ground utilized for the purpose of providing shelter for additional living area, vehicle storage area, and the like. It shall not apply to tents utilized for overnight outdoor camping.

(9) Either a zoning compliance permit or building permit shall be required for all accessory buildings.

(b) *Accessory structures.* Accessory structures except where otherwise permitted and regulated in this chapter shall be subject to the following regulations:

(1) Accessory structures shall be located in the rear yard and shall meet the setback requirements of an accessory building.

(2) Flag poles shall be located no closer to a public right-of-way than one-half the distance between the right-of-way and the principal building and shall not be located in the required side or required rear yards.

(3) Ground-mounted private communication antennas shall:

a. Be located in the rear yard, except when it can be found such antennas will not be highly visible from a street, they may be located in a non required interior side yard.

b. Not exceed the height limitations of the district in which it is located when fully extended, and

c. Provide a setback equal to the height of the antenna from all property lines.

In those instances where an antenna is also securely attached to a building, the required setback to the nearest property line may be reduced to a dimension equal to the height of the antenna as measured from the attachment to the building to the top of the antenna. Antennae may be attached to a pole, a tower or to a rooftop of a principal or accessory building, provided all applicable structural and electrical code requirements are met. Dish antennas located on the ground shall observe all setbacks pertaining to an accessory building.

(4) Solar energy panels, when located on the ground, shall observe all applicable electrical codes and all applicable requirements pertaining to an accessory building. When roof mounted they shall be mounted either flat against the roof surface or shall not project more than four feet outward from the roof measured from the surface of the roof where so affixed, to the farthest outward projection of the panel and shall not project above the maximum height permitted in the district.

(Ord. No. 1080, 4-16-2013)

Sec. 50-161. - Fences.

(a) *Applicable to all fences.*

(1) Fences shall not contain barbed wire or any other type of sharp edged wire or have electric current or a charge of electricity.

(2) No chain link or similar type fencing shall contain slats, webbing, synthetic materials or other fabric for the purpose of creating a privacy type fence.

(3) Fences, over two feet in height (other than spit rail and chain link) shall not be constructed within the clear corner vision triangle (section 50-164).

(4) For fences erected along a lot line, a joint permit application shall be submitted and consent to install the fence provided by all property owners.

(5) Except for a fence with a common end or corner post, no fence shall be attached to or touch a fence located on another property owner's lot or on the same lot.

(b) *Types of construction in residential areas.*

(1) Fences may be constructed of metal, wire, iron, vinyl (or similar), composite, naturally durable wood or treated wood.

(2) Hedges, ornamental shrubs, trees and bushes may be considered fences for the purpose of this chapter when placed in a manner or position to serve as such.

(c) *Residential district fences.* Fences erected in residential districts between residential properties shall be permitted as follows:

(1) Fences on all lots which enclose property or are within the required side or rear yard shall not exceed four feet in height, measured from the natural grade of the lot except for privacy fences. Fences are not required to be constructed on the property line if the fence extends from the residence to the detached garage or from the residence and/or the garage to the side property line.

(2) In addition to the provisions of this article, fences on corner lots shall not extend toward the front of the lot nearer than the front of the house or the required minimum front yard, whichever is greater.

(3) All fences on corner lots shall be only non-privacy type fences, except that on city blocks that do not have houses fronting the street, a privacy fence may be erected along a side street property line which is in compliance with all provisions of this section regarding privacy fences.

(4) No fence shall extend toward the front of the lot nearer than the front of the house or the required minimum front yard, whichever is greater. This provision shall not apply on lots having a lot area in excess of two acres and a frontage of at least 200 feet in all residential districts not included within the boundaries of a recorded plat.

(5) All fence support posts shall be placed on the property line and shall face the property of the person erecting the fence. In the case of abutting property owners who elect to share the expense and erect a fence together, both shall be co-owners of the same and it shall be the responsibility of the property owners to determine the location of the posts in compliance with this chapter.

(d) *Business and industrial district fences.* Fences in business and industrial districts shall be permitted or required as follows:

(1) No fence shall be erected where a wall, berm or greenbelt is otherwise required.

(2) Unless considered by the planning commission no fence shall be erected between the building setback line and the front property line.

(3) A fence which is constructed on a side lot line between neighboring commercial and/or industrial properties shall not exceed six feet in height.

(e) *Privacy fences.*

(1) Privacy fences shall only be permitted in the side and rear yard along the property line. Privacy fences shall not be permitted within the front yard or closer to the street than the established front building line of the adjacent property whichever is greater.

(2) All privacy fences shall be erected on the lot line and may be up to four inches off the ground. This requirement shall not apply to those privacy fences erected along a side street.

(3) Privacy fences shall not exceed six feet four inches in height measured from the surface of the natural grade of the lot.

(4) The posts for the privacy fence shall face the property of the person erecting the fence. The posts for privacy fences which front a street shall face the interior of the property.

(5) Privacy fences, once erected, shall be of similar materials. A mixture of differing materials shall not be permitted unless otherwise dictated by existing neighboring fences.

(6) Plantings in the area of a privacy fence shall not block the clear vision requirements set forth in this chapter (section 50-164) or exceed the lawful height of any fence allowed in this article.

(f) *Maintenance of fences.*

(1) Fences erected between residential property and commercial or industrial property shall be maintained in a neat and safe condition at the expense of the owner of the commercial or industrial property in accordance with the terms of the zoning ordinance.

(2) Provisions regarding fences erected on or between residential properties are as follows:

a. Fences erected on or between residential properties shall be maintained in a neat and safe condition at the expense of the owner constructing the fence or as may be mutually agreed upon with the adjoining property owner, except that the city shall not enforce any agreement regarding a mutual or separate payment for the costs of maintenance or repair.

b. Where ownership of the fence and obligation to maintain or repair is, in the opinion of the building department, not reasonably and readily ascertainable, the department shall have the authority to require that any or all property owners abutting the fence maintain or repair the same. The department shall not be required to have a property survey performed to discern ownership in any case.

(3) Construction of fences shall comply with the state construction code.

(g) *Erection, alteration, relocation; permit required.* Unless otherwise provided, no person shall erect, re-erect, alter or relocate any fence unless a permit has first been obtained from the building department

and a permit fee paid in accordance with the schedule adopted by resolution of the council, unless a review has been conducted by the city building department verifying no permit or fee is required.

(h) *Permit application and issuance.*

(1) An application for a fence permit shall be submitted to the building department and shall include:

a. Plans and specifications showing the dimensions, materials and required details of erecting the fence;

b. Plans indicating the location of the parcel of land upon which the fence is to be erected, the property line and the position of the fence in relation to adjoining houses, buildings or structures (it shall be the responsibility of the person erecting the fence to identify the property lines);

c. A plot plan or survey which shall be attached to the application and which shall show the property line; and

d. Such other information as the building department may require showing full compliance with this and other applicable laws of the city and the state.

(2) The building department shall have the authority to issue a fence permit, provided the application satisfies all requirements of this article and other applicable laws of the city and the state.

(i) *Fence appeals.*

(1) Any party who has been refused a fence permit by the building department for a proposed fence erection may seek a variance from the provisions of this article by filing a claim of appeal to the zoning board of appeals. The zoning board of appeals shall follow its normal procedural requirements for variances.

(2) At the variance hearing, the zoning board of appeals may grant a variance from the provisions of this chapter upon a finding of all of the following:

a. The particular physical surroundings, shape or topographical conditions of the property would render compliance with the provisions of this chapter difficult and would likely result in a particular hardship on the person erecting the fence as distinguished from inconvenience of the article requirements or a desire to increase financial gain or avoid the financial expense of compliance.

b. Strict enforcement of the provisions of this article would be futile.

c. The type of fence and the location proposed would not pose a significant risk to the public health, safety and general welfare.

d. The benefit of the fence to the general public and/or the applicant under the circumstances outweighs any risk to the health, safety and general welfare of the residents of the city.

e. A variance would be in the best interest of the city and not against the spirit and intent of this article.

(3) In issuing a variance from the strict letter of the provisions of this article, the zoning board of appeals may modify any fence requirement or place reasonable conditions or restrictions upon issuance of a permit.

(j) *Fees*. Fees for fence applications shall be paid in accordance with a schedule adopted by resolution of the council and must be paid to the building department at the time the application is filed.

(Ord. No. 1080, 4-16-2013; Ord. No. 1128, 2-2-2016)

Sec. 50-162. - Exterior lighting.

The intent of this section is to encourage site lighting that will be attractive to the eye while at the same time adequately illuminating a site for safety and convenience. It is further the intent of this section to discourage excessively bright and harsh site illumination that creates undesirable halo effects on the property, diminishes the residential environment and presents a potential hazard to vehicle and pedestrian traffic on abutting streets and sidewalks. All exterior site lighting designed and intended to light private property shall comply with the following applicable requirements:

(1) Exterior site lighting in nonresidential zoning districts shall comply with the following applicable standards:

a. Freestanding light poles shall be subject to the following requirements:

1. Poles shall be constructed of metal, concrete, wood laminates composite or other suitable materials and shall generally be of an architectural nature.

2. Poles located 30 feet or less from a residential zoning district shall not exceed 15 feet in height.

3. Poles located more than 30 feet from a residential zoning district may extend to a maximum height of 20 feet.

4. Pole height shall be measured from the surface (ground or pavement) at the base of the lighting structure to the top of the fixture.

b. Fixture requirements. All light fixtures shall be subject to the following requirements:

1. Any light fixture attached to a pole shall not exceed the maximum pole height limitations of this section.

2. Except as otherwise permitted in this subsection; all light fixtures shall be of a type that will contain the luminary completely within the interior area of the case or hull of the fixture. No part of any luminary shall extend outward or downward beyond or below the exterior surface of the case or hull of the fixture, except luminary housed in a fixture designed to light the underside of a canopy structure may extend below the ceiling of the canopy.

3. All luminaries shall be oriented so that its light shall be cast directly downward and only onto the property it is intended to light.

4. The planning commission may allow exceptions to these requirements in those instances where lights of the same character as those in the DDA are to be provided.

c. Wattage limitations. All luminaries regardless of type shall be subject to the following wattage limitations:

1. Luminaries located 30 feet or less from a residential district shall not generate more than 250 total watts per fixture.

2. Luminaries located more than 30 feet from a residential district may generate up to a maximum of 400 total watts per fixture.

d. Exterior building wall lighting. Exterior building wall lighting shall be subject to the following requirements:

1. Wall lights intended to illuminate service areas, particularly service areas at the rear of buildings next to residential districts, shall be shielded to only cast light downward.

2. Exterior building wall lighting shall not exceed a height of 12 feet measured from the surface (ground or pavement) at the base of the wall to the top of the fixture, on any building wall that faces into a residential zoning district.

3. No light fixture shall project out from the wall of a building into any public right-of-way, including any public alley right-of-way, unless specifically approved by the city council.

e. Architectural exterior lighting. Architectural exterior lighting designed to enhance the architectural appearance of a building or to highlight an architectural feature of a building or landscape feature shall consist of:

1. A low wattage, non colored luminary designed to cast only a soft light on the subject; and

2. A luminary that when directly visible from a fixture, shall not be an irritant to pedestrians, or vehicle traffic on adjacent streets, or to residents in any adjacent residential zoning district.

f. Overall sight illumination. No property shall exceed four and one-half footcandles of maximum overall light intensity. No property shall exceed 0.5 footcandles of maximum light intensity along any residential zoning district line. Light intensity along a residential district shall be measured at a point four feet above the ground.

g. Uniformity ratio. An overall uniformity ratio of 4:1 shall be maintained across all areas of the site intended to be illuminated.

(2) Exterior site lighting in the residential districts. Exterior site lighting in the multiple-family residential districts shall be subject to the following requirements:

a. Exterior lighting may consist of a low wattage incandescent luminary contained in a decorative light fixture attached to the wall next to the door of each exterior entry to a dwelling unit.

b. Exterior lighting may also consist of a low wattage incandescent luminary contained in a decorative light fixture attached to the top of a low profile yard type of light pole. All wiring to pole fixtures shall be underground and shall comply with all applicable electric codes and ordinances.

c. Carports in a multiple-dwelling complex may be lighted so long as all such lighting is contained in the underside of the carport roof. The fixtures shall be placed no closer to the front of the roof structure than half the distance from the rear roofline to the front roofline. Luminary shall consist of not more than 100 watts and shall be housed in fixtures within clear lenses.

(Ord. No. 1080, 4-16-2013)

Sec. 50-163. - Residential entranceways.

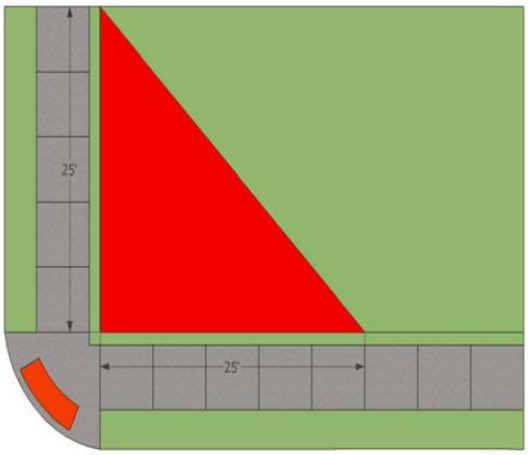
In all residential districts, entranceway structures, including, but not limited to, walls, columns and gates, marking entrances to single-family subdivisions or multi-family housing projects may be permitted and may be located in a required yard, except such structure shall not be located in the road right-of-way, or as provided in section 50-164 provided that such entranceway structures shall comply with all codes of the city, shall be approved by the building department and shall have a permit issued.

(Ord. No. 1080, 4-16-2013)

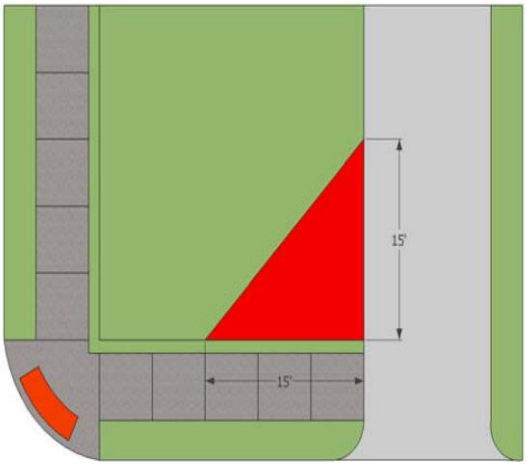
Sec. 50-164. - Restricted clear corner vision limitations.

