# MEMPHIS, MICHIGAN

# CODE OF ORDINANCES

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# TITLE I: GENERAL PROVISIONS

Chapter



## CHAPTER 10: GENERAL PROVISIONS

Section



### § 10.01 HOW CODE DESIGNATED AND CITED.

This code shall constitute and be designated as the “The City of Memphis City Code”.

### § 10.02 DEFINITIONS.

(A) Terms used in this code, unless otherwise specifically defined, have the meanings prescribed by the statutes of the state for the same terms.

(B) For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***CIVIL INFRACTION.*** An act or omission that is prohibited by this code or any ordinance of the city, but which is not a crime under this code or any other ordinance of the city, and for which civil sanctions, including without limitation, fines, damages, expenses and costs may be ordered, as authorized by Ch. 87 of Public Act 236 of 1961, being M.C.L.A. §§

600.8701 through 600.8735, as amended. A municipal ***CIVIL INFRACTION*** is not a lesser included offense of any criminal offense in this code.

***CODE.*** The City of Memphis Code as designated in §10.01.

***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 be Sunday or a legal holiday it shall be excluded; and when the time is expressed in hours, the whole of Sunday or a legal holiday, from midnight to midnight, shall be excluded.

***COUNTIES.*** County of Macomb, Michigan and County of St. Clair, Michigan.

***JUVENILE.*** Any person under 17 years of age.

***MINOR.*** A person under 21 years of age.

***OFFICER, DEPARTMENT, BOARD AND THE LIKE.*** Whenever any officer, department, board or other public agency is referred to by title only, the reference shall be construed as if followed by the words “of the City of Memphis, Michigan”. Whenever, by the provisions of this code, any officer of the city is assigned any duty or empowered to perform any act or duty, reference to the officer shall mean and include the officer or his or her deputy or authorized subordinate.

***ORDINANCES.*** The ordinances of Memphis and all amendments thereto.

***PERSON.*** Any natural individual, firm, trust, partnership, association or corporation. Whenever the word ***PERSON*** is used in any section of this code prescribing a penalty or fine, as applied to partnerships or associations, the word includes the partners or members thereof and, as applied to corporations, the word includes officers, agents or employees thereof who are responsible for any violations of the section. The singular includes the plural. The masculine gender includes the feminine and neuter genders.

***STATE.*** The term ***THE STATE*** or ***THIS STATE*** shall be construed to mean the State of Michigan.

## § 10.03 SECTION CATCHLINES AND OTHER HEADINGS.

The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of the sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines, are amended or reenacted. No provision of this code shall be held invalid by reason of deficiency in any catchline or in any heading or title to any chapter, subchapter or division.

## § 10.04 CERTAIN ORDINANCES NOT AFFECTED BY CODE.

Nothing in this code or the ordinance adopting this code shall affect any ordinance not in conflict with, or inconsistent with, this code.

(A) Promising or guaranteeing the payment of money for the city, authorizing the issuance of any bonds of the city, any evidence of the city’s indebtedness, any contract or obligations assumed by the city;

(B) Containing any administrative provisions of the City Council;

(C) Granting any right or franchise;

(D) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating and the like, any street or public way in the city;

(E) Making any appropriation;

(F) Levying or imposing taxes;

(G) Establishing or prescribing grades in the city;

(H) Providing for local improvements and assessing taxes therefor;

(I) Dedicating or accepting any plat or subdivision in the city;

(J) Extending or contracting the boundaries of the city;

(K) Prescribing the number, classification or compensation of any city officers or employees;

(L) Prescribing specific parking restrictions, no-parking zones, specific speed zones, parking meter zones and specific stop or yield intersections or other traffic ordinances pertaining to specific streets;

(M) Pertaining to re-zoning; and

(N) (1) Any other ordinance, or part thereof, which is not of a general and permanent nature; and all ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this code.

(2) The ordinances are on file in the City Comptroller’s office.

## § 10.05 CONTINUATION OF ORDINANCES.

The provisions of this code, so far as they are the same in substance as those of heretofore existing ordinances, shall be construed as a continuation of these ordinances and not as new enactments.

## § 10.06 PRIOR RIGHTS, OFFENSES AND THE LIKE.

Any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time of adoption of this code, shall not be affected by the adoption, but may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if the adoption had not been effected.

## § 10.07 ORDINANCES REPEALED NOT REENACTED.

(A) No ordinance or part of any ordinance heretofore repealed shall be considered re-ordained or reenacted by virtue of this code, unless specifically reenacted.

(B) The repeal of any curative or validating ordinances shall not impair or affect any cure or validation already effected thereby.

## § 10.08 AMENDMENTS TO CODE.

(A) Amendments to any of the provisions of this code shall be made by amending the provisions by specific reference to the section number of this code in the following language: “That section _____ of the City of Memphis Code, is hereby amended to read as follows:...” The new provisions shall then be set out in full as desired.

(B) If a new section not heretofore existing in the code is to be added, the following language shall be used: “That the City of Memphis Code is hereby amended by adding a section, to be numbered _____, which the section reads as follows:...” The new section shall then be set out in full as desired.

## § 10.09 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, agency or organization authorized to prepare the supplement) may make formal, non-substantive 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 divisions;

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

(3) Assign appropriate numbers to sections and other divisions 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 subchapter”, “this division” and the like, 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 non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into 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.

## § 10.10 APPEARANCE TICKETS.

The following public servants are hereby authorized to issue and serve appearance tickets with respect to ordinances of the city, as provided by Public Act 147 of 1968, being M.C.L.A. §§ 764.9a through 764.9e, as amended, when the public servant has reasonable cause to believe that a person has committed an offense in violation of a city ordinance:

(A) Building Inspector;

(B) Fire Marshal; and

(C) Fire Chief.

## § 10.11 SEPARABILITY OF PROVISIONS.

Each section, paragraph, sentence, clause and provision of this code is separable and if any provision shall be held unconstitutional or invalid for any reason, the decision shall not affect the remainder of this code, or any part thereof, other than that part affected by the decision.

### § 10.12 NOTICE.

(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 this code, shall be served by:

(1) 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) Mailing said 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 said notice in some conspicuous place on the premises for five days.

(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 said officer to remove said notice.

(1979 Code, § 1.11)

### § 10.99 GENERAL PENALTY.

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 or regulation adopted or issued in pursuance thereof, shall be punished by a fine of not more than $500 and costs of prosecution or by imprisonment for not more than 90 days, or by both the fine and imprisonment, unless there is a fine or penalty specifically set forth in the ordinance which provides for a greater penalty, and in that event, the greater penalty shall control. Each act of violation and every day upon which the 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 section of this code, whether or not the penalty is re-enacted in the amendatory ordinance.

(1979 Code, § 1.13)

# TITLE III: ADMINISTRATION

Chapter



## CHAPTER 30: CITY OFFICIALS

Section



### MAYOR

### § 30.01 COMPENSATION OF MAYOR.

The Mayor of the city shall receive the salary of $900 each fiscal year and shall receive, in addition thereto, the sum of $25 for each meeting he or she attends; provided, however, that the compensation so paid shall not exceed the sum of $1,200 in any fiscal year.

(1979 Code, § 1.31) (Ord. 55, passed 11-4-1975)

### § 30.15 COMPENSATION OF COUNCIL MEMBERS.

Each Council member of the city shall receive the salary of $700 each fiscal year and shall receive, in addition thereto, the sum of $25 for each meeting he or she attends; provided, however, that the compensation so paid shall not exceed the sum of $1,000 in any fiscal year.

(1979 Code, § 1.32) (Ord. 55, passed 11-4-1975)

# CHAPTER 31: CITY PLANNING COMMISSION

Section

## GENERAL PROVISIONS

### § 31.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***COMMISSION.*** The City Planning Commission, as established herein, whether or not designated.

***COUNCIL.*** The City Council of Memphis.

***MASTER PLAN.*** The Master Plan, as provided for herein.

***STREETS.*** Streets, avenues, boulevards, roads, lanes, alleys, viaducts and other ways.

(1979 Code, § 5.201) (Ord. 21, passed 6-1-1957)

### § 31.002 ESTABLISHMENT.

There is hereby created and established a City Planning Commission whose duties and powers shall be provided in this chapter.

(1979 Code, § 5.202) (Ord. 21, passed 6-1-1957)

### § 31.003 MEMBERSHIP; COMPENSATION; TERMS; VACANCIES.

(A) *Membership.* The Commission shall consist of nine members who shall represent, insofar as is possible, different professions and occupations. Six of said members shall be appointed by the Mayor, subject to approval of the City Council. The other three members, who shall serve ex-officio, shall be the Mayor, one of the City Council, to be elected by it, and one of the administrative officials of the city selected by the Mayor.

(1979 Code, § 5.203)

(B) *Prohibition of membership.* None of the members of the Commission shall hold any other public office except that one of such members may also be a member of the Zoning Board of Appeals.

(1979 Code, § 5.204)

(C) *Compensation.* Each appointed member of the Commission shall be compensated an amount set by City Council for each monthly meeting he or she attends.

(1979 Code, § 5.205)

(D) *Terms of members.* The Mayor shall appoint the members of the Commission. Each of the members shall be appointed for a term of three years beginning on the first Tuesday in July of the year of his or her appointment or until his or her successor takes office except that, in the original instance, three of the members shall be appointed for terms expiring in one year, three of the members shall be appointed for a term expiring in two years and three of the members shall be appointed for three year terms.

(1979 Code, § 5.206)

(E) *Removal of members.* Any member of the Commission may be removed by the City Council for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing.

(1979 Code, § 5.207)

(F) *Vacancies.* Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the Mayor, with approval of a majority vote of the Council.

(1979 Code, § 5.208)

(Ord. 21, passed 6-1-1957; Ord. 152, passed 7-16-2002; Ord. 178, passed 2-3-2009)

### § 31.004 OFFICERS.

(A) *Chairperson.* The Commission shall elect a Chairperson from the membership annually at its first meeting after the first Tuesday in July, said Chairperson being eligible for re-election.

(B) *Secretary.* The City Council shall appoint a Clerk or Secretary for the Commission.

(C) *Attorney.* The City Attorney shall act as Attorney for the Commission.

(D) *Other offices.* The Commission may create and fill other offices as it may by resolution determine.

(1979 Code, § 5.209) (Ord. 21, passed 6-1-1957)

### § 31.005 MEETINGS; REGULAR AND SPECIAL.

(A) *Regular meetings.* The Commission shall hold its regular public meetings the second Wednesday in July, October, January and April, or when needed or requested, effective January 2011.

(1979 Code, § 5.210)

(B) *Special meetings.* Special meetings may be called by the Secretary, on written request of the Chairperson or any four members of the Commission, on at least two days notice to each member of the Commission; but any such meeting at which all members of the Commission are present, or have waived notice in writing, shall be a legal meeting for all purposes, without notice.

(1979 Code, § 5.211)

(Ord. 21, passed 6-1-1957; Ord. 186, passed 11-16-2010)

### § 31.006 RULES AND RECORDS.

(A) *Rules.* The Commission shall adopt such rules for transaction of its business as it may by resolution determine.

(1979 Code, § 5.212)

(B) *Records.* The Commission shall keep a written or printed record of its resolutions, transactions, findings and determinations, which record shall be a public record.

(1979 Code, § 5.213)

(Ord. 21, passed 6-1-1957)

### § 31.007 EMPLOYEES.

The Commission may appoint employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the city.

(1979 Code, § 5.214) (Ord. 21, passed 6-1-1957)

### § 31.008 CONTRACTS.

The Commission may contract with city planners, engineers, architects and other consultants for such services as it may require, subject to Council approval as to expenditures.

(1979 Code, § 5.215) (Ord. 21, passed 6-1-1957)

### § 31.009 EXPENDITURES.

All expenditures of the Commission, exclusive of the expenditure of gifts, shall be within the amount appropriated for Commission purposes by the Council. The Council shall provide the funds, equipment and accommodations necessary for the Commission's work.

(1979 Code, § 5.216) (Ord. 21, passed 6-1-1957)

## MASTER PLAN

### § 31.020 DUTY TO ADOPT MASTER PLAN.

It shall be the function and duty of the Commission to make and adopt a Master Plan for development of the city, including any areas outside of its boundaries which, in the Commission's judgment, bear relation to the planning of the city.

(1979 Code, § 5.217) (Ord. 21, passed 6-1-1957)

### § 31.021 PURPOSE OF PLAN.

The Plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the city and its environs, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provisions for light and air, for the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements.

(1979 Code, § 5.218) (Ord. 21, passed 6-1-1957)

### § 31.022 ELEMENTS OF MASTER PLAN.

The Master Plan, with accompanying maps, plats, charts and descriptive matter, shall show the Commission's recommendations for the development of the city including, among other things, the following:

(A) The general location, character and extent of streets, viaducts, subways, bridges, boulevards, parkways, playgrounds and open spaces, the general location of public buildings, other than public property, and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes;

(B) The removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities or terminals;

(C) The general location, character, layout and extent of community centers and neighborhood units;

(D) The general character, extent and layout of the replanning and redevelopment of blighted districts and slum areas; and

(E) A zoning plan for the control of the height, area, bulk, location and use of buildings and premises.

(1979 Code, § 5.219) (Ord. 21, passed 6-1-1957)

### § 31.023 SURVEYS.

In the preparation of such Master Plan, the Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the city with due regard to its relation to the neighboring territory.

(1979 Code, § 5.220) (Ord. 21, passed 6-1-1957)

### § 31.024 ADOPTION.

(A) The Commission may adopt the Master Plan as a whole by a single resolution or may, by successive resolutions, adopt successive parts of the Plan, said parts corresponding with large geographical sections or divisions of the city or with functional subdivisions of the subject matter of the Plan and may adopt any amendment or extension thereof or addition thereto.

(1979 Code, § 5.221)

(B) The adoption of the Plan, or any such part or amendment or extension or addition, shall be, by resolution of the Commission, carried by affirmative votes of not less than six members of the Commission.

(1979 Code, § 5.225)

(C) The resolution shall refer expressly to the maps and description and other matter intended by the Commission to form the whole or part of the Plan and the action taken shall be recorded on the map and Plan and descriptive matter by the identifying signature of the Chairperson and Secretary of the Commission.

(1979 Code, § 5.226)

(Ord. 21, passed 6-1-1957)

### § 31.025 PUBLICATION.

The Commission shall publish such parts of the Master Plan as it may from time to time adopt.

(1979 Code, § 5.222) (Ord. 21, passed 6-1-1957)

### § 31.026 HEARING.

(A) *Hearing of the Plan.* Before the adoption of the Plan, or any such part, amendment, extension or addition, the Commission shall hold at least one public hearing thereon.

(1979 Code, § 5.223)

(B) *Notice of hearing.* Notice of the time and place of the hearing on the adoption of the Plan, or amendments thereto, shall be given in accordance with § 150.035.

(1979 Code, § 5.224)

(Ord. 21, passes 6-1-1957; Ord. 174, passed 2-3-2009)

### § 31.027 CERTIFICATION.

An attested copy of the Plan, or part thereof, shall be certified to the Council and to the Register of Deeds of the Counties of St. Clair and Macomb.

(1979 Code, § 5.227) (Ord. 21, passed 6-1-1957)

### § 31.028 RESTRICTIONS OF PUBLIC WORKS.

(A) Whenever the Commission shall have adopted the Master Plan, or of one or more major sections or districts thereof, no street, alley, square, park or public building or structure or utility shall be sold, closed, abandoned, constructed or authorized in the city, or in such planned section and district, until the location, character and extent thereof shall have been submitted to, and approved by, the Commission.