No fence, wall, shrub or other forms of landscaping, signs or any other obstruction to vision above a height of two feet, measured from the established centerline grades of the abutting street, shall be allowed within any of the following restricted clear corner vision:

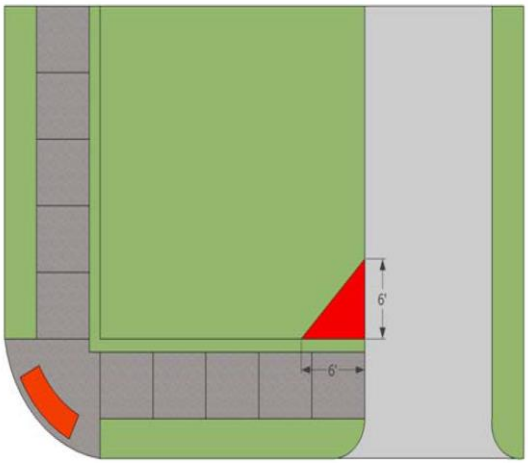
(1) Within a triangular area formed at the intersection of two or more streets in any zoning district by a straight line intersecting the two rights-of-way lines at a point 25 feet along from their point of intersection.



(2) Within a triangular area formed at the intersection of a driveway serving a nonresidential or multiple family use with a street or alley right-of-way line, or interior property line, by a straight line extending between the right-of-way line or interior property line and the nearest edge of the driveway at a point 15 feet along the right-of-way line, or interior property line and the intersecting driveway line.



(3) Within a triangular area formed at the intersection of a driveway serving a single-family residential use with a street or alley right-of-way line, or an interior property line, by a straight line intersecting the right-of-way line or interior property line and the nearest edge of the driveway, six feet from the point of intersection.



(Ord. No. 1080, 4-16-2013)

Sec. 50-165. - Parking and storage of commercial and recreational vehicles.

(a) *Commercial vehicles.* In all residential districts, the parking or storage of any commercial vehicle which contains or has affixed to it commercial hardware, including, but not limited to, a dump truck, snowplow or towing equipment, is hereby prohibited.

(1) Exception. A commercial vehicle parked or stored which contains or has affixed to it a snowplow shall be permitted between November 15 and April 1.

(b) *Recreational vehicles.* Recreational vehicles, including, but not limited to, boats, jet skis, snowmobiles, truck camper bodies, travel trailers, off-road or other altered vehicles, motor homes and utility trailers, as well as their trailers for carriage or storage, may be parked or kept on any lot or parcel in any residential district subject to the following requirements:

(1) Recreational equipment parked or stored shall not have fixed connections to electricity, water, gas or sanitary sewer, and at no time shall such equipment be used for living, sleeping or housekeeping purposes.

(2) Any recreational vehicle not parked or stored in a garage shall be parked or stored in the rear or side yard, provided that a minimum of three feet of side or rear yard shall be maintained between the vehicle and the side or rear lot line, and except that such vehicle may occupy a front yard for loading and unloading purposes, not to exceed 48 hours, so long as such location does not obstruct the view of driveways or vehicular and pedestrian traffic of adjoining properties. Any recreational vehicle stored in the rear or side yards shall also be subject to review by the building department and the fire department for compliance with safety requirements.

(3) The storage of recreational vehicles on a residential lot or parcel for more than 48 hours shall be limited to only those vehicles owned by, and licensed or registered to, the occupant of the residential lot or parcel on which the vehicle is stored.

(4) In the case of multi-family dwelling complexes, the city council may upon recommendation of the planning commission and after site plan review, require that a screened area, in addition to required off-street parking spaces, be provided on the site for the parking and storage of recreational vehicles.

(5) Recreational vehicles shall be fully operable, shall be kept in good repair and shall display the current license plate and/or registration as may be appropriate under state law for the particular type of vehicle.

(6) Recreational vehicles shall not be used to store any flammable or explosive fuels or material contrary to federal, state, or local regulations.

(Ord. No. 1080, 4-16-2013)

Sec. 50-166. - Frontage on public street required.

Unless otherwise provided in this chapter, no lot shall be created or shall be used for any purpose permitted by this chapter unless such lot abuts a public street, has sufficient frontage as required by this chapter, and the principal means of access to the lot is from the public street.

(Ord. No. 1080, 4-16-2013)

Sec. 50-167. - Vehicle access.

(a) For uses making reference to this section, vehicular access shall be provided only to an existing or planned major thoroughfare, freeway service drive or collector street.

(b) Exceptions. Access driveways may be permitted to other than a major thoroughfare, freeway service drive or collector street where:

(1) Such access is provided to a street where the drive is located immediately across from property that is zoned for multi-family use or any nonresidential use, is developed with permanent uses other than single-family residences or is an area which has been planned for nonresidential purposes in the future; or

(2) One or more nonresidential access driveways have been established prior to any redevelopment and are subject to final site plan approval as provided in article V.

(Ord. No. 1080, 4-16-2013)

Sec. 50-168. - Standards applicable to all residential dwelling.

(a) *Plan submission.* It is not the intent of this section to discourage or nullify architectural variation, but to promote reasonable compatibility in the character of residential dwelling buildings, thereby protecting the economic welfare and property values of the surrounding residential dwelling buildings and the residential dwelling buildings in the city at large. An applicant seeking to erect a new residential dwelling building in the city shall submit all necessary plans and drawings as required by the city for review by the building department and when required, by the planning commission of the city.

(b) *Structural standards.* The following structural standards shall apply to all proposed new residential dwelling buildings and to all existing residential dwelling buildings proposed to undergo renovation or rehabilitation:

(1) Building configuration. A dwelling shall have a minimum width and front facade of 20 feet.

(Ord. No. 1080, 4-16-2013)

Sec. 50-169. - Exterior building wall materials and appearance.

The purpose of this section is to serve as a guideline for the establishment of a harmonious building wall appearance on all exterior walls of a building so as to create, enhance and promote a uniform and quality visual environment throughout the city.

(1) Uniform finish.

a. To ensure that proper and effective attention will be given to the visual appearance of nonresidential buildings, all exterior building walls of a new building shall consist of the same uniform exterior building wall finish materials as the front wall of the building and all such materials used shall be recognized by the building department as acceptable finish materials. The color of the exterior building wall materials shall be like or similar to those on a majority of the buildings in the surrounding area.

(2) Whenever the exterior building wall materials standards set forth in this section shall apply, they shall be accompanied by a statement describing how the exterior building wall material, or combination of materials, along with the color of these materials, as set forth in this section, are consistent and not visually incompatible, with the materials on a majority of the same type of buildings in the surrounding area. For the purpose of this subsection, the following additional standards shall apply:

a. A residential dwelling building shall be provided with roof designs, roofing materials, exterior finish materials, including doors and windows that are like or directly similar to that found on a majority of the residential dwelling buildings in the surrounding area.

b. In the case of a nonresidential building in a residential zoning district, all of the exterior walls of the building shall consist of face brick materials and the color of the materials shall be like or similar to that of a majority of the buildings in the surrounding area.

(3) These exterior building wall materials guidelines shall apply to the following buildings:

a. Nonresidential buildings.

1. Except where otherwise regulated in this section, the exterior of a nonresidential building and any related accessory building shall consist of the following materials and/or combinations of materials, and which are like or directly similar to the exterior wall materials and color of a majority of the surrounding nonresidential buildings (provided they meet the following requirements).

i. Face brick for nonresidential buildings on all exterior walls.

ii. Glazed kiln-baked clay or shale ceramic masonry units, or cut stone or fieldstone, when these materials are used only in limited proportions as accent materials.

iii. Precast concrete in form and pattern that may consist of its natural color or may be treated (impregnated, not painted) with earth tone colors.

iv. Finished cement like materials, including finished systems and stucco. The use of architectural masonry block such as split face, ribbed and rough hewn masonry units may be used only as accent materials and may not make up more than 25 percent of any exterior wall.

v. Metal materials, including flat sheets, standing seamed or ribbed panels, stainless steel and porcelain clad not in excess of 15 percent of the exterior building walls.

2. Expressly prohibited materials shall include:

i. Standard smooth face concrete masonry units (CMU).

ii. Tarred paper products, felt, tin and corrugated iron.

iii. Pressed or laminated wood products.

iv. Similar products or materials.

3. For the purpose of determining the surrounding area, as referred to in this section, the same procedure shall apply as set forth in this chapter.

4. After review and approval by the building department, other materials not specifically prohibited may be substituted in place of, or in combination with, the materials set forth

in this section. The building department may approve alternative materials only when it determines that such materials will:

i. Be in direct harmony with the intent and purpose of this section and will stand to further promote the uniform and quality visual environment of the city.

ii. Meet all applicable requirements of federal, state and local building codes.

(Ord. No. 1080, 4-16-2013)

Sec. 50-170. - Access through residential zoning districts.

Access to a nonresidential use shall not be through or across land zoned for residential use.

(Ord. No. 1080, 4-16-2013)

Sec. 50-171. - Telecommunication towers.

(a) *Purpose and intent.* It is the general purpose and intent of the city to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless telecommunication systems. However, it is the further purpose and intent of the city to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, attempt has been made to balance these potentially competing interests. Recognizing the number of providers authorized to establish and operate wireless telecommunication services and coverage, it is the further purpose and intent of this section to:

(1) Facilitate adequate and efficient provision of sites for wireless telecommunication facilities.

(2) Establish predetermined districts or zones of the number and shape, and in the location considered best for the establishment of wireless telecommunication facilities, subject to applicable standards and conditions.

(3) Recognize that the operation of a wireless telecommunication system may require the establishment of facilities in locations not within the predetermined districts or zones. In such cases, it has been determined that it is likely that there will be greater adverse impact upon neighborhoods and areas within the community. Consequently, more stringent standards and conditions should apply to the review, approval and use of such facilities.

(4) Ensure that wireless telecommunication facilities are situated in appropriate locations and relationships to other land use, structures and buildings.

(5) Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.

(6) Promote the public health, safety and welfare.

(7) Provide for adequate information about plans for wireless telecommunication facilities, in order to permit the community to effectively plan for the location of such facilities.

(8) Minimize the adverse impact of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.

(9) Minimize the negative visual impact of wireless telecommunication facilities on neighborhoods, community landmarks, historic sites and buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility, including the use of existing structures and the

avoidance of lattice structures that are unnecessary, taking into consideration the purposes and intent of this section.

(10) The city council finds that the presence of numerous support structures, particularly if located within residential areas, would decrease the attractiveness and destroy the character and integrity of the community. This, in turn, would have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of numerous relatively tall support structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance and promotion of property values, and further recognizing that this economic component is an important part of the public health, safety and welfare.

(b) *Permitted uses.* In the following circumstances, a proposal to establish a new wireless telecommunication facility shall be deemed a permitted use:

(1) An existing structure which will serve as an attached wireless telecommunication facility within a nonresidential zoning district, where the existing structure is not, in the discretion of the building official of the city, proposed to be either materially altered or materially changed in appearance.

(2) A proposed colocation upon an attached wireless telecommunication facility which had been preapproved for such colocation as part of an earlier approval by the city.

(3) An existing structure which will serve as an attached wireless telecommunication facility consisting of a utility pole located within a right-of-way, where the existing pole is not proposed to be modified in a manner which would materially alter the structure and/or result in an impairment of sight lines or other safety interests.

(4) A wireless telecommunication support structure established within a right-of-way having an existing width of 204 feet or more.

(c) *Special approval land uses.* Wireless telecommunication facilities may be authorized as special land uses in I-1 Light Industrial Districts. If it is demonstrated by an application that a wireless telecommunication facility may not reasonably be established as a permitted use and it is required to be established in either an I-1 Light Industrial District or in another zoning district in order to operate a wireless telecommunication service, then wireless telecommunication facilities may be permitted as a special land use subject to the criteria and standards set forth below.

(d) *General regulations.*

(1) All applications for wireless telecommunication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by either the planning commission or city council in its discretion:

a. Facilities shall be found to not be injurious to neighborhoods or otherwise detrimental to the public safety and welfare.

b. Facilities shall be located and designed to be harmonious with the surrounding areas.

c. Wireless telecommunication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.

d. Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.

(e) The following additional standards shall be met:

(1) The maximum height of a new or modified support structure and antenna shall be the minimum height demonstrated necessary for a reasonable communication by the applicant and other entities to colocate on the structure, but not to exceed 120 feet in height, despite any other limitations regarding height set forth in section 50-150. The accessory building contemplated to

enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the zoning district.

(2) The setback of the support structure from any residential district shall be at least the height of the highest point of any structure on the premises, the setback of the support structure from any existing or proposed rights-of-way or other publicly traveled roads shall be no less than the height of the structure.

(3) Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the minimum setback of the structure, and accessory structures, shall be in accordance with the required setbacks for main or principal buildings as provided in section 50-151 for the zoning district in which the structure is located.

(4) There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will be needed to access the site.

(5) The division of property for the purpose of locating a wireless telecommunication facility is prohibited unless all zoning requirements and conditions are met.

(6) Where an attached wireless telecommunication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal, building, including yard setbacks.

(7) The planning commission shall, with respect to the color of the support structure and all accessory buildings, review and approve the same so as to minimize distraction, and reduce visibility in its surroundings. It shall be the responsibility of the applicant to maintain the wireless telecommunication facility in a neat and orderly condition.

(8) The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer licensed in the state. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration (FAA), the Federal Communication Commission (FCC), and the state aeronautics commission, shall be noted.

(9) A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure long term, continuous maintenance to a reasonably prudent standard.

(f) Applications for wireless telecommunication facilities which may be approved as special land uses shall be reviewed, and, if approved, shall be constructed and maintained in accordance with the standards and conditions of this section, and in accordance with the following standards:

(1) The applicant shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of one or more of the following factors:

a. Proximity to an interstate or major thoroughfare.

b. Areas of population concentration.

c. Concentration of commercial, industrial, and/or other business centers.

d. Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.

e. Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.

f. Other specifically identified reasons creating facility need.

(2) The proposal shall be reviewed in conformity with the colocation requirements of this section.

(g) *Application requirements.*

(1) A site plan prepared in accordance with article V shall be submitted, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.

(2) The site plan shall also include a detailed landscaping plan where the support structure is being placed at a location which is not otherwise developed, or where a developed area will be disturbed. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure. In all cases, there shall be shown on the plan, fencing, which is required for protection of the support structure and security from children and other persons who may otherwise access facilities.

(3) The application shall include a signed certification by a state-licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.

(4) The application shall include a description of surety to be posed at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed. In this regard, the surety shall, at the election of the applicant, be in the form of:

a. Cash;

b. A surety bond;

c. A letter of credit; or

d. An agreement in a form approved by the attorney for the city and recordable at the office of the register of deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorneys' fees incurred by the community in securing removal.

(5) The application shall include a map showing existing and known proposed wireless telecommunication facilities within the city, and further showing existing and known proposed wireless telecommunication facilities within areas surrounding the borders of the city in the location and in the area, which are relevant in terms of potential colocation or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the city, the applicant shall be required only to update as needed. Any such information which is a trade secret and/or other confidential commercial information which, if released, would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy, pursuant to MCL 15.243(f). This section shall serve as a promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the city.