(1979 Code, § 5.228)

(B) In case of disapproval by the Commission, the Commission shall communicate its reason to the Council, which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds of the entire membership of the Council; provided, however, that if the public street, alley, square, park or other public way, ground, space, building, structure or utility be one the authorization or financing of which does not, under the law or charter provisions governing the same, fall within the province of the Council, then submission shall be by the board or other commission or body having such jurisdiction and the Commission's disapproval may be overruled by said board, or other commission or body, by a vote of not less than two-thirds of its membership.

(1979 Code, § 5.229)

(Ord. 21, passed 6-1-1957)

## POWERS AND DUTIES

### § 31.040 GENERAL POWERS.

In general, the Commission shall have such powers as may be necessary to enable it to fulfill its functions, promote municipal planning or carry out the purposes of this chapter.

(1979 Code, § 5.230) (Ord. 21, passed 6-1-1957)

### § 31.041 RESCISSION OF ACTION BY COMMISSION.

Whenever the Council shall have ordered the opening, widening or extension of any street, avenue or boulevard, or whenever the Council shall have ordered that proceedings be instituted for the acquisition or enlargement of any park, playground, playfield or other public open space, such resolution shall not be rescinded until after the matter has been referred back to the Commission for a report and until after a public hearing shall have been held. The Council shall have power to overrule the recommendation of the Commission by a vote of not less than two-thirds of its entire membership.

(1979 Code, § 5.231) (Ord. 21, passed 6-1-1957)

### § 31.042 PUBLICITY.

The Commission shall have the power to promote public interest in, and understanding of, the Master Plan and to that end may publish and distribute copies of the Plan or of any report and may employ such other means of publicity and education as it may determine.

(1979 Code, § 5.232) (Ord. 21, passed 6-1-1957)

### § 31.043 CONFERENCES.

Members of the Commission, when duly authorized by the Commission, may attend municipal planning institutes or hearings upon pending municipal planning legislation and the Commission may, by a resolution, spread upon its minutes and, with the approval of a majority vote of the Council, pay the reasonable traveling and other expenses incidental to such attendance.

(1979 Code, § 5.233) (Ord. 21, passed 6-1-1957)

### § 31.044 PUBLIC IMPROVEMENTS PROGRAM.

(A) For the purpose of furthering the desirable future development of the city under the Master Plan, the Commission,

after it shall have adopted a Master Plan, shall prepare coordinated and comprehensive programs of public structures and improvements.

(B) The Commission shall annually prepare such a program for the ensuing ten years, which program shall show those public structures and improvements in the general order of their priority, which, in the Commission's judgment, will be needed or desirable and can be undertaken within the ten-year period.

(C) The above comprehensive coordinated programs shall be based upon the requirements of the city for all types of public improvements and, to that end, each agency or department of the city concerned with such improvements shall, upon request, furnish the Commission with lists, plans and estimates of time and costs of public structures and improvements within the purview of such department.

(1979 Code, § 5.234) (Ord. 21, passed 6-1-1957)

### § 31.045 RECOMMENDATION AND CONSULTATION.

The Commission shall from time to time recommend, to the appropriate public officials, programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professionals and other organizations and with citizens with relation to the protecting or carrying out of the Plan.

(1979 Code, § 5.235) (Ord. 21, passed 6-1-1957)

### § 31.046 GIFTS.

The Commission shall have the right to accept and use gifts for the exercise of its functions in which case special accounts shall be set up under the control of the City Treasurer and disbursements made therefrom by resolution of the Commission in accordance with the terms of the instrument making such gifts.

(1979 Code, § 5.236) (Ord. 21, passed 6-1-1957)

### § 31.047 REPORTS OF PUBLIC OFFICIALS.

All public officials shall, upon request, furnish to the Commission, within a reasonable time, such available information as it may require for its work.

(1979 Code, § 5.237) (Ord. 21, passed 6-1-1957)

### § 31.048 ENTRANCE ON LAND.

The Commission, its members, officers and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain monuments and marks thereon.

(1979 Code, § 5.238) (Ord. 21, passed 6-1-1957)

## PLATS

### § 31.060 ZONING AMENDMENTS.

The Commission may from time to time recommend to the Council amendments to Ch. 150, or maps or additions thereto, to conform to the Commission's recommendations for the zoning regulation of the territory comprised within approved subdivisions. The Commission shall have the right and power to agree with an applicant upon use, height, area or bulk requirements or restrictions governing buildings and premises within a subdivision, provided, that such requirements or restrictions do not authorize the violation of Ch. 150. Such requirements or restrictions shall be stated upon the plat prior to the approval and recording thereof and shall have the same force of law and be enforceable in the same power of amendment or repeal as though set out as a part of Ch. 150 or zoning maps of the city.

(1979 Code, § 5.239) (Ord. 21, passed 6-1-1957)

### § 31.061 APPROVAL OF PLATS.

When the Commission shall have adopted a Master Plan relating to the major street system of the territory within its jurisdiction or a part thereof, and shall have filed a certified copy of such Plan in the office of the Register of Deeds of the Counties of St. Clair and Macomb, then no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by the Commission and such approval shall be entered in writing on the plat by the Secretary of the Commission.

(1979 Code, § 5.240) (Ord. 21, passed 6-1-1957)

### § 31.062 BOND PENDING FINAL APPROVAL.

In lieu of the completion of improvements and utilities prior to the final approval of the plat, the Commission may accept a bond with surety to secure to the city the actual construction and installation of such improvements or utilities at a time and according to specifications fixed or in accordance with the regulations of the Commission. The Commission is hereby granted the power to enforce such bond by all appropriate and equitable remedies.

(1979 Code, § 5.241) (Ord. 21, passed 6-1-1957)

### § 31.063 TIME FOR APPROVALS OF PLATS.

The Commission shall approve, modify or disapprove a plat within 60 days after the submission thereof to it; otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the Commission on demand; provided, however, that the applicant for the Commission's approval may waive this requirement and consent to an extension of such period.

(1979 Code, § 5.242) (Ord. 21, passed 6-1-1957)

### § 31.064 HEARING.

(A) *Hearing on plat.* Any plat submitted to the Commission shall contain the name and address of a person to whom notice of a hearing shall be sent and no plat shall be acted on by the Commission without a hearing thereon.

(1979 Code, § 5.244)

(B) *Notice of hearing on submitted plat.* Notice of the time and place of hearing on submitted plats shall be sent to the address contained on the plat by registered mail not less than five days before the date fixed therefor. Similar notice shall be mailed to the owners of land immediately adjoining the land proposed to be platted, as their names appear upon the plats in the St. Clair and Macomb County Auditor's office and as their addresses appear in the directory of the city or on the tax records of the Counties of St. Clair and Macomb.

(1979 Code, § 5.245)

(Ord. 21, passed 6-1-1957)

### § 31.065 EFFECT OF APPROVAL OF PLAT.

Every plat approved by the Commission shall, by virtue of such approval, be deemed to be an amendment of or an addition to or detail of the Master Plan and a part thereof. Approval of a plat shall not be deemed to constitute or effect an acceptance by the public of any street or other open space shown upon the plat.

(1979 Code, § 5.246) (Ord. 21, passed 6-1-1957)

### § 31.066 CERTIFICATION OF PRECISE PLATS.

After the Commission shall have lawfully adopted a Master Plan for the physical use of the city, or of one or more major sections or divisions thereof, it shall have the power to make, or cause to be made and certified to the Council from time to time, detailed and precise plats, each showing the exact location of the proposed future outside lines of one or more new, extended or widened streets, avenues, places or other public ways or of one or more parks, playgrounds or other public grounds or extensions thereof shown on such adopted Master Plan. At the time of each such certification to the Council, the Commission shall transmit an estimate of the time period within which the land acquisitions for public use indicated on the certified plat should be accomplished.