(6) The application shall include the name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during the time the facility is on the premises.

(h) For facilities which are not permitted uses under this section, and are proposed to be located outside of the Industrial District, an application may be reviewed and, if approved, facilities shall be constructed and maintained in accordance with the following additional standards and requirements, along with those above:

(1) At the time of the submittal, the applicant shall demonstrate that a location within the Industrial District or a colocation cannot reasonably meet the coverage and/or capacity needs of the applicant.

(2) Wireless telecommunication facilities shall be of a design such as, without limitation, a steeple, bell tower, flag pole, or other form which is compatible with the existing character of the proposed site, neighborhood and general area, as approved by the city.

(3) In single-family residential neighborhoods, site locations outside of the Industrial District and any permissible collocation area, shall be permitted on the following sites, not stated in any order of priority, subject to application of all other standards contained in this section:

a. Municipally owned site.

b. Other governmentally owned site.

c. Religious or other institutional site.

d. Public park and other large permanent open space areas, when compatible.

e. Public or private school sites.

f. Other locations, if none of the locations in this subsection are available.

(i) *Colocation*.

(1) It is the policy of the city to minimize the overall number of newly established locations for wireless telecommunication facilities and wireless telecommunication support structures within the community, and to encourage the use of existing structures for attached wireless telecommunication facility purposes, consistent with the statement of purpose and intent set forth in this section. Each licensed provider of a wireless telecommunication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of wireless telecommunication facilities reasonably anticipated to occur as a result of the change in Federal law and policy in and relating to the Federal Telecommunications Act of 1996, it is the policy of the city that all users colocate on attached wireless telecommunication facilities and wireless telecommunication support structures in the interest of achieving the purposes and intent of this section, as stated above, and as stated in this section. If a provider fails or refuses to permit colocation on a facility owned or otherwise controlled by such provider, where colocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the city. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the city.

(2) Colocation shall be deemed to be feasible for purposes of this section when all of the following are met:

a. The wireless telecommunication provider under consideration for colocation will undertake to pay market rent or other market compensation for colocation.

b. The site on which colocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.

c. The colocation being considered is technologically reasonable, e.g., the colocation will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennas, and the like.

d. The height of the structure necessary for colocation will not be increased beyond a point deemed to be permissible by the city, taking into consideration the several standards contained in this section.

(j) *Requirements for colocation.*

(1) A special land use permit for the construction and use of a new wireless telecommunication facility shall not be granted unless and until the applicant demonstrates that a feasible colocation is not available for the coverage area and capacity needs.

(2) All new and modified wireless telecommunication facilities shall be designed and constructed so as to accommodate colocation.

(3) The policy of the community is for colocation. Thus, if a person who owns or otherwise controls a wireless telecommunication facility fails or refuses to alter a structure so as to accommodate a proposed and otherwise feasible colocation, such facility shall not be altered, expanded or extended in any respect.

(4) If a party who owns or otherwise controls a wireless telecommunication facility fails or refuses to permit a feasible colocation, and this requires the construction and/or use of a new wireless telecommunication support structure, the person failing or refusing to permit a feasible colocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the city, and, consequently, such persons shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless telecommunication support structure within the city for a period of five years from the date of the failure or refusal to permit the colocation. Such a person may seek and obtain a variance from the zoning board of appeals if and to the limited extent the applicant demonstrates entitlement to variance relief, which, in this context, shall mean a demonstration that enforcement of the five-year prohibition would unreasonably discriminate among providers of functionally equivalent wireless telecommunication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless telecommunication services.

(k) *Removal*.

(1) A condition of every approval of a wireless telecommunication facility shall be an adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:

a. When the facility has not been used for 180 days or more. For purposes of this subsection, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals), shall be considered as the beginning of a period of nonuse.

b. Six months after new technology which is available at reasonable cost as determined by the city council, which permits the operation of the communication system without the requirement of the support structure.

(2) The situations in which removal of a facility is required, as set forth in this section, may be applied and limited to portions of a facility.

(3) Upon the occurrence of one or more of the events requiring removal, as specified in this section, the property owner or person who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the building official.

(4) If the required removal of a facility, or a portion thereof, has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days' written notice, the city may remove or secure the removal of the facility, or required portions thereof, with its actual costs and reasonable administrative charges to be drawn, collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

(Ord. No. 1080, 4-16-2013)

Sec. 50-172. - Commercial television and radio towers, public utility microwave and public utility television transmitting towers.

Radio and television towers, public utility microwave and public utility television transmitting towers and their attendant facilities, but not including telecommunication towers, shall be permitted, provided:

(1) Such uses shall be located on a continuous parcel of land of sufficient size to permit all building setback requirements of the district to be met from the fenced compound in which the tower is located, or from the anchors to which any guy wires may be extended to stabilize the tower structure, whichever creates the greater setback.

(2) The tower and any buildings or equipment cabinets associated with the facility will be contained within a secured compound.

(3) No fencing or other structure designed and intended to secure the facility shall extend into the minimum front yard setback requirement of the district.

(4) Any off-street parking required for the use shall meet the numerical and parking layout standards of this chapter and all parking shall be contained within the secured area of the site.

(5) All exterior lighting, except that required for the tower, shall be shielded and directed into the compound only, particularly when the use is on property abutting a residential zoning district.

(Ord. No. 1080, 4-16-2013)

Secs. 50-173—50-179. - Reserved.

ARTICLE XVIII. - SIGNS

Sec. 50-180. - Purpose.

The provisions contained in this article are enacted to provide for the establishment of signs that will promote and foster a business friendly community through viable commercial and industrial activity and the dissemination of messages regardless of content, but will not by reason of their size, location, spacing, construction, or manner of display, endanger life or limb, confuse or mislead traffic, obstruct vision necessary for traffic safety, or otherwise endanger the public health or safety. Furthermore, it is the intent of these regulations to preserve and improve the appearance of the city by preventing placement of (1) oversized signs that are out-of-scale with surrounding buildings and structures, and (2) an excessive accumulation of signs that would cause visual clutter. These regulations are further intended to regulate permitted signs in such a way as to create land-use patterns compatible with other major land-use objectives and to prevent such signs from causing annoyance or disturbance to the citizens and residents of the city.

(Ord. No. 1080, 4-16-2013)

Sec. 50-181. - Compliance required; existing signs rendered nonconforming.

(a) No person shall erect, construct or alter any sign in the city without complying with the provisions of this article.

(b) Any sign already established on the effective date of the ordinance rendered nonconforming by the provisions of this article or as a result of subsequent amendments shall be subject to the regulations concerning nonconforming signs.

(Ord. No. 1080, 4-16-2013)

Sec. 50-182. - Permits, applications and specifications.

(a) Unless otherwise provided, no person shall construct, reconstruct, alter or relocate any sign without first obtaining a permit from the building official and paying all applicable permit and review fees.

(b) Applications for sign permits shall be made upon forms provided by the city and shall be accompanied by the following:

(1) Plans and specifications showing the dimensions, materials and required details of construction;

(2) Plans indicating the location of the building, structure or parcel of land upon which the sign is to be placed, and the position of the sign on the building, structure, or parcel of land and the relationship to other nearby buildings, structures, property lines and existing or proposed rights-of-way;

(3) An insurance policy (if required);

(4) When public safety requires, the certificate or seal of a registered structural or civil engineer; and

(5) Such other information as the building official may require showing full compliance with this and other applicable laws of the city and the state.

(c) The application for a sign permit and all supporting plans and specifications shall be reviewed as follows:

(1) When a sign permit application is submitted in conjunction with the proposed construction of a new building which must be reviewed by the planning commission, the sign permit application may be reviewed as a part of the site plan review.

(2) The building official shall review sign permit applications for conforming signs to be erected on a site or existing building where no other new construction is proposed.

(3) The building official may issue a sign permit, provided the application meets the approval of all reviewing authorities.

(d) A sign that is altered in appearance or dimension in any manner, including a change in face, lettering, coloring or lighting, or moved to a new location, shall be subject to all restrictions applying to a new sign.

(Ord. No. 1080, 4-16-2013)

Sec. 50-183. - Exempted signs.

No permit shall be required for construction of any signs listed below, providing all requirements of this article are met.

(1) Signs not visible beyond the boundaries of the lot or parcel upon which they are situated, or from any public thoroughfare or right-of-way;

(2) Traffic and other official signs of any public or governmental agency, such as traffic control or directional signs, railroad crossing signs, trespassing signs, signs indicating danger, signs indicating the location of United States Geological Service (USGS) benchmarks or signs used as aids to service or safety;

(3) Directional signs, including street signs required for the purpose of orientation when approved by the city, the county or the state;

(4) Any flag, emblem or insignia of our nation, its governmental units or its schools;

(5) Window signs in nonresidential districts;

(6) Any sign which is located completely within an enclosed building and which is not visible from outside the building. If the sign is visible outside the building, it shall be regulated by the regulations of the most similar sign type;

(7) Tablets, grave markers, headstones, statutory or similar remembrances of persons or events that are noncommercial in nature;

(8) Temporary decorations or displays celebrating the occasion of traditionally accepted patriotic or religious holidays and special municipal and public school activities;

(9) Public safety and routing signs used for transport in the normal course of a business which is not primarily the display of signs;

(10) Signs on a bus, truck, trailer or other vehicle, while operated and used for transport in the normal course of a business which is not primarily the display of signs;

(11) Street address signs;

(12) Nameplate and identification signs in residential districts;

(13) Signs accessory to parking areas;

(14) Open signs less than three square feet.

(Ord. No. 1080, 4-16-2013)

Sec. 50-184. - Prohibited signs.

Except as otherwise permitted, the following signs are prohibited:

(1) *Balloon sign.* Any balloon or balloon sign, except those that have been specifically approved for a special event.

(2) *Cloth and banner signs.* Cloth and banner signs, spinners, hula signs, and festoon signs, unless approved for a special event. Feather signs may be permitted as a part of an approved temporary sign permit.

(3) *Flashing (instantaneous) or blinking signs.* Signs that have flashing, blinking or moving lights or exposed incandescent light bulbs, except mechanical (manual) or electronic changing letter or message signs may be permitted provided such signs shall have no pulsating or moving script messages and provided further that no such sign shall display the same message for more than 12 consecutive hours and the message shall not consume more than ten percent of the display area of the sign.

(4) *Fluorescent sign.* Any sign using fluorescent or neon paint or color except outline tubing signs.

(5) *Illegal sign.* Any sign that is unlawfully installed, erected or maintained, including:

a. Any sign attached to a standpipe, gutter, drain, fire escape, or any sign erected so as to impair access to a roof,

b. Any sign that projects above the parapet line of any roof, projecting or overhanging signs, except permitted wall signs which may project up to 18 inches out from the face of the wall to which it is affixed,

c. Any sign attached to a tree, fence, or utility pole, signs painted on or attached to a parked vehicle, trailer or other towed or demountable structure which is being used principally for advertising purposes, rather than for transportation purposes (the vehicle shall be currently licensed, not parked or stored for more than 48 hours in a single spot and shall be parked in an approved parking space), except that this restriction shall not apply to permitted temporary truck load sales, provided a permit is issued, and

d. Any other signs not specifically authorized by this article, as amended.

(6) *Interfering or misleading sign.* Any sign that makes the words stop, or danger, or any other words or phrases, symbols or characters, colors, lettering or which includes any traffic sign or signal in such a manner as to interfere with, mislead, or confuse traffic.

(7) *Obscene sign.* Any sign or other advertising structure containing profane, obscene, indecent or immoral matter of the type or kind prohibited by state law.

(8) *Obstructing sign.* Any sign that obstructs a window, door or other opening that could be used for a fire escape.

(9) *Advertising offsite business.* Signs that advertise a business located other than on the subject property.

(10) *Portable sign.* Any sign that meets the definition of a portable sign as defined in this article.

(11) *Sandwich signs.* Sandwich signs, except such signs may be allowed subject to section 50-200.

(12) *String lights (not including Christmas lights).* String lights when used for commercial purposes.

(13) *Trailer sign.* Any sign that meets the definition of a trailer sign as defined in this article.

(14) Signs located within or that extend into the vertical space of the road right-of-way or other similar public space, unless specifically permitted by this chapter.

(15) Signs that contain visible moving, revolving or mechanical parts or movement, or other apparent visible movement achieved by electrical, electronic or mechanical means, including intermittent electrical pulsations, or by action of normal wind current.

(Ord. No. 1080, 4-16-2013)

Sec. 50-185. - Insurance certificates for projecting signs.

Concurrent with the issuance of a business license each year, the owner of a projecting sign which extends into or over public property, right-of-way or sidewalk shall submit to the clerk's office an insurance certificate naming the city as an additional insured on the owner's policy pertaining to the sign on an annual basis for a full year.

(Ord. No. 1080, 4-16-2013)

Sec. 50-186. - Illumination.

(a) No sign shall be illuminated by any devices other than approved electrical devices which shall be installed in accordance with the requirements of this article and all applicable city ordinances and building codes. In no case shall any open spark or flame be used for display purposes unless specifically approved by the building official.

(b) The following provisions shall also apply to the illumination of signs:

(1) Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign, or internal to it, without causing glare for motorists, pedestrians or neighboring premises. External lights shall be shielded downward or otherwise shielded to limit glare.

(2) All exterior sign illumination shall be shielded so as not to project onto adjoining property or thoroughfares.

(3) Direct exterior illumination and internally illuminated signs shall avoid the use of glaring undiffused lights or bulbs that could distract motorists.

(4) No sign shall be illuminated by the use of flashing, moving or intermittent lighting, unless otherwise provided in this section.

(5) Illuminated signs shall not produce more than one footcandle of illumination measured four feet from the signs.

(Ord. No. 1080, 4-16-2013)

Sec. 50-187. - Obsolete signs.

Obsolete signs, which include all signs that advertise a product that is no longer made or sold or that advertises a business that has closed, shall be removed (or in the case of a painted wall sign such sign shall be painted over entirely, non-advertising murals may remain) by the owner, agent or person having beneficial use of the building, structure or property upon which the sign is located, within 30 days after written notification from the building official. However, where a conforming sign structure and frame are typically reused by the current occupant or business in leased or rented buildings, the building owner shall not be required to remove the sign structure and frame provided that the sign structure and frame are maintained in an acceptable condition, based on city code.

(Ord. No. 1080, 4-16-2013)

Sec. 50-188. - Removal of signs.

Whenever a sign is removed or is required to be removed by this article or by order of the building department, the entire sign and sign structure, including fastenings and anchorages, shall be removed.

(Ord. No. 1080, 4-16-2013)

Sec. 50-189. - Addresses.

(a) For the purpose of public safety, the street number of every residential building shall be prominently displayed on the side of the building facing the street upon which it is addressed. Street numbers shall be a minimum of three inches in height.

(b) Nonresidential uses shall provide addresses or a range of addresses on all freestanding signs in a prominent location. If no freestanding sign is provided, then the address or address range shall be displayed on the building facade. Address numbers shall also be displayed on the rear door(s) of the building. The numerals shall be a minimum of three inches in height and shall not exceed six inches.

(Ord. No. 1080, 4-16-2013)

Sec. 50-190. - Automobile dealer signs.

The following signs shall be allowed at all licensed automobile dealers that sell new and used automobiles:

(1) Pennants, including American flag pennants, attached to automobile antennas which are made of nylon, cloth or a similar material, with sewn and reinforced stitching, not to exceed ten inches in width by 36 inches in length;

(2) Vertical pole flags to be attached to flagpoles and/or light poles and made of nylon, cloth or a similar material, with sewn and reinforced stitching, not to exceed 42 inches by seven and one-half feet in size;

(3) Rearview mirror tags attached to the rearview mirror of an automobile;

(4) Signs attached to windows or under the hood of automobiles;

(5) Magnetic signs or spring signs attached to the rooftops of automobiles not to exceed 17 inches in height by 36 inches in width.

(Ord. No. 1080, 4-16-2013)

Sec. 50-191. - Awning and canopy signs.

Signs shall be permitted on awnings and canopies in business, office service, and industrial districts, subject to the following controls.

(1) Letters and logos on awnings or canopies shall be regulated as wall signs and shall meet all applicable requirements for wall signs.

(2) The following minimum vertical clearance above a sidewalk or pavement area shall be provided:

a. Store front awning or canopy, eight feet.

b. Freestanding canopy, 14 feet.

(3) The written message or logo must be affixed flat to the face of any awning or canopy.

(4) Awnings may project out from the building beyond 12 inches.

(Ord. No. 1080, 4-16-2013)

Sec. 50-192. - Billboards.

In addition to the stated purposes and intent of this article, the following provisions are intended to protect the public health, safety and welfare by regulating the location, size, height, spacing and other aspects of billboards. These provisions are necessary because billboards can reduce traffic safety by diverting the attention of motorists from the road, are often incompatible with other signs and land uses in surrounding areas and result in aesthetic deterioration. Where permitted, billboards shall be subject to the following restrictions:

(1) Billboards shall be permitted in I-1 Light Industrial District as a special land use.

(2) The total sign area of any billboard shall not exceed 200 square feet per face or 400 square feet total for all sign faces per sign structure.

(3) No billboard shall be closer than 50 feet to a property line.

(4) No billboard shall project over public property.

(5) Billboards shall be spaced no closer than 1,000 feet between signs on the same side of the right-of-way and shall further comply with all requirements of the I-1 Light Industrial District (section 50-150).

(6) The top of any billboard shall be no higher than 25 feet above grade.

(7) The light rays of a billboard with external illumination shall be cast directly upon the billboard and shall not be visible to motorists, except as reflected from the billboard.

(8) A billboard shall be self-supported and pole-mounted.

(Ord. No. 1080, 4-16-2013)

Sec. 50-193. - Changeable message sign.

A sign may contain a changeable message, but only under the following conditions:

(1) *Electronically changeable messages.* Electronic changeable messages shall be part of the total square footage of display area permitted for the sign even if the message is contained in a separate cabinet, except the face of the message shall not consume more than 25 percent of the total permitted display area of the sign.

a. No digital sign shall be permitted to flash, blink, scroll, oscillate or have full animation, and is deemed a distraction/safety hazard to drivers or pedestrians. All digital signs shall have "instant" changes with no animated effects.

b. Any electronic message displayed shall remain unchanged for a minimum of ten seconds prior to switching messages.

c. The digital sign may be full color but shall not display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver, or results in a nuisance to the driver.

d. All digital signs shall maintain an automatic brightness control keyed to ambient light levels.

e. Digital signs shall be programmed to go dark if the sign malfunctions.

f. Signage should not be designed to emulate traffic safety signage.

g. On those properties where a digital sign has been approved by the city, there shall be no other temporary signage.

Prior to the issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed the maximum permitted intensity level.

	Daytime	Nighttime
Brightness	500 nits	125 nits

(2) *Manually changeable messages.* A manually changeable message sign shall be permitted, provided the area of the sign containing the message shall be part of the total square footage of display area permitted for the sign even if the message is contained in a separate cabinet, except the face of the message shall not consume more than 25 percent of the total permitted display are of the sign, and the message shall be displayed for at least 24 continuous hours before it is replaced by another message.

(Ord. No. 1080, 4-16-2013)

Sec. 50-194. - Church, school, public facilities, or signs for other nonresidential uses in a residential district.

Church or school signs subject to the following:

(1) One church or school sign shall be permitted for each school or church, except that where a church or school has property fronting on two streets, two signs, one fronting on each street, shall be permitted.

(2) Signs shall not to exceed 50 square feet in area.

(3) The setbacks for signs in the underlying zoning district shall apply.

(4) The sign shall not exceed ten feet in total height.

(5) One wall sign not exceeding 32 square feet.

(Ord. No. 1080, 4-16-2013)

Sec. 50-195. - Freestanding signs.

(a) The planning commission may permit an increase of up to an additional 15 percent of the total permissible area for freestanding signage. The reasons for any increase shall be documented in the planning commission decision and shall generally be based on the architectural compatibility, sign placement, and sign visibility.

(b) The height of freestanding signs shall not exceed 20 feet.

(Ord. No. 1080, 4-16-2013)

Sec. 50-196. - Gasoline price signs.

Gasoline price signs shall be permitted in the business districts, subject to the following requirements:

(1) One gasoline price sign shall be permitted as an integral part of the allowed display area of a freestanding accessory sign for a gasoline station.

(2) No such price sign shall exceed 40 square feet and shall be part of the total allowed display area for a freestanding sign.

(Ord. No. 1080, 4-16-2013)

Sec. 50-197. - Marquees and projecting signs.

Marquees shall be permitted in the business districts and the planned development district subject to the following controls:

(1) The written message must be affixed flat to the vertical face of any marquee.

(2) A minimum vertical clearance of 14 feet shall be provided beneath any marquee sign which is located in a parking area or projects over a driveway. In all other areas, a minimum vertical clearance of ten feet shall be provided beneath any marquee.

(3) Limitations imposed by this section on projection of signs from the face of the wall of a building or structure shall not apply to marquee signs. The sign shall not extend onto adjacent private property unless proper easements have been obtained.

(4) The total sign area shall not exceed that of a wall sign permitted for the same building.

(5) Marquee or projecting signs which extend above the roofline may be permitted only after special land use approval.

(6) A marquee sign shall be permitted in lieu of a wall or freestanding sign on the same premises.

(Ord. No. 1080, 4-16-2013)

Sec. 50-198. - Menu signs.

The construction of menu board signs, vertical clearance signs, and other similar typical non-advertising signs which are constructed adjacent to or highly visible from an adjacent road right-of-way

may be reviewed by the planning commission as advertising signage if the sign contains excessive text, logos, or is illuminated.

(Ord. No. 1080, 4-16-2013)

Sec. 50-199. - Murals.

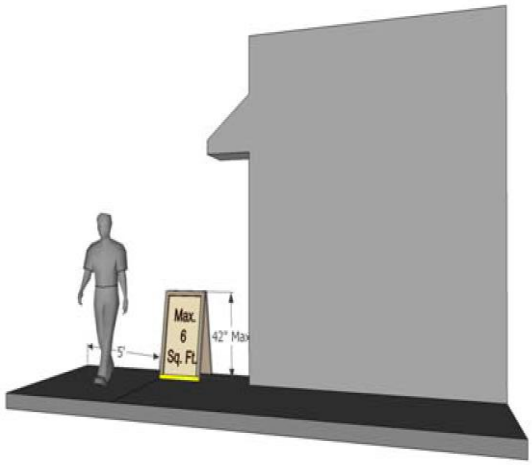
Murals painted on the facade of a building or other structure onsite may be permitted and may not be counted against total permissible wall signage if after planning commission review, it has been determined that the mural is not intended for advertising or otherwise attracting attention to the business at which it is located.

(Ord. No. 1080, 4-16-2013)

Sec. 50-200. - Sidewalk board (sandwich) signs.

Sidewalk board signs shall be permitted subject to the following regulations:

(1) The maximum message area shall be six square feet per side of sign with the maximum height being 42 inches. The sign board shall continue to the ground for detection by those who are visually impaired. The bottom two inches of the sign shall also have a strong color contrast with the grade below.



(2) Acceptable primary sidewalk board signs shall be in good condition and consist of the following materials: stainless steel or other weather-resistant steel, iron, metal and wood or plastic.

(3) There shall only be one sign at each customer entrance, regardless of the number of tenants on the premises and the sign cannot refer to off-premises locations.

(4) The signs shall be placed so as to maintain a clear path of travel for the pedestrian and in a manner than maintains five feet in width between the sign and any fixed element on the sidewalk, and shall not be erected or maintained in a manner that prevents free ingress or egress from any door, window or fire escape.

(5) The sign shall not unreasonably interfere with the view, access to, or use of adjacent properties.

(6) A sidewalk sign permit is required prior to the placement of the sign. Only one sign permit for a sidewalk board sign is allowed per business and such permit is not transferable. Permits are valid for one calendar year beginning January 1 and ending December 31. If the sign is to be located within the public right-of-way, business owners shall sign a hold harmless agreement that indemnifies the city of any liability for use of said public right-of-way.

(7) A sketch including dimensions, content, materials, and location of the sidewalk board sign must be attached to the permit application. The permit application must be approved and signed by the building official or his/her designee before the sidewalk board sign may be displayed. If a sign is displayed prior to obtaining a sidewalk board sign permit, the application may be denied.

(8) The signs shall not be illuminated, nor shall they contain moving parts, movable letters, interchangeable letters, or have balloons, windsocks, pinwheels, streamers, pennants, or similar adornment attached to them. Attaching the signs to structures, poles, objects, signs, etc., by means of chains, cords, rope, wire, cable, etc., is prohibited. They shall be removed from public sidewalks if there is any snow accumulation (the sign may not be displayed until the snow is removed) except those located on private property.

(9) Signs placed in violation of this section may result in immediate removal of the sign and the business' temporary sign permit privileges may be denied for the remainder of that year. Sidewalk board signs displayed without approved permits shall be disposed of at owner's expense.

(10) Signs within the public right-of-way may be moved/removed by the city for municipal purposes (i.e., code enforcement, snow removal, traffic issues, maintenance, etc.).

(11) Each sign shall be placed outside only during the hours when the business is open to the general public, and shall be stored indoors at all other times.

(12) All such signs shall be constructed of durable materials that complement the materials and design/style of the building where the proposed sign is located. The primary colors of such signs shall be compatible with the colors of the building where the proposed sign is located.

(13) The sign shall have no sharp edges or corners. All surfaces shall be smooth and be free of protruding tacks, nails and wires. All parts, portions and materials of the sign shall be kept in good repair. The display surface shall be kept clean, neatly painted, and free from rust, corrosion and graffiti. Any cracked or broken surfaces, missing sign copy or other poorly maintained or damaged portion of a sign shall be repaired, replaced or removed. No glass, breakable materials or attached illumination shall be allowed.

(14) The sign shall be removed when weather conditions create potentially hazardous conditions.

(Ord. No. 1080, 4-16-2013)

Sec. 50-201. - Special event signs.

Signs advertising a special event may be allowed for events that include, but are not limited to, grand openings, significant sales, vehicle shows/displays, craft shows, benefit rummage/bake sales and festivals. Special event signs:

(1) May include, but are not limited too: A-frame signs, balloon signs, banners, festoon signs, inflatable signs, tear drop signs, streamers and the like.

(2) May be issued for not more than 14 days and not more than four times within any 12-month period. Permits may be issued consecutively.

(3) Shall not exceed 32 square feet in size.

(Ord. No. 1080, 4-16-2013)

Sec. 50-202. - Temporary event signs and temporary seasonal signs.

Temporary event signs or temporary seasonal signs, but not a temporary sign, shall be limited to designated locations in a public place or in a quasi-public place, subject to the following conditions.

(1) Temporary event and seasonal signs.

a. Shall be placed at the site of the event no earlier than five days before the event and shall be removed no later than two days after the event has been concluded.

b. Shall be no larger than 32 square feet in area and shall have a uniform configuration.

c. Shall be placed immediately next to the event at the locations designated for such signs by the city manager's office or his/her designee.

d. Shall be placed in a location that will not block the participant's view of the event or the view of those attending the event.

(2) Conditions applicable to all temporary event signs and temporary seasonal signs.

a. The message content of the sign shall be subject to review and approval by the city manager's office or his/her designee.

b. Shall consist of weatherproof, solid nonflexible materials with fully rounded edges and shall expose only a smooth display surface with no outward projections of any kind.

c. Shall be secured to a designated structure in a public place or quasi-public place by fasteners that will firmly affix the sign to the structure and which shall not pose a threat of injury to those participating in the activity or event or to those watching the activity or event.

d. No signs shall advertise any refreshment that contains alcohol, tobacco or other unlawful or illicit substances.

e. No signs shall contain any electronic messages or carry electricity of any kind.

f. A permit shall be required before any such sign will be placed on the lawn or grounds of any public place or quasi-public place and such permit shall be purchased at the office of the city manager or his/her designated department for a fee established by the city council. The office of the city manager or his/her designated department shall not issue a temporary event permit or temporary seasonal sign permit until all applicable fees have been paid and the sign has been reviewed and approved by the city manager's office or his/her designated department. In conducting its review the department shall determine that:

1. All applicable requirements of this section have been met, including the content of the sign.

2. A designated location for the sign has been assigned by the office of the city manager or his/her designated department and accepted by the applicant for the permit.

g. The preparation (manufacture) and placement of a temporary event sign or a temporary seasonal sign shall be done at the expense of the applicant.

h. It shall be the responsibility of the applicant to repair and refurbish, at his/her expense, the sign as needed so as to maintain an attractive sign. It shall be the responsibility of the applicant to remove the sign, within the designated time period. The applicant shall be responsible for repairing or replacing any element of the facility that may be damaged during placement or removal of the sign.

(Ord. No. 1080, 4-16-2013)

Sec. 50-203. - Temporary signs.

(a) Temporary signs include, but are not limited to the following:

(1) An on-site real estate sign, advertising the premise for sale, rent or lease.

(2) An off-site real estate sign for the purpose of providing direction to another premise that is offered for sale, rent, or lease.

(3) An on-site sign advertising an on-going garage, estate or yard sale.

(4) Non-commercial signs, which contain non-commercial informational or directional messages.

(5) Political signs.

(6) Holiday or other seasonal signs.

(7) Construction signs for buildings under construction.

(b) All temporary signs must comply with all of the following regulations:

(1) The total aggregate sign area of all temporary signs on any one site shall not exceed 16 square feet.