(1979 Code, § 5.247) (Ord. 21, passed 6-1-1957)

### § 31.067 LIMITS ON CERTIFICATION.

The making or certification of a Commission plat by the Commission shall not in and of itself constitute, or be deemed to constitute, the opening and establishment of any street or the taking or acceptance of any land for the aforesaid purposes.

(1979 Code, § 5.248) (Ord. 21, passed 6-1-1957)

### § 31.068 ADOPTION OF PLAT; NOTICE OF HEARING.

(A) The Council may, by ordinance, adopt any Commission plat certified to it by the Commission as provided in this chapter.

(1979 Code, § 5.249)

(B) Notice of time and place and when and where the Commission plat shall be considered for final passage shall be sent by mail to the recorded owners of land located within, or abutting on, the new lines or such proposed streets, ways, places, parks, playgrounds or other public grounds or extensions thereof designated on the plat.

(1979 Code, § 5.250)

(Ord. 21, passed 6-1-1957)

### § 31.069 APPROVAL OR DISAPPROVAL.

Any modification of a certified Commission plat before passage of the adopting ordinance, and any amending ordinance originating in the Council, shall be submitted to the Commission for its approval. In case the Commission shall disapprove the submitted plat, it shall communicate its reasons therefor to the Council which thereafter has the power to overrule such disapproval by recorded vote of not less than two-thirds of its entire membership. Failure of the Commission to report on any

such modification or amendment within 30 days shall be deemed to constitute an approval thereof.

(1979 Code, § 5.251) (Ord. 21, passed 6-1-1957)

### § 31.070 LIMITS ON ADOPTION.

The adoption of any such certified Commission plat by ordinance, or by amending ordinance, shall not in itself constitute, or be deemed to constitute, the opening or establishment of any street or the taking or acceptance of any land for any of the aforesaid purposes.

(1979 Code, § 5.252) (Ord. 21, passed 6-1-1957)

### § 31.071 AMENDMENTS AND MODIFICATIONS.

Amendments or modifications to such certified Commission plats, in conformity with lawfully adopted changes or additions to the adopted Master Plan, may be made and certified by the Commission to the Council and ordinances embodying amendments to, or changes in, such plats may be adopted by the Council in accordance with the procedure prescribed by law for the enactment of ordinances.

(1979 Code, § 5.253) (Ord. 21, passed 6-1-1957)

### § 31.072 NOTICE OF HEARING ON AMENDMENTS.

Notice of the time and place, and when and where amendments or modifications shall be considered for final passage, shall be sent by mail to the record owners of land located within, or abutting on, the lines of the proposed streets, ways, places, parks, playgrounds or other public grounds.

(1979 Code, § 5.254) (Ord. 21, passed 6-1-1957)

### § 31.073 SUBMISSION TO PLANNING COMMISSION.

Any proposed amendment to, or change in, certified plats shall be submitted to and approved by the Commission; provided, that in case of disapproval, the Commission shall communicate its reasons to the Council which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds of its entire membership. Any plat of a street, park, playground or public ground shall be certified by the Commission without further submission thereof to said Commission.

(1979 Code, § 5.255) (Ord. 21, passed 6-1-1957)

### § 31.074 PERMITS AND BUILDINGS PROHIBITED.

No permit shall be issued for, and no building or structure or part thereof shall be erected on, any land located within the proposed future outside lines of any new, extended or widened street, avenue, place or other public way or any park, playground or other public grounds or extension thereof shown on any certified and adopted plat except by the Zoning Board of Appeals in accordance with the provisions of this chapter.

(1979 Code, § 5.256) (Ord. 21, passed 6-1-1957)

### § 31.075 APPEAL.

The Zoning Board of Appeals shall have the power, after an appeal shall be filed with it by the owner of such land, to authorize the granting of a permit for the erection of a building or structure, or part thereof, within the lines of any such mapped street, park, playground or other public grounds in any case in which the Board finds, upon the evidence and arguments presented to it on such appeal, that the entire property of the appellant located in whole or in part within the lines of such mapped street, park, playground or other public ground, cannot yield a reasonable return to the owner unless such permit be granted and that balancing the interest of the city in preserving the integrity of the adopted map and the interest of the owner of the property in the use and benefit of his or her property, the granting of such permit is required by consideration of justice and equity.

(1979 Code, § 5.257) (Ord. 21, passed 6-1-1957)

### § 31.076 MAP SYMBOLS.

The proposed future outside lines of streets, parks, playgrounds and other public grounds shown on

any plat certified and adopted as hereinbefore provided may, for convenience, be shown wholly or in part, by appropriate symbols on any official map of the city; provided, that showing such lines on any such official map shall not in and of itself constitute the opening or establishment of any street or the taking or acceptance of any land for any of the aforesaid purposes.

(1979 Code, § 5.258) (Ord. 21, passed 6-1-1957)

## CHAPTER 32: ORGANIZATIONS

Section



# PARKING VIOLATIONS BUREAU

## § 32.01 BUREAU ESTABLISHED.

Pursuant to § 8395 of the Revised Judicature Act, as added by Public Act 154 of 1968, being M.C.L.A. §§ 600.8101 et seq., a Parking Violations Bureau, for the purpose of handling alleged parking violations within the city, is hereby established. The Parking Violations Bureau shall be under the supervision and control of the City Treasurer. The Parking Violations Bureau may also accept pleas of guilty in parking violation cases if the violation occurred before August 1, 1979, and may collect and retain fines and costs as prescribed by ordinance at the time the violation occurred. Except as other provided, the expense of operating the Parking Violations Bureau shall be borne by the city and the personnel of the bureau shall be city employees.

(1979 Code, § 10.31) (Ord. 37, passed 3-4-1969)

## § 32.02 LOCATION; RULES.

The Treasurer shall, subject to the approval of the City Council, establish a convenient location for the Parking Violations Bureau, appoint qualified city employees to administer the Bureau and adopt rules and regulations for the operation thereof.

(1979 Code, § 10.32) (Ord. 37, passed 3-4-1969)

## § 32.03 OFFENSES DISPOSED OF.

No violation not scheduled in a general traffic schedule shall be disposed of by the Parking Violations Bureau. The fact that a particular violation is scheduled shall not entitle the alleged violator to disposition of the violation at the Bureau and, in any case, the person in charge of such Bureau may refuse to dispose of such violation in which case any person having knowledge of the facts may make a sworn complaint before any court having jurisdiction of the offense as provided by law.

(1979 Code, § 10.33) (Ord. 37, passed 3-4-1969; Ord. 61, passed 3-21-1978)

## § 32.04 PROCEDURE.

No violation may be settled at the Parking Violations Bureau except at the specific request of the alleged violator. No penalty for any violation shall be accepted from any person who denies having committed the offense and in no case shall the person who is in charge of the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to such alleged violation. No person shall be required to dispose of a parking violation at the Parking Violations Bureau and all persons shall be entitled to have any such violation processed before a court having jurisdiction thereof if they so desire. The unwillingness of any person to dispose of any violation at the Parking Violations Bureau shall not prejudice him or her or in any way diminish the rights, privileges and protection accorded to him or her by law.

(1979 Code, § 10.34) (Ord. 37, passed 3-4-1969)

## § 32.05 TRAFFIC TICKETS; FORM.

The issuance of a traffic ticket or notice of violation by a police officer of the city shall be deemed an allegation of a parking violation. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the same was issued must respond before the Parking Violations Bureau. It shall also indicate the address of the Bureau, the hours during which the Bureau is open, the amount of the penalty scheduled for the offense for which the ticket was issued and advise that a warrant for the arrest of the person to whom the ticket was issued will be sought if such a person fails to respond within the time limited.