(2) Location of temporary signs:

a. May be located in any zoning district.

b. Temporary signs shall not be located in a dedicated right-of-way.

c. Prior to the construction or placement of a temporary sign, the permission of the property owner where the sign is to be located must be secured.

(3) *Time limitations for temporary signs.* Each temporary sign shall be removed upon completion of the event or within 60 days of placement whichever is less.

(4) *Exceptions*. Where there is a valid contract for work on the premises that exceeds 60 days, then temporary signs shall be permitted on the premises for the length of the contract.

(Ord. No. 1080, 4-16-2013)

Sec. 50-204. - Wall signs.

(a) The permissible square footage of wall signage may be split amongst more than one sign provided the maximum square footage of all signs does not exceed that permitted and all signs are coordinated in terms of appearance and design. The additional signs may be wall or marquee signs meeting ordinance requirements.

(b) Wall signs shall not be permitted on the side of a building which abuts a residentially used or zoned property. If a wall sign wraps around the corner of a building onto a side street which may immediately face another commercial property but the remainder of the street is primarily residential, the sign shall go dark by 11:00 p.m.

(c) The planning commission may permit an increase of up to an additional 15 percent of the total permissible area for wall signage on each facade. The reasons for any increase shall be documented in the planning commission decision and shall generally be based on the architectural compatibility, sign placement, sign visibility, etc.

(Ord. No. 1080, 4-16-2013)

Sec. 50-205. - Window signs.

Window signs shall be permitted in business or office service districts, provided that the total combined area of the signs does not exceed 50 percent of the total window area (of those windows abutting a roadway). All signs shall be affixed firmly to the window. Temporary window signs that are faded, yellowed, ripped or otherwise damaged shall be removed immediately.

(Ord. No. 1080, 4-16-2013)

Sec. 50-206. - Signs for nonconforming uses.

Each legal nonconforming nonresidential use in a residential district shall be permitted one wall sign which shall conform to the requirements of the most restrictive district in which the use is normally permitted, unless the nonresidential use already has other permanent signage. No new sign shall be illuminated.

(Ord. No. 1080, 4-16-2013)

Sec. 50-207. - Signs in residential districts and for residential uses.

The following signs shall be permitted in all districts zoned for residential use, including those districts zoned R-1 One-Family Residential, R-2 Two-Family Residential, RT Townhome Residential, RM-1 Multiple-Family Residential (low rise) and RM-2 Multiple-Family Residential (mid-rise) Districts.

(1) Nameplate and identification signs, for home occupations and the like, shall be permitted in all residential districts. Nameplate and identification signs shall:

a. Indicate only the name and address of the occupant.

b. Be limited to one per residence.

c. Be either freestanding or attached to the building.

d. Be located at least six feet from all property lines.

e. Be no larger than two square feet.

f. Not exceed five feet in total height.

(2) Permanent residential subdivision, townhouse or apartment entrance identification signs shall be permitted in residential districts, subject to the following controls:

a. Permanent residential identification signs shall bear only the name of the development or subdivision, the address of the building, if it is a multi-family structure and the name and address of the management, if applicable.

b. No sign shall exceed 32 square feet in area.

c. There shall be not more than one sign located at each entrance to the subdivision or development.

d. Shall not exceed five feet in total height.

e. Shall be located at least ten feet from any property line.

(3) Church, school, public facilities, or signs for other nonresidential uses in a residential district.

(Ord. No. 1080, 4-16-2013)

Sec. 50-208. - Signs in OS-1 Office Service District and the I-1 Light Industrial District.

The following signs shall be permitted in the OS-1 Office Service District and the I-1 Light Industrial District:

(1) *Freestanding sign.*

a. One freestanding sign containing only the name of the principal use may be permitted for a single building or planned grouping of buildings, except:

b. Freestanding signs for those uses served by a marginal access road shall be set back at least two feet toward the nearest building from the service drive.

c. No freestanding sign in the OS-1 Office Service District or the I-1 Light Industrial District shall exceed six feet in total height.

d. The display area of a freestanding sign in the OS-1 Office Service District or the I-1 Light Industrial District shall not exceed one square foot for every one foot of lot frontage along the frontage where the sign is permitted, or a maximum of 32 square feet whichever is less.

(2) *Wall sign.*

a. One wall sign containing only the name of the principal use may be permitted for a single building, or each unit in a planned grouping of buildings. The display area of any wall sign in the OS-1 Office Service District shall not exceed 15 percent of the front building facade of a building or unit to which it is attached, up to a maximum of 64 square feet in display area.

b. Further, for each side other exposed (viewable) facade of the building the display area of additional wall signs shall not exceed five percent of the building facade it is to be located upon, up to a maximum of 100 square feet in display area.

c. Each facade shall be calculated separately and allowable sign area shall not be transferrable between facades.

d. In addition to a wall sign and a freestanding sign, one additional wall sign containing not more than four square feet of display space may be affixed to the wall next to each public access door and may be flush against the wall or project outward (but shall not impede any walkway).

(Ord. No. 1080, 4-16-2013)

Sec. 50-209. - Signs in B-1 Community Business District and the B-3 General Business District and PD Planned Development District.

The following signs shall be permitted in all B-1 Community Business Districts and the B-3 General Business District and PD Planned Development District.

(1) *Freestanding sign.*

a. One freestanding sign may be permitted for a single building or planned grouping of buildings.

b. Except as otherwise permitted in this subsection, no freestanding sign in the B-1 Community Business District, the B-3 General Business District and the PD Planned Development District shall exceed 20 feet in total height, measured from the ground at the base of the sign to the highest point of the sign.

c. Except as otherwise permitted in this subsection, no freestanding sign in the B-1 Community Business District, the B-3 General Business District and the PD Planned Development District shall exceed one square foot of display area for each foot of frontage, except no such sign shall exceed 100 square feet in display area.

(2) *Wall sign.*

a. The display area of any wall sign in the B-1 Community Business District, the B-3 General Business District and the PD Planned Development District shall not exceed 15 percent of the front building facade of a building to which it is attached. Further, for each other exposed side building facade, excluding any rear building facade, the display area for additional wall signage thereon shall not exceed 25 percent of the building facade to which it is attached.

b. Each facade shall be calculated separately and allowable sign area shall not be transferrable between facades.

c. One additional sign not exceeding six square feet in display area may be placed near the front entrance door. The sign shall be mounted perpendicular to the store front.

(Ord. No. 1080, 4-16-2013)

Sec. 50-210. - Signs in the B-2 Downtown District.

The following signs shall be permitted in the B-2 Downtown District:

(1) *Freestanding sign.*

a. When only one principal wall sign will be used, one freestanding sign may be permitted for a single building or planned grouping of buildings, except:

b. No freestanding sign in the B-2 Downtown District shall exceed six feet in total height, measured from the ground at the base of the sign to the highest point of the sign.

c. The display area of a freestanding sign in the B-2 Downtown District shall not exceed one square foot for every foot of lot width, or length, along the frontage where the sign is permitted, except no such sign shall exceed a maximum of 48 square feet of display area.

(2) *Wall sign.*

a. The display area of any wall sign in the B-2 Downtown District shall not exceed 15 percent of the front building facade of a building to which it is attached.

b. Further, for each other exposed side building facade, excluding any rear building facade, the display area for additional wall signage thereon shall not exceed 25 percent of the building facade to which it is attached.

c. Each facade shall be calculated separately and allowable sign area shall not be transferrable between facades.

d. One additional sign not exceeding six square feet in display area may be placed near the front entrance door. The sign shall be mounted perpendicular to the store front.

(3) *Light pole signs.* Light pole signs shall be permitted in the B-2 Downtown District, subject to the following requirements:

a. Light pole signs shall be limited to one per light pole. No more than one-third of a site's light poles shall have a sign. When calculating the number of permitted light pole signs in an individual parking lot, any calculation resulting in a fraction shall be rounded up to the next whole number.

b. No more than three messages or advertisements shall be displayed on a site's light pole signs at any one time.

c. Advertisements shall be limited to those businesses and services provided on the site in which the sign is located. No off-site advertising shall be permitted.

d. No right of way or other street lighting poles shall be used for the installation of a light pole sign.

e. Sign illumination is prohibited.

f. Light pole signs shall have a consistent design, mounting location, and size throughout an individual site. Such signs shall be installed in a uniform manner throughout the parking lot and shall not project above the height of the light pole to which it is attached.

g. Light pole signs shall not exceed one and one-half feet in width and three feet in height.

(Ord. No. 1080, 4-16-2013; Ord. No. 1122, § 1, 5-19-2015)

Sec. 50-211. - Signs in the P-1 Vehicle Parking Districts.

The following signs shall be permitted in the P-1 Vehicle Parking Districts:

(1) Except as otherwise permitted in this section, one freestanding sign, subject to the following requirements:

a. The sign shall be limited to a single location in the minimum required front yard setback of the district, and shall not exceed four feet in total height, measured from the ground at the base of the sign to the highest point of the sign.

b. The sign shall be limited to two display sides and each side shall not contain more than eight square feet of display area.

c. Except as otherwise permitted in this section, the sign shall display only the name of the store, company or organization for which the parking is intended.

d. Freestanding directional signs shall be permitted so long as such signs are limited to only those necessary to properly direct traffic within the parking lot, provided such signs shall not exceed four feet in height and shall display only a symbol that gives direction, such as an arrow, or language to direct traffic, such as one way, or a combination of both. A directional sign shall not contain more than two sides and not more than two square feet of display area per side.

(Ord. No. 1080, 4-16-2013)

Secs. 50-212—50-219. - Reserved.

ARTICLE XIX. - OFF-STREET PARKING, LOADING AND LAYOUT STANDARDS

Sec. 50-220. - General parking requirements.

There shall be provided in all districts, at the time of construction or enlargement of any building or structure or any new or modified use on a site, off-street parking spaces with adequate access. The number of off-street parking spaces as required in this section shall be provided prior to the issuance of a certificate of occupancy, as prescribed in this article:

(1) Except as permitted in the P-1 vehicular parking district, off-street parking shall not be permitted as the sole or principal permitted use in any zoning district.

(2) Except as otherwise permitted or restricted, off-street parking spaces and associated vehicle maneuvering lanes may be located within a rear yard or within a side yard.

(3) Off-street parking for other than a residential use shall be either on the same lot as the principal use, or within 300 feet of the building it is intended to serve. The distance shall be measured from the nearest point of the building to the nearest point of the off-street parking lot. All residential parking shall be located on the premises it is intended to serve.

(4) No off-street parking for a use in a nonresidential district shall be permitted in a residential district, and no off-street parking lot in a nonresidential district shall be accessed through a residential district.

(5) Ownership shall be shown for all lots or parcels intended for use as parking by the applicant.

(6) Required off-street parking for single-family and two-family dwellings may be provided in a stacking configuration in a driveway or garage, or combination thereof.

(7) Required off-street parking for all multiple family or nonresidential use shall consist of an unencumbered parking stall or strip, parking bay, vehicle maneuvering space, driveway or garage, or combination thereof. Parking garages or structures, when accessory to a principal use, shall be subject to the applicable provisions of section 50-160.

(8) Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal parking facilities are provided elsewhere.

(9) Off-street parking existing on the effective date of the ordinance from which this chapter is derived, used in connection with the operation of an existing building or use, shall not be reduced to an amount less than hereinafter required for a similar new building or new use. Any permitted expansion, alteration or change of use which increases the required number of parking spaces shall require a corresponding increase in the number of spaces provided subject to appropriate review and approval requirements.

(10) Two or more buildings or uses may collectively provide the number of required off-street parking spaces, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately. In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the planning commission may grant an exception to the total space requirement.

(11) The sale, renting, leasing, storage or repair of any construction trailers, merchandise or motor vehicles, or trailers for sale or rent, is prohibited on off-street parking lots, except where law permits the sale of vehicles in an off-street parking lot owned by the owner of the vehicle that is for sale.

(12) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with a use which the planning commission or building official considers being of a similar nature.

(13) When units or measurements determining the number of required parking spaces result in a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.

(14) For the purpose of computing the number of parking spaces required, the applicable definition of usable floor area (floor area, usable) shall apply.

(15) Wherever the city council shall establish off-street parking facilities by means of a special assessment district or by any other means, the city council may determine, upon completion and acceptance of such off-street parking facilities, that all existing buildings and uses and all buildings erected or uses established thereafter within the special assessment district or districts, may be exempt from the requirements of this article for privately supplied off-street parking facilities.

(16) The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following requirements. The planning commission may reduce the total number of parking or vehicle stacking spaces for drive thru facilities, being provided based on the type of use that is being conducted and the physical constraints of the property. The planning commission may also allow for a "payment in lieu of parking." The "fee" to be paid for each parking space shall be determined by city council and adopted by resolution. The fee may be reviewed and adjusted from time to time to reflect current market rates and estimated construction costs. The payment shall be dedicated for improving and developing parking spaces within the city's business and industrial districts.

Residential	Number of Minimum Parking Space per Unit of Measure
One and two-family	Two for each dwelling unit.
Townhome and multiple-family	Two for each dwelling unit plus one visitor parking space for every ten dwelling unit parking spaces.

Housing for the elderly	One for every three units, plus one for each employee in the largest working shift.
Institutional	
Place of worship	One for every four seats or persons permitted to capacity as regulated by local or state fire codes, or one for every six feet of pews in the main unit of worship, whichever is greater.
Group home	One for each employee in the largest working shift, plus one for every five resident occupants.
Homes for the aged, infirm and employee convalescent homes	One for every six beds, plus one for each in the largest working shift.
Hospitals	One for each bed, plus when out-patient services are provided, either within the hospital or as a detached adjunct to the hospital, the requirements for the professional offices of doctors or dentists and other similar professions shall apply.
Library, museum	One for every 300 square feet of usable floor area, plus one for each employee in the largest shift.
Nursery school or day care center	One for each staff person in the largest working shift, plus one for every ten cared-for occupants, plus off-street stacking space for four vehicles.
Private clubs or lodge halls	One for every 45 square feet of floor area in a banquet, conference or meeting room.
Private golf clubs, swimming pool clubs, tennis clubs or other similar uses	One for every two-member family or individual plus spaces required for each accessory use, such as a restaurant or bar

Stadium, sports arena, or other similar place of outdoor assembly	One for every four seats, or seven feet of beach length, whichever is the greater number.
Theaters and auditoriums	One for every four seats, or 55 square feet of floor area in an assembly room without fixed seats, whichever is the greater number, plus one for every two employees in the largest working shift.
Offices	
Banks	One for every 200 square feet of usable floor area. (Drive-thru stacking addressed below.)
Business offices or professional offices	One for each 250 square feet of usable floor space.
Professional offices of doctors, dentists or similar profession	One for every 200 square feet of useable floor area.
Federal, state or local offices providing services such as, but not limited to, social security and employment security offices, secretary of state offices for licensing, etc.	One for every 150 square feet of usable floor area.
Business and commercial	
Appliance center (major)	One for every 300 square feet of usable floor area.
Automobile wash (automatic)	One for each employee.
Automobile wash (self-service or coin-operated)	One space
Beauty parlor, barber shop, hair salon, etc.	Two spaces for each beauty or barber chair, plus one for each employee in the largest working shift.

Bowling alley	Three for each bowling lane plus spaces required for each accessory use such as a restaurant or bar.
Dancehall or roller skating rink	One for every three persons allowed at maximum capacity.
Dry cleaning pickup	One for every 500 square feet of useable floor area.
Exhibition or assembly hall	One for every 75 square feet of exhibition or assembly hall floor area, plus one for each employee in the largest working shift, plus accessory uses.
Furniture and neighborhood appliance store, household equipment, repair shops, show room of a plumber, decorator, electrician, shoe repair, and other similar uses	One for every 800 square feet of floor area.
Gasoline service or filling station	Two for each stall, rack, or pit, and one for each vehicle fueling terminal, plus one parking space for each employee in the largest work shift, plus one space for each 150 square feet of usable floor space in any retail store area.
Laundromats and coin-operated dry cleaners	One for each two washing and/or dry cleaning machines.
Miniature or "par-3" golf courses	One for each hole plus one for each employee.
Mortuary establishments	One for every 75 square feet of usable floor area.
Motel, hotel, or other commercial lodging establishments	One for each occupancy unit plus one for each one employee in the largest working shift, plus one-half the requirement for accessory uses.
Motor vehicle sales and service establishments	One for each 200 square feet of usable floor space in the sales room, plus two for each auto

	mechanical service stall, and one for each employee in the largest working shift.
New planned commercial or shopping center, wherein the occupants of the center are unknown at the time of site plan approval	Less than 50,000 square feet, one per 200 square feet of gross floor area; 50,000—100,000 square feet, one for every 250 square feet of gross floor area; 100,000—400,000 square feet, one for every 300 square feet of gross floor area; more than 400,000 square feet, one per 350 square feet of gross floor area.
Restaurant (drive-in)	One for each ten square feet of usable floor space in patron self-service area. In addition, should a dining room or seating area be provided, there shall be one space for each 25 square feet of usable floor space in the dining area.
Restaurant (sit-down)	One for every two seats in a restaurant, bar, lounge or tavern, plus one for every employee in the largest working shift.
Restaurant (fast food sit-down)	One space for every two seats plus one space for every employee in the largest working shift, plus vehicle stacking spaces.
Restaurant, fast food (carryout only)	One space for every 100 square feet of usable floor area, plus vehicle stacking space.
Retail stores except as otherwise specified herein	One for every 200 square feet of usable floor area.
Self storage facility	One for every 130 storage units, plus one for each employee in the largest working shift and two for a live-in resident.
Video store	See retail stores.
Industrial	

Industrial or research establishments and related accessory offices	One for every 300 square feet of office area, plus, either one per each 1,000 square feet of shop/storage area, or one per each employee at maximum shift.
Warehouses and wholesale establishments and related accessory offices	Three plus one for every one employee in the largest working shift, or three plus one for every 1,700 square feet of usable floor space, whichever is greater.
Vehicle stacking spaces:	
In addition to numerical off-street parking requirements of this section, wherever an accessory drive-up or drive-through window service is provided vehicle stacking shall be provided. Each vehicle stacking space shall be eight feet wide by 18 feet long and shall be located independently of any parking space, vehicle maneuvering lane or loading, unloading area. The following standards shall apply:	
Automatic carwash	Five times the maximum capacity of the auto wash. Maximum capacity of the auto wash shall mean the greatest number of automobiles possibly undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each wash line by 20.
Automobile wash	One for each wash stall.
Banks, savings and loan, credit unions, ATM stations and the like	Five for each window or teller machine.
Fast food and fast food carryout	Eight spaces.
Gasoline station	One space for each pump island plus space for any accessory uses at the rate indicated herein.
Pharmacy drive-up window	Three spaces.

Other drive-up or drive-through facilities	Four spaces.

(Ord. No. 1080, 4-16-2013; Ord. No. 1146, 12-5-2017)

Sec. 50-221. - Off-street parking space layout standards, construction and maintenance.

Whenever the off-street parking requirements set forth in this chapter, require the establishment of an off-street parking lot, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards:

(1) No parking lot shall be constructed or an existing parking lot improved, until a site plan has been reviewed and approved in accordance with article V.

(2) Except for single-family and two-family residential uses, adequate lighting shall be provided throughout nighttime hours when the parking area is in operation. All lighting shall conform to the requirements or section 50-162.

(3) Adequate ingress and egress to the parking lot shall be provided and shall be designed in accordance with applicable local, county or state guidelines.

(4) The planning commission may require the joining of parking lots in order to reduce the number of curb cuts onto a public street and to facilitate movement between sites. The planning commission may also require a joint access and/or cross access easement to be filed guaranteeing the rights of mutual access.

(5) All parking spaces shall be clearly striped with all appropriate lines, symbols and markings.

(6) Except for parallel parking, when the front of a parking space abuts a raised (curbed) private sidewalk that is not less than seven feet in width or a adequately sized landscaped area, two feet may be credited toward the total required parking space length.

(7) Except for single-family and two-family uses, all parking spaces shall have access from clearly defined maneuvering lanes not less than 12 feet wide for a one-way lane and 22 feet wide for a two-way lane.

(8) The required number, size, spacing and layout of handicapped parking spaces shall be determined by state rules and regulations.

(9) Parking spaces, except for parallel spaces, shall be a minimum of nine feet in width and 20 feet in length. Parallel parking spaces shall be a minimum of 23 feet in length.

(10) Backing directly into a public street right-of-way shall be prohibited. Backing directly into an alley right-of-way is permitted, provided the alley is hard-surfaced, in good repair and the width of the alley right-of-way is adequate to meet vehicle maneuvering.

(11) Bumper stops, curbing, or wheel blocks, at least six inches in height, shall be provided to prevent any vehicle from damaging or encroaching upon any required wall, fence, buffer strips, parking lot landscape islands/areas, or upon any building adjacent to the parking lot. The use of commercial truck bumper blocks (i.e., blocks that exceed six inches in height) and freeway-type guardrails shall be prohibited.

(12) All required parking spaces, drives and aisles shall be hard-surfaced with concrete or asphalt, except for such seasonal and transient uses as public or private parks, carnivals, and like uses.

(13) Except for single-family residential uses, all new or reconstructed hard-surfaced parking areas shall be constructed with concrete curbs and gutters, at least six inches in height. If an existing

parking area is being expanded and the existing parking area does not include curb and gutter, the planning commission may vary or waive the requirement.

(14) All interior and abutting streets shall have rights-of-way of a sufficient width to accommodate the vehicular traffic generated by the uses permitted in the district or adequate provision shall be made at the time of the approval of the parking plan for such sufficient width of rights-of-way.

(15) Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area to prevent drainage onto adjacent property or toward buildings. Parking lot drainage shall be reviewed based on acceptable and best management engineering practices by the city engineer.

(16) Maneuvering lanes serving angle parking shall permit one-way traffic movements only. Lanes serving right angle parking shall permit two-way movement. The mixing of one-way and two-way movements within a lot shall be permitted only in exceptional instances.

(17) Dead-end off-street parking aisles are discouraged. Dead end aisles shall be no more than eight spaces deep on any side and may be used only when there is no reasonable alternative. If more than eight spaces deep on any side, the parking layout shall provide an adequate means for vehicles to turn around.

(18) Upon review of a site plan, the planning commission may permit reduced parking space dimensions for off-street parking lots that are not used by the general public and in a controlled environment, including but not limited to vehicles in storage awaiting repair and subsequent pick-up by their owners, provided the following conditions are met:

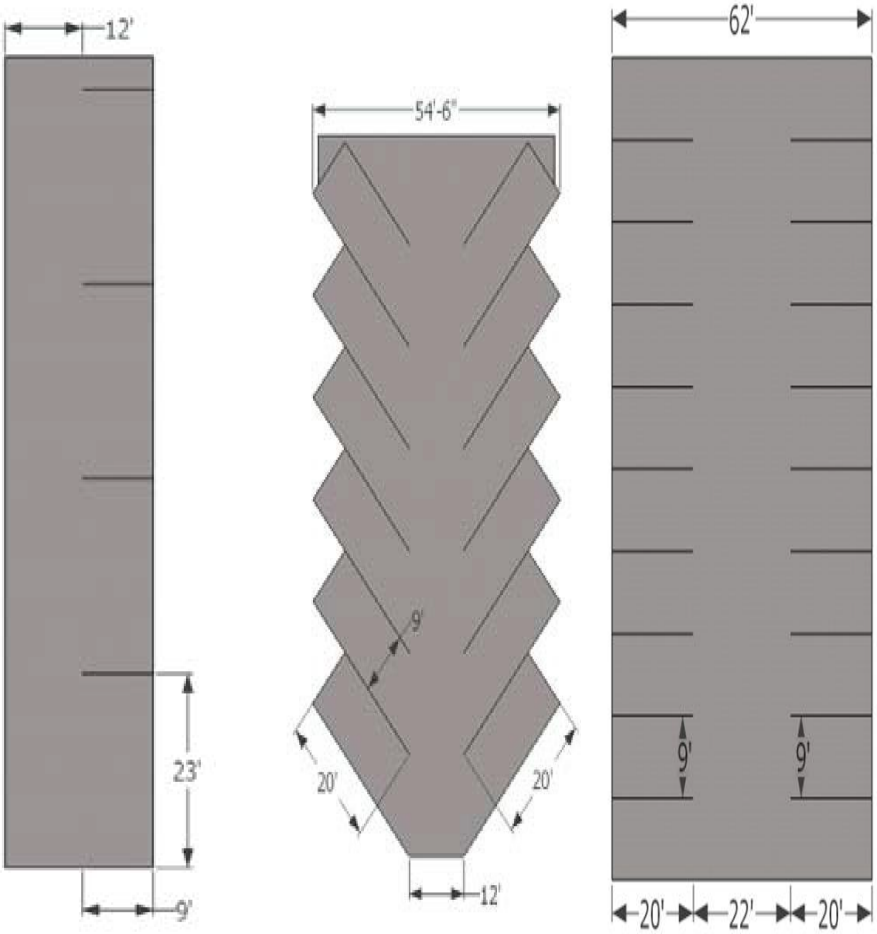
a. The subject vehicles shall not be used by the general public and shall be located off-street;

b. Traffic and activity of the subject vehicles shall not result in the daily turnover of the site, including but not limited to valet parking lots; be of low-frequency;

c. Requests for parking space dimensional reductions shall be the minimum deviation possible from the ordinance; in no instance shall any parking space be less than eight feet by 18 feet;

d. The parking area where such vehicles are located shall be demarcated by an enclosure, landscaping, or similar barrier; and

e. Compliance with all other ordinance standards shall be met.



(Ord. No. 1080, 4-16-2013; Ord. No. 1120, §§ 1, 2, 5-19-2015; Ord. No. 1182, § 1, 3-17-2020)

Sec. 50-222. - Off-street loading and unloading.

On the same premises with every building involving the receipt or distribution of vehicles, materials or merchandise, or in an improved public alley that directly abuts the property, there shall be provided and maintained adequate space for loading and unloading in order to avoid undue interference with the public use of dedicated streets and parking areas. Such space shall be provided as follows:

(1) All spaces shall be at least ten feet by 50 feet, with a clearance of at least 14 feet in height for uses in the B-1 Community Business District, B-2 Central Business District, B-3 General Business District and I-1 Light Industrial District. The planning commission may allow for a reduced loading space size and configuration based upon the type of use or trucks anticipated utilizing the site.

(2) Loading dock approaches shall be asphalt or cement so as to provide a permanent durable and dustless surface. Dedicated loading spaces may be enclosed within a building.

(3) Access to a loading space shall be arranged so as to provide sufficient off-street maneuvering space as well as adequate ingress to and from a street or service drive that will not require the backing of a truck directly onto or off of a public street right-of-way.

(4) Unless otherwise indicated, loading space is permitted in a rear yard only. When it can be shown that a different location is necessitated by site conditions, loading spaces may be permitted in an interior side yard.

(5) Loading spaces shall be distinct from, and shall not interfere with, parking aisles, maneuvering lanes, or parking spaces.

(6) Loading and unloading spaces shall be effectively screened from view from any public street and from any office or residential zoning district in a manner acceptable to the planning commission; this may include landscaping, screen wall, fencing, etc.

(7) In the B-1, B-2, B-3, I-1 and I-2 districts, off-street loading and unloading shall be provided according to the following provisions:

a. For uses with a gross floor area of less than 20,000 square feet, one loading space shall be provided.

b. For uses with a gross floor area from 20,000 to 100,000 square feet, one loading space shall be provided plus one space for each additional 50,000 square feet.

c. For uses with a gross floor area from 100,000 to 500,000 square feet, three loading spaces shall be provided plus one space for each 50,000 square feet in excess of 100,001 square feet.

d. For automobile service stations, required loading space may be located in any yard.

e. The planning commission may reduce or otherwise eliminate the requirement for a loading space upon a finding that the space cannot physically be located on the site or that the particular use does not require such a space.

(Ord. No. 1080, 4-16-2013)

Secs. 50-223—50-229. - Reserved.

ARTICLE XX. - SCREENING AND LANDSCAPING

Sec. 50-230. - Intent.

Walls, earth berms, planting screens or combinations, are intended to provide forms of buffering which will provide a more compatible, safer and visually attractive physical separation of various land use types. Where necessary, these devices are intended to create a definitive site improvement, thereby minimizing the impact that one type of land use may have on another. General landscaping enhances the appearance, character and value of property while having a positive impact on the community. Landscaping breaks up masses of paved and building area and provides a cooling effect, encourages the preservation of existing vegetation where possible, and can provide a physical separation between pedestrian and vehicle traffic.

(Ord. No. 1080, 4-16-2013)

Sec. 50-231. - Screening devices required.

A screening device or combinations of screening devices, as permitted and regulated in this section, are required for those zoning districts and uses listed in this section and whenever there is a change in ownership or tenancy, There shall be provided and maintained a screening device or combination of screening devices on those sides abutting or adjacent to a residential zoning district and between any off-street parking spaces and a public right-of-way.

District or Use	Required

P-1 Vehicle Parking District	6'-0" high wall along side and rear property lines next to a nonresidential use or zoning district, and a wall meeting the requirements of section 50-234 along the front yard setback line
Nonresidential uses permitted in residential districts not otherwise specified.	6'-0" high wall
RM-1 Multiple Family Residential (low-rise) and RM-2 Multiple Family Residential (mid-rise) Districts	6'-0" high wall
OS-1 Office Service District	6'-0" high wall
B-1 Community Business, B-2 Central Business, and B-3 General Business	6'-0" high wall
I-1 Light Industrial District	6'-0" high wall
PD Planned Development District	As required by city council upon recommendation of the planning commission

Existing walls which exceed the above noted heights may be maintained and shall not be considered to be nonconforming in nature.