(1979 Code, § 10.35) (Ord. 37, passed 3-4-1969)

## § 32.06 ANNUAL PARKING PERMITS.

A resident of the city, or a nonresident who owns real property in, or operates a business in, the city may purchase a permit from the Parking Violations Bureau for an annual fee, as determined by resolution of the City Council, which payment shall be for a particular vehicle (nontransferable) to be allowed to be parked in any nonmetered city-owned parking lot without limit as to time during the validity period of the permit. Such permits shall be for operable vehicles only and no person shall use such a permit to park an inoperable vehicle in a city-owned parking lot. The city reserves the right to direct where in any particular city-owned lot a permit holding vehicle may be parked.

(1979 Code, § 10.37) (Ord. 94, passed 3-3-1987)

## POLICE DEPARTMENT

### § 32.20 EMPLOYMENT OF POLICE OFFICERS; MINIMUM STANDARDS.

(A) The minimum employment standards for law enforcement officers, as established and adopted by the State Law Enforcement Officers Training Council in accordance with Public Act 203 of 1965, being M.C.L.A. §§ 28.601 through 28.616, as amended, are hereby adopted as follows:

(1) Minimum standards of physical, educational, mental and moral fitness that govern the recruitment, selection, appointment and certification of law enforcement officers;

(2) Minimum courses of study, attendance requirements and instructional hours required at approved police training schools; and

(3) Minimum basic training requirements that a person, excluding sheriffs, shall complete before being eligible for certification under Commission.

(B) Recruitment and employment practices and standards shall be in compliance with existing state statutes governing this activity.

(C) A commission certified law enforcement officer who is a member of any of the reserve components of the United States armed forces and who is called to active duty in the armed forces is not considered to have discontinued his or her employment as a commission certified law enforcement officer. The person's certification shall not become void during their term of active military service. However, the certification of a certified law enforcement officer described in this division may be revoked if the officer committed an offense during the period of active duty in the armed forces that resulted in a conviction. As used in this division, ***RESERVE COMPONENTS OF THE UNITED STATES ARMED FORCES*** means that term as defined in Section 2 of the Military Family Relief Fund Act, M.C.L.A. § 35.1212. This division does not apply to a commission certified law enforcement officer who volunteers for a term of active military service or who voluntarily extends a term of active military service that began when he or she was called to active duty. This division does not apply to a commission certified law enforcement officer who is dishonorably discharged from a term of active military service.

(1979 Code, § 1.51) (Ord. 33, passed 4-4-1967)

# CHAPTER 33: SPECIAL ASSESSMENTS

Section

## § 33.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***COST.*** The cost of surveys, plans, land, rights-of-way, spreading of rolls, notices, advertising, financing and construction and all other costs incidental to the making of such improvement, special assessments therefor and the financing thereof.

***IMPROVEMENT.*** Any public improvement and any part of the cost of which is to be assessed against one or more lots or parcels of land to be especially benefitted thereby in proportion to the benefit to be derived therefrom.

(1979 Code, § 1.101) (Ord. 38, passed 4-1-1969)

## § 33.02 AUTHORITY TO ASSESS.

The whole cost, or any part thereof, of any improvement may be defrayed by special assessment upon the lands especially benefitted by the improvement in a manner hereinafter provided.

(1979 Code, § 1.102) (Ord. 38, passed 4-1-1969)

## § 33.03 INITIATING SPECIAL ASSESSMENT PROJECTS.

Proceedings for the making of public improvements within the city may be commenced by resolution of the Council. Such action may be requested by the filing of a petition with the City Clerk signed by 50% of the owners of the property to be assessed for the improvement requesting that the improvement be made and that the cost thereof be defrayed by a special assessment upon the property benefitted, but such petition shall be advisory only and shall not be jurisdictional.

(1979 Code, § 1.103) (Ord. 38, passed 4-1-1969)

## § 33.04 SURVEY AND REPORT.

Before the Council shall consider making any public improvement, the same shall be referred by resolution to the City Engineer directing him or her to prepare a report which shall include plans, specifications and estimates of cost, an estimate of the life of the improvement, a description of the assessment district, together with his or her recommendation as to what part of the cost should be paid by special assessment and what part, if any, should be a general obligation of the city and the number of installments in which the special assessments may be paid. After the report is filed with the City Clerk, it shall be available to the public for inspection.

(1979 Code, § 1.104) (Ord. 38, passed 4-1-1969)

## § 33.05 FIRST PUBLIC HEARING.

(A) After the report of the City Engineer is filed, a public hearing shall be held before the City Council at a time and place to be fixed by it. The City Clerk shall cause notice of the time and place of such public hearing to be published once in a newspaper published or circulated within the city at least ten days prior to the date of such public hearing.

(B) The City Clerk shall also send notice of the public hearing by first class mail addressed to each owner of property to be assessed as shown by the last general tax assessment roll of the city. At the time and place specified in the notice for the public hearing, the Council shall meet and hear any person to be affected by the proposed improvement. The hearing may be adjourned from time to time.

(1979 Code, § 1.105) (Ord. 38, passed 4-1-1969)

## § 33.06 COUNCIL DETERMINATION.

(A) After the public hearing, the Council may modify the scope of the improvement in such manner as it shall deem to be in the best interest of the city as a whole; provided, that, if the amount of work is increased or additions are made to the district, then another hearing shall be held pursuant to the notice prescribed in § 33.05.

(B) If the determination of the Council shall be to proceed with the improvement, a resolution shall be adopted approving the plans, specifications, assessment district and estimates of cost, determining the useful life of the improvement and directing the Assessor to prepare a special assessment roll in accordance with the Council’s determination and report the same to the Council.

(1979 Code, § 1.106) (Ord. 38, passed 4-1-1969)

## § 33.07 SPECIAL ASSESSMENTS ROLL.

The Assessor shall make a special assessment roll including all lots and parcels of land within the designated district benefitted by the proposed improvement and assess to each lot or parcel of land the proportionate amount of the whole sum

to be assessed against all the lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district. There shall also be entered upon such roll the amount which has been assessed to the city at large, if any. The amount spread in each case shall be based on the estimate of the City Engineer as approved by the City Council.

(1979 Code, § 1.107) (Ord. 38, passed 4-1-1969)

### § 33.08 ASSESSOR TO FILE ASSESSMENT ROLL.

When the Assessor shall have completed such assessment roll, he or she shall file the same with the City Clerk for presentation to the City Council for review and certification by it.

(1979 Code, § 1.108) (Ord. 38, passed 4-1-1969)

### § 33.09 REVIEW OF SPECIAL ASSESSMENT ROLL.

(A) Upon receipt of such special assessment roll, the City Council, by resolution, shall accept such assessment roll and order it to be filed in the office of the City Clerk for public examination and shall fix the time and place the Council will meet to review such special assessment roll and direct the City Clerk to give notice of a public hearing for the purpose of affording an opportunity for interested persons to be heard. Such notice shall be given by one publication in a newspaper published or circulated within the city and by first class mail addressed to each owner of property to be assessed as shown by the last general tax assessment roll of the city, said publication and mailing to be made at least ten days prior to the date of said hearing.

(B) The hearing required by this section may be held at any regular, adjourned or special meeting of the Council. At this meeting, all interested persons or parties shall present in writing their objections, if any, to the assessments against them. If at, or prior to, the confirmation of the roll the owners of property which will be required to bear more than one-half of the special assessment shall object in writing to the improvement, the assessment shall not be made without the affirmative vote of five members of the Council. Every special assessment ratified and confirmed by the Council after such hearing shall be final and conclusive.