(Ord. No. 1080, 4-16-2013)

Sec. 50-232. - Screen walls.

Prior to the construction of any wall as required in this section, appropriate plans and specifications shall be provided for review and approval by the planning commission.

(1) Screen walls shall consist of face brick, stone, colorfast poured in place concrete with brick etched exterior surfaces, or colorfast architectural masonry panels with matching concrete posts. The planning commission may approve other alternative materials upon a finding that the materials are of similar quality, durability and appearance.

(2) Screen walls shall be located on the lot line. Exceptions may be made by the planning commission where underground utilities interfere. This chapter requires conformity with front yard setback lines in abutting residential districts or where the planning commission determines an alternative location is appropriate.

(3) Required walls along the rear of a nonresidential zoning district that is separated from a residential zoning district by a public alley right-of-way shall be located on the residential side of the alley right-of-way along the inside edge of the public alley right-of-way or utility easement next to the residential property.

(4) Except where a greater minimum setback is called for in the P-1 Vehicle Parking District, or by the restricted clear corner vision requirements of section 50-164. No screen wall shall extend closer than ten feet, to any property line intersected by any public right-of-way, driveway or any property line which lies adjacent to public right-of-way or driveway.

(5) Screen walls shall have no openings for vehicular traffic or for other purposes, except as otherwise provided in this chapter.

(6) All screen walls shall be maintained in a safe, upright and attractive condition.

(7) Once a screen wall is constructed on a common line, all subsequently constructed screen walls shall be in compliance with the requirements of this chapter and shall consist of like materials and construction with the previously constructed screen wall unless the planning commission determines the existing wall type is undesirable to maintain and continue.

(8) If it is determined that the residential district is a future nonresidential area, the planning commission may temporarily waive the screen wall requirements of this section for an initial period not to exceed 12 months. The granting of subsequent waivers may be permitted, provided that the planning commission shall again make the same determination for each subsequent waiver request.

(9) A detail cross section drawing of the screen wall structure shall be submitted with any development plan proposing construction of a screen wall structure and shall identify the exterior building wall material to be used on the wall and the color of the material. Colors shall be of a colorfast nature and shall be limited to earth tone colors, or the color of the exterior building walls of the principal building on the site.

(10) The planning commission may approve alterative screening mechanisms such as a fence, berm, landscaping, etc., in lieu of the construction of a wall. The alternative screening mechanism shall have the same screening effect as the construction of a wall.

(11) The planning commission shall have the authority to review and approve minor amendments to the requirements for a masonry and/or screening wall required by this section. The planning commission, in determining whether to allow a minor amendment, shall follow the conditions outlined below:

a. Minor amendments may include:

1. The overall height (below that normally required) or the height in certain areas (below that normally required) where clear vision may be obstructed or a taller height may not be desirable due to lot or building configuration, no structure or use to screen, etc.

2. The location and extent of the wall along a property line or right-of-way may justify a minor amendment.

b. The planning commission does not have the authority to waive the requirement for a wall in its entirety. The zoning board of appeals has the authority to vary the requirement for a screen wall in its entirety.

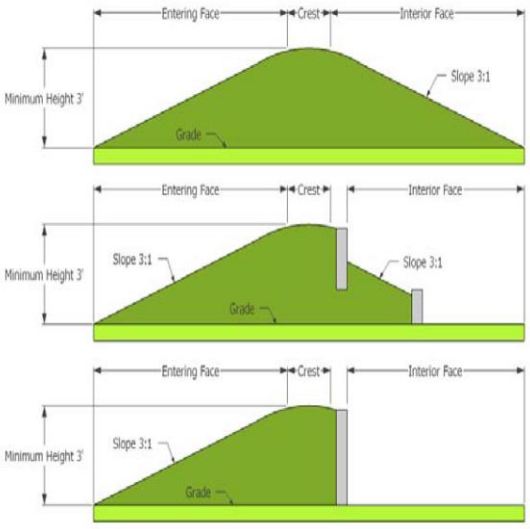
(12) The building department shall give 15 days' notice prior to the planning commission meeting date of any proposed or required wall or similar screening mechanism to be constructed along a residentially used or zoned property. Notice shall be provided to the legal owner of the property.

(Ord. No. 1080, 4-16-2013)

Sec. 50-233. - Earth berms.

An earth berm screen may be used as an alternative to an architectural masonry screen wall, provided the earth berm is found by the planning commission to be at least an equally effective alternative to a masonry wall at the location it is proposed.

Berms may be constructed consistent with the following guidelines:



(Ord. No. 1080, 4-16-2013)

Sec. 50-234. - Screening between parking lots and public rights-of-way.

(a) A minimum five-foot wide landscape greenbelt shall be provided between any parking lot and any road or street right-of-way. The planning commission may waive or modify this requirement based on existing site conditions or existing limited parking conditions.

(b) Except as otherwise specified within the restricted clear corner vision triangle requirements of section 50-164 and in this section, the height of any permitted screening device or combination of screening devices, shall be in accordance with the following guidelines.

Screening Device	Height
Masonry wall	3.0 feet
Earth berm	3.0 feet (requires additional width of greenbelt to accomplish)
Planting materials	Shall consist of low evergreen plants or dense shrubs which shall not exceed a height of three feet.

(c) Where the width of a greenbelt may be increased to improve its continuity with a longer greenbelt, the height of the screening device may exceed the height limitations of subsection (b) of this section,

except nothing in this section shall prohibit the planting of deciduous trees within the panel in addition to, but not in place of, any required screening device.

(Ord. No. 1080, 4-16-2013)

Sec. 50-235. - Aesthetically designed landscaping features.

(a) At least ten percent of the net usable area of a development site (less area occupied by buildings) shall be devoted to landscaping. Any peripheral land area occupied by a required earth berm or landscape screening device used to satisfy the applicable site screening requirements of this article may be counted as part of the site area landscaping obligation.

(b) In addition to, or in conjunction with the minimum percent of landscaped site area required in section 50-235(a), off-street parking lots shall provide one tree for every five parking spaces.

(c) All parking lot and street frontage trees required by the standards of this section shall be large deciduous trees.

(d) Parking lot trees generated by the standards of this section shall be distributed as evenly as physically possible throughout the parking area, but emphasis shall be given to placing the trees at the ends of parking rows to enhance traffic circulation within the parking lot.

(e) Parking lot trees shall be located in raised curb planting beds containing at least 150 square feet of area, and no tree shall be planted in such a bed closer than four feet from any raised curb line.

(f) All parking lot landscaping shall consist of live plant material and mulch. Mulch shall not include lava, pebbles, or any kind of stones or rocks.

(g) Street trees shall be required to be planted at a rate of one tree for each 30 feet of street frontage, except that, along arterial or major collector streets, as defined by the city's master plan, the spacing shall be at a rate of one tree for each 40 feet of street frontage.

(h) All other landscaping materials placed on property for aesthetic purposes and which are not required to satisfy any planting requirements of this article, shall be placed on the property in a manner that will enhance the appearance of the site and not interfere with the safe and efficient flow of pedestrian and motor vehicle traffic.

(i) On-site landscape features which may be counted towards meeting the minimum site landscaping area requirement set forth in subsection (a) of this section, may include architectural sidewalk treatments consisting of decorative brick pavers, etc., and which are used for more than merely gaining access to and from the site/building.

(j) Where appropriate and feasible, landscape sprinklers shall be provided in all areas where live plant material is planned.

(k) The planning commission may waive or modify these requirements based on existing site conditions or existing limited site and parking conditions. The planning commission may allow for a payment in lieu of tree planting, in an amount to be established by resolution of the city council, from time to time, to be used for tree planting elsewhere in the city. In doing so, it shall seek to achieve rough proportionality between the number or trees that would be required to be planted under this section and those that are actually being planted per the site plan.

(Ord. No. 1080, 4-16-2013; Ord. No. 1147, 12-5-2017)

Sec. 50-236. - Trash receptacles and climate control systems screening.

Any new or altered land use which has a need for a trash receptacle and exposed climate control equipment requires submittal of a site plan for review by the planning commission as set forth and regulated in this chapter and shall comply with the following applicable requirements:

(1) *Screening trash receptacles.*

a. All refuse to be disposed of shall consist only of nonhazardous waste materials generated by the use or uses for which the trash receptacle is intended.

b. All refuse shall be placed in an approved receptacle and the receptacle shall be kept within an approved screening structure.

c. The screen wall structure shall be six feet in height. Gates shall consist of wood or composite materials. Permitted materials where possible, shall consist of the same material and the same color as the front facade of the principal use of the site, except in those instances were the trash receptacle screen wall is to be made an integral part of a required architectural masonry screen wall structure.

d. In no instance shall any refuse be visible above the screen wall structure and no refuse shall be stored between the walls of a trash receptacle and the walls of its screening structure.

e. The floor of a trash receptacle screen wall structure shall consist of a reinforced concrete material built to applicable city codes and shall extend outward from the front gate of the screen wall structure a distance of ten feet across the full width of the structure.

f. Bollards and/or other protective measures shall be installed as needed to adequately protect the screen wall structure.

g. Trash receptacles shall be restricted to locations within the rear yard, except in the case of a corner or double frontage lot, the receptacle may, with planning commission approval, be located within an interior side yard. If it becomes necessary to place a trash receptacle in an interior side yard, it shall be placed as far from any residential dwelling as physically possible.

h. Trash receptacles shall be placed so that they can be efficiently approached and serviced.

i. Trash receptacles shall be maintained in a clean and orderly manner as well as the screen wall structure and its interior area.

(2) *Screening climate control equipment.*

a. When climate control equipment is placed on a flat roof of a building, it shall be located to the interior of the roof and out of sight from ground eye level. When climate control equipment must be placed at or near the edge of a flat roof building, it shall be screened from view with architectural screening material, but not including fencing, or by the upward continuation of the exterior building wall material along the wall edge the equipment will be next to or near, with the remaining sides screened with architectural material.

b. When placed on top of a building with a pitched roof, all climate control equipment so located shall be effectively screened from view with architectural screening material, but not including fencing.

c. When placed on the ground, climate control equipment shall be placed in the rear yard area next to the building it is designed to serve. In the instance of a corner or double frontage lot, climate control equipment may, with planning commission approval, be located in an interior side yard next to the building it is designed to serve.

d. When placed on the ground all climate control equipment shall be effectively screened, including all electrical control panels and boxes, with the same masonry materials used on the exterior face of the building walls, or by screen planting materials. When landscape planting materials are used, they shall be of a type that will create an immediate, year-round screening device. All such landscaping materials shall be maintained in a living growing condition, neat and orderly in appearance.

(Ord. No. 1080, 4-16-2013)

Sec. 50-237. - Seasonal planting guidelines.

Whenever landscaping is required, either as part of a planting screen or as part of any general aesthetic site landscaping, all landscaping shall be planted in accordance with the following guidelines:

(1) If a use is ready for occupancy between April 1 and September 30, a certificate of occupancy may be issued by the city. All landscape planting materials shall be planted within 30 days from the date of issuance of an occupancy permit. If a use is ready for occupancy between October 1 and March 31, a temporary certificate of occupancy may be issued by the city. If necessary, the city may allow all landscape planting materials be planted within 60 days after March 31. Failure to have all planting materials planted within these time frames shall be grounds for revoking or terminating the occupancy permit. If the occupancy permit has been revoked or terminated, no additional certificate of occupancy, either temporary or final, shall be issued until all required landscape planting materials have been planted.

(2) A period of establishment shall start upon completion of all planting and shall continue through the succeeding summer growing season of May through September.

(3) The city may require the submittal of cost estimates for the purchase and installation of all landscape planting materials as part of any financial surety the city may require guaranteeing installation of all approved planting materials.

(Ord. No. 1080, 4-16-2013)

Sec. 50-238. - Required conditions.

The following requirements where applicable shall apply to all landscaping whether part of any required planting screen or part of any aesthetic landscaping treatments:

(1) All planting materials shall consist of living plant material that meets or exceeds the American Association of Nurserymen Standards.

(2) All planting materials shall be nursery-grown, state department of agriculture approved and shall be commonly available in the hardiness zone five classification.

(3) Landscape planting materials placed on a site shall consist of materials that are indigenous to southeast Michigan.

(4) All landscape planting materials shall be balled in burlap or shall be container grown.

(5) When planting materials are part of a permitted planting screen or buffer between non-like uses the following applicable standards shall apply:

a. Evergreen trees.

1. Shall not be less than five feet high at the time of planting.

2. Planting rate:

Screen Type	Spacing (maximum spacing)
Single row of evergreens	Ten feet on center
Double row of evergreens	15 feet on center
Natural setting	Equivalent to ten feet on center

3. Planting areas shall be sufficient to accommodate the trees at maturity.

4. If spaced farther apart, additional screen planting materials acceptable to the planning commission shall be used as in fill to achieve the required screening effect intended for a planting screen.

b. Narrow evergreen trees.

1. Shall not be less than five feet high at the time of planting.

2. Planting rate:

Screen Type	Spacing (maximum spacing)
Single row of evergreens	Five feet on center
Double row of evergreens	Ten feet on center
Natural setting	Equivalent to ten feet on center

3. If spaced farther apart, additional screen planting materials acceptable to the planning commission shall be used as in fill to achieve the required screening effect intended for a planting screen.

c. Large shrubs.

1. Shall not be less than 30 inches high at the time of planting.

2. Planting rate:

Screen Type	Spacing (maximum spacing)
Single row of shrubs	Four feet on center
Natural setting	Equivalent to six feet on center

3. If spaced farther apart, additional screen planting materials acceptable to the planning commission, shall be used as in fill to achieve the required screening effect intended for a planting screen.

d. Small shrubs.

1. Shall not have a spread of less than 18 inches at the time of planting.

2. Shall be planted not more than four feet on centers.

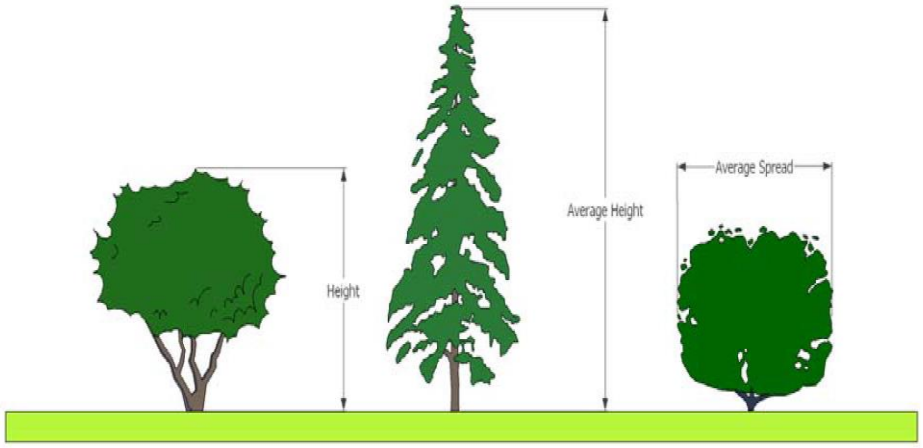
e. Large deciduous trees.

1. Shall not be less than two and one-half inches in caliper.

2. Shall be planted not more than 30 feet on centers.

f. Small deciduous trees.

1. Shall not be less than two inches in trunk caliper.
2. Shall be spaced not more than 15 feet on centers.



(6) Suggested planting materials should include, but not necessarily be limited to, the following:

a. Evergreen trees: Abies (fir), Picea (spruce), Pinus (pine), Pseudotsuga (Douglas fir), Tsuga (hemlock). Exceptions: dwarf, globe, pendulous species/cultivars;

b. Narrow evergreen trees: Juniperus (juniper), Thuja (arborvitae). Exceptions: dwarf, globe, spreading species/cultivars;

c. Large deciduous trees: Acer (maple, except Japanese), Betula (birch), Frazinus (ash), Gleditsia (honey locust, thornless cultivars only), Gingko (ginkgo), Platanus (sycamore, linden), Quercus (pak);

d. Small deciduous trees: Amelanchier (juneberry), Cercis (redbud), Cornus (dogwood, tree form), Crataegus (hawthorn), Malus (crabapple, disease resistant cultivars), Prunus (flowering plum, tree form), Pyrus (flowering pear), Sorbus (mountain ash), Syringa (lilac, tree form);

e. Large deciduous and broadleaf evergreen shrubs, defined as plants maturing at five feet and up: Cornus (dogwood, shrub form), Cotoneaster (cotoneaster), Forsythia (forsythia), Lonicera (honeysuckle), Philadelphus (mock orange), Prunus (flowering plum), Rhamnus (buckthorn), Rhus (sumac), Spirea (spirea), Syringa (lilac), Viburnum (viburnum), Weigela (weigela);

f. Large evergreen shrubs: Juniperus (hertz, pfitzer, savin juniper), Taxus Cuspidate (pyramidical Japanese yew);

g. Small deciduous and broadleaf evergreen shrubs defined as plants maturing under five feet: Berberis (barberry), Buxus (boxwood), Chaenomeies (quince), Cotoneaster (cotoneaster), Euonymus (euonymus), Forsythia (forsythia), Hydrangea (hydrangea), Low (holly), Ligustrum (privet), Lonicera (honeysuckle), Potentilla (potentilla), Ribes (currant, willow), Spiraea (spiraea), Spirea (syringa), Lilac (viburnum), Weigela (weigela);

h. Small evergreen shrubs: Abies (fir), Chamaecyparis (false cypress), Juniperus (low spreading junipers), Picea (spruce), Pinus (pine), Taxus (globe, spreading, upright yew), Thuja (globe, dwarf arborvitae).

(7) Landscape planting materials that are discouraged include the following materials:

a. Box elder;

b. Elm;

c. Willow;

d. Tree of heaven;

e. Poplar;

f. Horse chestnut (nut bearing);

g. Catalpa; and

h. Buckeye.

(8) Planting materials shall be maintained in a healthy, growing condition. All unhealthy and dead material shall be replaced within one year, or the next appropriate planting season.

(9) Whenever any planting materials shall approach a street or alley right-of-way or driveway entrance, the restricted clear corner vision requirements of section 50-164 shall be observed.

(10) Planting materials with root systems that are known to cause damage to public utilities, sidewalks and streets shall not be placed closer than 12 feet from the street, utility or sidewalk.

(11) Top pruning or other severe pruning or maintenance practices involving landscape materials, that result in stunted, abnormal, or other unreasonable deviation from the normal healthy growth of trees, shrubs and other landscaping materials, shall be considered as destroying such materials and replacement shall be required.

(12) Existing trees may be used to fulfill the landscape planting requirements, so long as they meet the minimum applicable size and spacing requirements set forth in this article and are in a healthy, living condition.

(13) No approved landscaped area shall be removed, diminished or destroyed, without first receiving approval of a revised landscape planting plan.

(14) The location of any architectural masonry screen wall, shall be shown on the site plan and a detailed cross section drawing shall be provided. The detail cross section shall be drawn to scale and shall show the height of the wall, the type of exterior building wall material that the wall will consist of and its color. Like information shall be provided on a site plan for any trash receptacle or climate control screen wall structure. When a required screening device consists of a landscaped earth berm or landscape planting screen, the location of the screening device shall be shown on a site plan along with a detail cross section of the earth berm or planting screen. They shall be drawn to scale and shall depict the location of all planting materials as well as identifying them by name, and giving their size at the time of planting and their expected height at maturity. When a landscaped earth berm is involved, topographic contours of the earth berm shall be provided at one foot intervals.

(15) All landscaped areas shall be provided with an in ground automated irrigation system, or when acceptable to the planning commission, another form.

(16) In addition to providing the necessary information for a landscaped earth berm screen or a planting screen, an accurate cost estimate for creating the berm and all associated landscaping and irrigation materials, shall be submitted for review and approval by the building official. Submittal of a financial surety in an amount at least equal to the estimated cost of the landscaping improvements plus ten percent may be required of the applicant by the building official prior to issuance of a building permit if the landscaping improvements have not been put in place.

(Ord. No. 1080, 4-16-2013)

Sec. 50-239. - Reserved.

ARTICLE XXI. - NONCONFORMING USES

Sec. 50-240. - Intent.

It is the intent of this chapter to permit legal nonconforming lots, structures or uses to continue until they are removed. However, it is also the intent of this chapter to provide for their gradual elimination. It is recognized that there exist within the districts established by this chapter and subsequent amendments thereto, lots, structures and uses of land and structures which were lawful before this chapter was passed or amended which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconforming uses shall not be enlarged upon, expanded or extended, nor used as ground for adding other structures or uses prohibited elsewhere in the same district. Moreover, a nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this chapter by the attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would not be permitted in the district involved. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of the adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. Actual construction includes placing construction materials in a permanent position and fastening them in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

(Ord. No. 1080, 4-16-2013)

Sec. 50-241. - Nonconforming lots.

Except as may be otherwise permitted if any lot in a subdivision plat of record on the date of enactment of this chapter does not meet the minimum area and bulk requirements as stated herein, such lot may receive a building permit under hardship conditions so long as all other applicable requirements of this chapter are met.

However, if contiguous vacant lots are commonly owned, no hardship condition shall exist based on this section and a proper combination of the lots, or portions thereof, must be made in order to create a building site or sites which meet the minimum area and bulk requirements for the district. If any lot or lots, or any portion or portions thereof, are included within the boundaries of a building site for the purpose of securing issuance of a building permit under this section, no portion shall at any time be taken into consideration in the calculations of minimum area and bulk requirements for any other building site.

(Ord. No. 1080, 4-16-2013)

Sec. 50-242. - Nonconforming uses of land.

Where, at the effective date of adoption or amendment of this chapter, a lawful use of land exists that is made no longer permissible such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming use shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcels occupied by such use.

(3) If a nonconforming use of land ceases for any reason for a period of 12 consecutive months or for 18 months during any three-year period, any subsequent use of such land shall conform to the regulations specified for the district in which the land is located.

(Ord. No. 1080, 4-16-2013)

Sec. 50-243. - Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following conditions:

(1) Except as otherwise permitted in the section, no such structure may be enlarged or altered in a way that will increase its nonconformity, but may be enlarged or altered in a way that does not increase its nonconformity.

(2) Except as otherwise permitted in this section, should a nonconforming structure be destroyed by any means to an extent of more than 50 percent of its true cash value, exclusive of its foundation, the nonconforming portion of the structure shall be removed and the structure may be reconstructed only in a way that conforms with the applicable requirements of this chapter.

(3) In the instance where a nonconforming element of an otherwise conforming structure, such as but not necessarily limited to, a front or rear porch, alcove, raised deck, or structure erected to accept the physically handicapped, is destroyed, or is rebuilt, remodeled or replaced, it may be replaced by a like or different structure, that is serving the same purpose, so long as the horizontal shape and size of the replacement will not exceed the horizontal size and shape of the structure it is replacing.

(4) Should a nonconforming structure, or any nonconforming element of a structure be moved for any reason, it shall thereafter conform to the applicable requirements of this chapter.

(Ord. No. 1080, 4-16-2013)

Sec. 50-244. - Nonconforming uses of structures and land.

If a lawful use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment of this chapter the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure or land devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any nonconforming use of a structure and/or land may be changed to another nonconforming use of the same or more restricted classification, provided that the zoning board of appeals, either by general rule or by making findings in the specific case, finds that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board may require conditions and safeguards in accordance with the purpose and intent of this chapter. Where a nonconforming use of a structure and/or land is hereafter changed to a more conforming use, it shall not be changed back to a less conforming use.

(3) Any structure and/or land, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which it is located, and the nonconforming use may not be resumed.

(4) When a nonconforming use of a structure or structure and land in combination is discontinued or ceases to exist for 12 consecutive months or for 18 months during any three-year period, the structure or structure and land in combination shall not thereafter be used, except in conformance with the regulation of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision, unless such a use is not utilized during a normal seasonal use period.

(5) When a nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(Ord. No. 1080, 4-16-2013)

Sec. 50-245. - Repairs and maintenance.

(a) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of the assessed value of the building.

(b) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(Ord. No. 1080, 4-16-2013)

Sec. 50-246. - Change of tenancy or ownership.

There may be a change of tenancy, ownership or management of any existing nonconforming use of land, of structures or of structures and land in combination.

(Ord. No. 1080, 4-16-2013)

Sec. 50-247. - Purchase or condemnation.

The city may acquire, by purchase, condemnation or otherwise, private property or an interest in private property, for the removal of nonconforming uses. The cost and expense, or a portion thereof, of acquiring the private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of a special assessment district for public improvements in the city. The elimination of the nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The city council may institute and prosecute proceedings for condemnation of nonconforming uses and structures under the power of eminent domain in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.)

(Ord. No. 1080, 4-16-2013)

Secs. 50-248—50-249. - Reserved.

ARTICLE XXII. - GENERAL EXCEPTIONS

Sec. 50-250. - Canopies and awnings.

Canopies and awnings which extend into a public right-of-way or required yard, may be considered for approval subject to the following conditions:

(1) Canopies and awnings extending into a public right-of-way are subject to the following requirements:

a. No canopy or awning shall extend closer than 24 inches to any vehicular parking space or moving vehicle lane.

b. No canopy or awning shall conflict with necessary sight distances for proper vehicular and pedestrian movements.

c. No canopy or awning shall conflict with any existing or proposed landscape feature, traffic control device, adjacent properties and signs or pedestrian movement.

d. The height, location, materials, construction and signage shall specifically be subject to review and approval by the building official.

e. The canopy or awning shall be maintained in such a manner as to continue its original appearance and provide proper safety to the persons and property it may affect.

f. The city and its officials, employees and representatives shall be guaranteed full protection against any liability or damages resulting from the construction and existence of any such structure. The nature of such protection and its continuous effect shall be subject to city council determination.

g. The appropriate road agency shall have granted their approval for the construction of the canopy or awning.

(2) Canopies and awnings extending into a required yard are subject to the following requirements:

a. Such approval shall only be granted by the zoning board of appeals.

b. No canopy or awning shall conflict with necessary sight distances for proper vehicular and pedestrian movements.

c. No canopy or awning shall conflict with any existing or potential development on adjacent property.

d. The height, location, materials, construction and signage shall specifically be subject to review and approval.

e. The canopy or awning shall be maintained in such a manner as to continue its original condition and provide proper safety to the persons and property it may affect.

(Ord. No. 1080, 4-16-2013)

Sec. 50-251. - Essential services.

Essential services serving the city shall be permitted as authorized and regulated by law and other applicable ordinances of the city. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city shall receive the review and approval of the planning commission after the appropriate public hearing is held in accordance with section 50-37. The planning commission shall consider the effects and impacts on those properties and uses that abut the proposed easements, rights-of-way, overhead lines, poles and towers as well as the orderly appearance of the city.

(Ord. No. 1080, 4-16-2013)

Sec. 50-252. - Voting places.

The provisions of this chapter shall not interfere with the temporary use of any property as a voting place in connection with a public election.

(Ord. No. 1080, 4-16-2013)

Sec. 50-253. - Height limitation; exceptions.

(a) The height limitations of this chapter shall not apply to farm buildings, chimneys, church spires, water towers, flag poles and public monuments, provided that the city council may specify a height limit for any such structure when such structure requires authorization as a conditional use or a special use.

(b) Antennas, excluding satellite dish antennas, windmills and wind generators in residential districts may be constructed to a height of 35 feet, provided the structure is located so that the base of the structure is no closer to any property line than the height of the structure. No such structure shall be placed in a front yard.

(Ord. No. 1080, 4-16-2013)

Sec. 50-254. - Lots adjoining alleys.

In calculating the area of a lot that adjoins an alley, for the purpose of applying lot area and setback requirements of this chapter, one-half of the width of such alley abutting the lot shall be considered to be a part of such lot.

(Ord. No. 1080, 4-16-2013)

Sec. 50-255. - Porches.

An open, unenclosed and uncovered porch or paved terrace may project into a required front yard or required rear yard for a distance not exceeding ten feet. Fixed or extending canopies shall not be permitted to extend into the required yard beyond the requirements of section 50-250.

(Ord. No. 1080, 4-16-2013)

Sec. 50-256. - Projections into yards.

Architectural features such as roof overhangs and bay windows, which do not extend to the ground and do not including vertical projections, may extend or project into a required yard not more than two inches for each one foot of width of such yard.

(Ord. No. 1080, 4-16-2013)

Sec. 50-257. - Access drives.

Access drives meeting the requirements of the city of other applicable agency may be placed in the required front or side yards so as to provide access to designated parking, service or storage areas. These drives shall not be considered to be structural violations in front and side yards. Further, any walk or pedestrian entranceway which is constructed at grade, shall, for the purpose of this chapter, not be considered to be a structure and shall be permitted in any required yard.

(Ord. No. 1080, 4-16-2013)

CODE COMPARATIVE TABLE 1973 CODE

This table gives the location within this Code of those sections of the 1973 Code, as supplemented, which are included herein. Sections of the 1973 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of sections of the 1989 Code and of ordinances included herein, see the tables immediately following this table.

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CODE COMPARATIVE TABLE 1989 CODE

This table gives the location within this Code of those sections of the 1989 Code, as supplemented, which are included herein. Sections of the 1989 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances included herein, see the table immediately following this table.

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CODE COMPARATIVE TABLE ORDINANCES

This table gives the location within this Code of those ordinances adopted since the 1989 Code which are included herein. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

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