(1979 Code, § 1.109) (Ord. 38, passed 4-1-1969)

### § 33.10 CONFIRMATION OF SPECIAL ASSESSMENT ROLL.

(A) The Council shall meet and review the special assessment roll at the time and place appointed, or at an adjourned date therefor, and shall consider any written objection thereto. The Council may correct said roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein or it may, by resolution, annul such assessment roll and direct that new proceedings be instituted. The same proceedings shall be followed in making a new roll as in the making of the original roll.

(B) If, after hearing all objections in making a record of such changes as the Council deems justified, the Council determines that it is satisfied with said special assessment roll and that assessments are in proportion to benefits received, it shall thereupon pass a resolution reciting such determinations, confirming such roll and placing it on file in the office of the Clerk. Such roll shall have the date of confirmation endorsed thereon and from that date be final and conclusive.

(1979 Code, § 1.110) (Ord. 38, passed 4-1-1969)

### § 33.11 ADDITIONAL ASSESSMENTS; REFUNDS.

Should any special assessment prove insufficient to pay for the improvement and related costs of the project for which it was levied, or to pay the principal and interest on bonds issued in anticipation of such special assessment roll, the Council may make additional pro rata assessments. Should any special assessment prove larger than necessary by less than 5%, the Council may place the excess in the General Fund of the city; if more than 5%, the entire excess shall be refunded pro rata to the owners of the property assessed, as shown by the current assessment roll of the city, and to the city to the extent it has been assessed.

(1979 Code, § 1.111) (Ord. 38, passed 4-1-1969)

### § 33.12 LIEN; COLLECTION OF SPECIAL ASSESSMENTS.

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

(B) The Council may provide for the deferred payment of special assessments from persons who, in the opinion of the Council and Assessor, by reason of poverty, are unable to contribute to the cost thereof. In all such cases, as a condition to the granting of such deferred payment, the city shall require mortgaged security on the real property of the beneficiary payable on or before his or her death, or in any event, on the sale or transfer of the property.

(C) Special assessments shall become due on such date as the Council shall prescribe.

(D) Any assessment may be made payable in yearly installments not to exceed ten in number. The initial installment shall

be due on such date as the Council shall prescribe. Subsequent yearly installments shall be spread on the annual city tax roll. The second installment shall be collected as part of the first city tax roll, which becomes due six months or more after the due date of the initial installment. All unpaid installments, from such date as the Council shall prescribe, shall bear interest at a rate of not exceeding 6% per annum, which interest computed to the following January 10 shall be spread yearly on the city tax roll together as one item, with the amount of the installment then being spread. The Council may provide for advance payment of unpaid installments with interest computed to such date as the Council prescribes.

(E) Each special assessment, or the initial installment of such assessment when installment payments are provided for, shall be collected by the Treasurer without collection fee for a period ending on the tenth day of the second month following the month in which the assessment or initial installment falls due. On the eleventh day of the second month following such due date, the Treasurer shall add to any such unpaid assessment, or initial installment, a collection fee of 4% of the amount thereof and shall add an additional 2% collection fee on the eleventh day of each succeeding month that such assessment or initial installment remains unpaid. All collection fees shall belong to the city and be collectible in the same manner as a collection fee on city taxes.

(F) Special assessments or initial installments which become due, other than on December 1, shall, if unpaid for 30 days or more on October 1 of any year, be certified as delinquent to the Council by the Treasurer and the Council shall place such delinquent assessments on the tax roll for that year together as one item with accrued collection fees thereon to January 10 of the following year.

(G) Special assessments, or installments thereof, which become due on December 1 of any year, and delinquent assessments together with accrued interest and collection fees thereon which have been placed upon the city tax roll, shall be collected in all respects as are city taxes due on such date and shall be returned to the County Treasurer with such taxes, if uncollected, on the following March 1.

(1979 Code, § 1.112) (Ord. 38, passed 4-1-1969)

### § 33.13 CORRECTION OF SPECIAL ASSESSMENTS.

(A) Whenever any special assessment shall, in the opinion of the Council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Council shall, whether the improvement has been made or not, or whether any part of the assessments have been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made.

(B) All proceedings on such reassessment, and for the collection thereof, shall be conducted in the same manner as provided for the original assessment and whenever any sum or part thereof levied upon any property in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment or, if the payments exceed the amount of the reassessment, refund shall be made.

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

(1979 Code, § 1.113) (Ord. 38, passed 4-1-1969)

### § 33.14 CONTESTED ASSESSMENTS.

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment unless within 30 days after the confirmation of the special assessment roll written notice is given to the Council of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal and unless such suit or action shall be commenced within 60 days after confirmation of the roll.

(1979 Code, § 1.114) (Ord. 38, passed 4-1-1969)

### § 33.15 SPECIAL ASSESSMENT ACCOUNTS.

Except as otherwise provided for in the City Charter, monies raised by special assessments for any public improvement shall be credited to a special account and may be used only to pay for the costs of the improvement for which the assessment was levied and expenses incidental thereto or to repay any principal and interest money borrowed therefor.

(1979 Code, § 1.115) (Ord. 38, passed 4-1-1969)

### § 33.16 ADDITIONAL PROCEDURE.

In any case where the provisions of this chapter may prove to be insufficient to carry out fully the making of any special assessment, the Council shall provide, by ordinance, any additional steps or procedures required.

(1979 Code, § 1.116) (Ord. 38, passed 4-1-1969)

### § 33.17 COMBINATION OF PROJECTS.

The Council may combine several districts into one project for the purpose of effecting a savings in the costs; provided, however, that for each district there shall be established separate funds and accounts to cover the cost of the same.

(1979 Code, § 1.117) (Ord. 38, passed 4-1-1969)

### § 33.18 SINGLE LOT ASSESSMENTS.

(A) When any expense shall have been incurred by the city upon, or in respect to, any single premises, which expense is chargeable against said premises and the owner thereof under the provisions of this chapter and is not of that class required to be pro-rated among the several lots and parcels of land in a special assessment district, an account of the labor, material and service for which such expense was incurred, with a description of the premises upon or in respect to which the expense was incurred and the name of the owner, if known, shall be reported to the Treasurer, who shall immediately charge and bill the owner, if known.

(B) The Treasurer, at the end of each quarter, shall report to the City Council all sums so owing to the city and which have not been paid within 30 days after the mailing of the bill therefor. The Council shall, at such times as it may deem advisable, direct the Assessor to prepare a special assessment roll covering all such charges reported to it together with a penalty of 10%. Such roll shall be filed with the Clerk, who shall advise the Council of the filing of the same, and the Council shall thereupon set a date for the hearing of objections to such assessment roll. The assessment roll shall be open to public inspection for a period of seven days before the Council shall meet to review the roll and hear complaints.

(C) The City Clerk shall give notice in advance by publication of the opening of the roll to public inspection and of the meeting of the Council to hear complaints and shall also give like notice to the owners of the property affected by first class mail at their addresses as shown on the current general assessment roll of the city, at least ten days prior to the date of such hearing. Such special assessments, and all interest and charges thereon, shall, from the date of confirmation of the roll, be and remain a lien upon the property assessed of the same character and effect as a lien created by general law for state and county taxes, until paid.

(D) The same penalty and interest shall be paid on such assessments when delinquent from such date after confirmation, as shall be fixed by the Council, as are provided by the City Charter, to be paid on delinquent general city taxes and such assessments with penalties and interest and shall be added by the Treasurer to the next general city tax roll or general county and school tax roll, as shall be convenient, and shall thereafter be collected and returned in the same manner as general city taxes.

(1979 Code, § 1.118) (Ord. 38, passed 4-1-1969)

# CHAPTER 34: TAXES AND FINANCES; FUNDS

Section



## PROPERTY TAX ADMINISTRATION

### § 34.01 PAYMENT SCHEDULE.

Taxes imposed upon real and personal property shall be collected in accordance with the provisions herein set forth and property tax administration fees, late penalty charges and interest shall be added to all such taxes as herein specified.

(1979 Code, § 1.601) (Ord. 86, passed 8-16-1983)

### § 34.02 ASSESSED TAXES; LIEN.

(A) City taxes shall be due on the July 1 of each year and, on said date, city taxes assessed against personal property shall constitute a first lien prior, superior and paramount upon all personal property of the person so assessed from and after

July 1 of each year and shall so remain until paid. Such tax liens on personal property shall take precedence over all other claims, encumbrances and liens upon said personal property, whether created by chattel mortgage, execution levy, judgment or otherwise and whether arising before or after the assessment of personal property taxes and no transfer of personal property assessed for taxes thereon shall operate to divest or destroy the lien, except where the personal property is sold in the ordinary course of retail trade as defined in the Uniform Commercial Code.

(B) City taxes assessed upon any interest in real property shall, on the July 1 in any year, become a lien upon such real property and the lien for such amounts and for all tax administration fees, late penalty charges and interest and any other charges thereon, as provided for by law, shall continue thereon until payment thereof.

(1979 Code, § 1.602) (Ord. 86, passed 8-16-1983)

### § 34.03 FEE; LATE PENALTY CHARGE.

(A) On all sums of property tax voluntarily paid before February 15 of the year succeeding the due date thereof, the City Treasurer shall add thereto a property tax administration fee of 1% of such sum paid. On all taxes paid after February 15 and before March 1 of said succeeding year, the City Treasurer shall add a late penalty charge of 3% of such sums paid in addition to the 1% property tax administration fee, which penalty may be waived pursuant to § 44(3) of the Public Act 88 of 1983.

(B) A 4% county property tax administration fee, in addition to the foregoing, and interest on the tax at the rate of 1% per month, shall be added to taxes collected by the City Treasurer after the last day of February and before settlement with the County Treasurer, which payment shall be treated as though collected by the County Treasurer.

(1979 Code, § 1.603) (Ord. 86, passed 8-16-1983)

### § 34.04 INTEREST.

(A) All taxes, assessments and charges on the tax roll which are paid during the months of July and August shall be collected by the County Treasurer without additional interest charges. An interest charge of 1% per month shall be added to all taxes, assessments and charges paid thereafter through December 31 following. Such interest shall be added on the first day of September 1, October 1, November 1 and December 1.

(B) Taxes paid subsequent to December 31 shall bear the entire additional 4% interest charge and, if paid after February 15, shall be subject to the penalties and interest and other fees provided for in § 34.03(B). If said taxes are returned as delinquent to the County Treasurer for collection, the interest thereon shall be treated and collected in the same manner as taxes returned to the County Treasurer are collected.

(1979 Code, § 1.604) (Ord. 86, passed 8-16-1983)

### § 34.05 DELINQUENT TAXES.

Any taxes unpaid on the last day of February of any year shall be returned as delinquent to the County Treasurer for collection in accordance with M.C.L.A. §§ 211.1 et seq., as amended.

(1979 Code, § 1.605) (Ord. 38, passed 8-16-1963)

## PUBLIC IMPROVEMENT RESERVE FUND

### § 34.20 FUND CREATED.

Pursuant to the authority vested in the city by Public Act 177 of 1943, being M.C.L.A. §§ 141.261 through 141.265, there is hereby established and created a fund to be known as the “Public Improvement Reserve Fund”.

(1979 Code, § 1.71) (Ord. 12, passed 11-1-1944)

### § 34.21 USE OF FUND.

The Public Improvement Reserve Fund shall be used for acquiring, extending, altering or repairing any public improvement which the city, by charter or by general law, is authorized to acquire, extend, alter or enlarge; provided, that the purposes to which any of the monies in said Fund are appropriated shall be of general benefit to all of the people of the city as distinguished from local improvements, the benefits of which are assessed against the particular district or property improved.

(1979 Code, § 1.72) (Ord. 12, passed 11-1-1944)

### § 34.22 MONIES ALLOCATED TO FUND.

The City Treasurer shall allocate and credit the Public Improvement Reserve Fund with monies that the City Council shall from time to time, by resolution, direct. The monies available for such direction by the City Council shall be only those funds received by the city from non-tax sources which funds are not otherwise encumbered.

(1979 Code, § 1.73) (Ord. 71, passed 3-20-1979)

### § 34.23 LIMITATIONS.

Any and all monies or credits hereafter assigned, transferred and appropriated to the Public Improvement Reserve Fund shall be held in said Fund as reserve for the use by the city for the purposes authorized by Public Act 177 of 1943, being M.C.L.A. §§ 141.261 through 141.265, as amended, and are specifically authorized by the City Council to be accomplished at some future time. Monies accumulated in said Fund shall not be transferred, encumbered or otherwise disposed of except for the purposes authorized by Public Act 177 of 1943, being M.C.L.A. §§ 141.261 through 141.265, as amended.

(1979 Code, § 1.75) (Ord.12, passed 11-1-1944)

### § 34.24 INVESTMENT.

The monies accumulated in said Fund shall from time to time, upon authority of the Council, be invested by the City Treasurer in such securities as are authorized by the City Charter and the general laws of the state as lawful for the investment of public funds.

(1979 Code, § 1.76) (Ord. 71, passed 3-20-1979)

### § 34.25 PROCEDURE FOR EXPENDITURE.

(A) Whenever the City Council determines the need and advisability to acquire any public improvement, the cost of which is to be defrayed wholly or in part by monies from the Public Improvement Reserve Fund, the provisions of the City Charter shall be fully complied with causing to be prepared, when applicable, maps, plans, specifications and estimates of costs of the proposed improvements and follow the normal City Charter requirements when acquiring items of personal property and the adoption of a specific resolution determining to acquire such improvement. Separate proceedings shall be taken for each separate type or kind of public improvement to be authorized.

(B) The Council shall provide for the transfer of all or part of the costs of such improvement from the Public Improvement Reserve Fund; provided, that if any part of the costs of the improvement is to be paid for by special assessment, the monies from the Public Improvement Reserve Fund shall only be used to defray such part of such public improvement as shall have been determined by the Council to be of general benefit to the entire city.

(1979 Code, § 1.77) (Ord. 71, passed 3-20-1979)

# CHAPTER 35: EMERGENCY SERVICES

Section



## EMERGENCY MEDICAL SERVICES AND AMBULANCE PROVIDERS

### § 35.01 ALS STANDARDS.

(A) The city has determined that all emergency ambulance service provided in the community in response to 911 or other emergency calls shall have, as a minimum, Advanced Life Support (“ALS”) standards as the means of care and transport.

(B) The ALS minimum standards shall include:

(1) Basic life support (BLS) including that particular phase of emergency cardiac care that either prevents circulatory or respiratory arrest (or insufficiency) through prompt recognition and intervention, or both, or externally supports the

circulation and respiration of a victim of cardiac or respiratory arrest through CPR;

(2) The use of adjunctive equipment and supplies, the establishment of intravenous lines, the administration of fluids and drugs, cardiac monitoring, defibrillation, the control of dysrhythmias and post resuscitation care; and

(3) Establishing communications necessary to ensure continuing care.

(C) Any ALS provider authorized and licensed to respond to 911 calls initiated in the community shall provide a management plan to the community which will establish minimum standards for the delivery of ALS care and transports for 911 or other emergency response calls within the community.

(Ord. 133, passed 8-4-1998)

### § 35.02 FAILURE TO MAINTAIN ALS STANDARDS.

The community may issue a caution or warning or, after a 30-day written notice, suspend or revoke the ambulance service provider's approval to respond to 911 calls if it has not maintained ALS standards of care and transport.

(Ord. 133, passed 8-4-1998)

## CHARGES FOR EMERGENCY SERVICES

### § 35.15 SHORT TITLE.

The ordinance from which the provisions of this subchapter derive shall be known as the "Memphis Emergency Services Cost Recovery Ordinance".

(Ord. 190, passed 2-15-2012)

### § 35.16 PURPOSE.

This subchapter is adopted in order to provide reimbursement to the city for a portion of the costs incurred by the Fire Department for certain emergency services provided within the fire response area.

(Ord. 190, passed 2-15-2012)

### § 35.17 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ALARM.*** The giving, signaling or transmitting to a public police station, fire station or company, 911 central dispatch, or to an officer or employee thereof, whether by telephone, spoken word or otherwise, information to the effect that a condition exists at or near the place indicated by the person giving, signaling or transmitting such information, which is reasonably perceived to require an emergency response by the city.

***ASSESSABLE COSTS.*** Costs incurred by the city in connection with providing emergency services, including, but not limited to:

(1) The actual labor and material costs of the city (including, without limitation, employee wages, fringe benefits, administrative overhead, cost of equipment, costs of equipment operation, costs of materials, costs of transportation, costs of material disposal and costs of contracted labor) whether or not the emergency services are provided by the city or by a third party on behalf of the city;

(2) Services charges and interest; and

(3) Attorneys' fees, litigation costs and any costs, charges, fines or penalties to the city imposed by any court or state or federal governmental entities.

***CITY.*** The City of Memphis.

***EMERGENCY SERVICES.*** Includes:

(1) Services to halt, abate or remedy any spill, containment or release of any hazardous materials and any liabilities resulting from such;

(2) Services to extinguish or fight a fire including, but not limited to, overhauling equipment, fire extinguishers and foam;

(3) Services to demolish a structure to protect public safety following a fire and any liabilities resulting from such;

(4) Services in connection with a utility line or facility failure or problem and any liabilities resulting from such;

(5) Services in connection with any water, ice, confined space, trench, high angle or technical rescue or recovery;

(6) Services associated with any motor vehicle accident, vehicle fire, extrication of individuals from a vehicle or motor vehicle fire, including, but not limited to, spill cleanup, foam, fire extinguishers, and any liabilities resulting from such;

(7) Services associated with fraudulent requests for emergency assistance, including but not limited to, intentionally

dishonest and/or prank calls and requests for response made under false pretenses;

(8) Services associated with false alarms in excess of three times in any 365-day period or associated with a false alarm which was deliberately caused;

(9) Services associated with Fire Department response and operations at scenes resulting from activities that violate state, federal or local laws or ordinances, including, but not limited to:

(a) Illegal dumping of waste;

(b) Arson;

(c) Use of illegal fireworks; and/or

(d) Response required because of conduct or activities of a responsible party who is under the influence of intoxicating substances, such as operating a motor vehicle while under the influence of intoxicants and/or illegal drugs;

(10) Services associated with use of departmental equipment and personnel for the furtherance of private enterprise, a private business or for-profit corporation; and/or

(11) Other services and responses by the Fire Department or by individuals or entities at the request of the Fire Department.

***FALSE ALARM.*** The reporting of an alarm for which no emergency response is required.

***FIRE DEPARTMENT.*** The City of Memphis Fire Department and/or any individual, entity or third party requested to provide emergency services by the Fire Department.

***RESPONSIBLE PARTY.*** All persons, estates, entities, corporations or other parties determined by the Fire Chief to be responsible for, or benefitted by, emergency services provided by or through the city which give rise to assessable costs as set forth in the schedule of assessable costs adopted by the City Council. Any party determined by the Fire Chief to be responsible for, and/or benefitting from, such services shall be liable for the full payment for such services rendered, as provided for in this subchapter.

***RUN.*** A call generated by 911 Central Dispatch and/or by the Fire Department personnel to 911 Central Dispatch.

(Ord. 190, passed 2-15-2012)

### § 35.18 CHARGES FOR CERTAIN RUNS.

A fee at a rate set pursuant to resolution of the City Council shall be charged to any responsible party incurred in connection with the Fire Department providing emergency services.

(Ord. 190, passed 2-15-2012)

### § 35.19 PAYMENT.

(A) The city shall bill by third-party professional services or directly using first class mail, with postage fully paid by the person, persons or entity which received, required, necessitated or caused to be rendered the service, and the bill shall be due and payable to the City Treasurer within 30 days of the mailing of said bill.

(B) Fire run cost of recovery is limited to the amount authorized by the insurance company on owner's real property.

(Ord. 190, passed 2-15-2012; Ord. 208, passed 4-7-2020)

### § 35.20 APPEAL.

Anyone determined to be a responsible party who is assessed a fee pursuant to this subchapter may appeal the said fee as follows.

(A) Within the time period for which a bill is payable, a responsible party may file a written request with the City Clerk setting forth specific reasons why the charge is improper. The Clerk shall notify a responsible party who appeals a fee in writing of the time, place and date the city will hold a hearing on the appeal.

(B) The City Council may grant relief from the fee on an appeal if it finds good cause and sufficient proof.

(C) The City Council may also extend the time for payment of a fee assessed pursuant to this subchapter for a reasonable period of time, not to exceed one year.

(Ord. 190, passed 2-15-2012)

### § 35.21 METHOD OF COLLECTION.

The city shall be empowered to maintain proceedings in a court of competent jurisdiction to collect the charges authorized by this subchapter as a matured debt of the city.

(Ord. 190, passed 2-15-2012)

### § 35.22 NON-EXCLUSIVE CHARGE.

The foregoing charges shall not be exclusive of the charges that may be made by the city for the cost and expense of maintaining a Fire Department and/or providing emergency services, but shall only be supplemental thereto. Additionally, charges may be collected by the city through general taxation by procedures provided by law or by special assessment. General Fund appropriations may also be made to cover such additional costs and expenses.

(Ord. 190, passed 2-15-2012)

### § 35.23 USE OF FEES.

Any and all fees paid or collected pursuant to this subchapter shall be deposited in the Emergency Receiving Fund. All fees paid or collected pursuant to the subchapter that are deposited in the Emergency Receiving Fund, on an annual basis, in the last month of the city's fiscal year, shall be designated for the Fire Department expenditures approved by the City Council.

(Ord. 190, passed 2-15-2012)

### § 35.24 EFFECTIVE DATE.

The ordinance from which the provisions of this subchapter derive shall be effective the tenth day following the date of publication and shall be published once in the *Northern Macomb Voice*, a newspaper circulating in the city, on or before of February 29, 2012.

(Ord. 190, passed 2-15-2012)

# TITLE V: PUBLIC WORKS

Chapter



## CHAPTER 50: GARBAGE

Section



### § 50.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***GARBAGE.*** The putrescible and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

***RUBBISH.*** The miscellaneous waste material resulting from housekeeping and ordinary mercantile enterprises, trades, manufacturers, offices and stores, including ashes, cartons, tin cans, metal, small packing boxes and waste papers, excluding discarded materials from building construction or repair or refuse from industrial plants.

***SUPERVISOR.*** The Health Officer for the city or other duly appointed representatives of the City Council.

(1979 Code, § 2.1) (Ord. 34, passed 12-5-1967)

### § 50.02 PURPOSE AND INTENT.

It is the intent of the City Council that this chapter be liberally construed for the purpose of providing a sanitary and satisfactory method of collecting and disposing of municipal wastes. The Supervisor is authorized to make such rules and regulations, as from time to time appear to him or her to be necessary, to carry out this intent; provided, however, that such rules do not conflict with this or other provisions of the city code.

(1979 Code, § 2.2) (Ord. 34, passed 12-5-1967)

### § 50.03 GARBAGE AND RUBBISH COLLECTION.

Garbage and rubbish shall be collected by city approved contractors or city personnel at such times, and pursuant to rules and regulations established by the Supervisor. Such rules and regulations shall be published in a newspaper in general circulation in the city at least once before such rules and regulations become effective and as often as the Supervisor shall deem necessary.

(1979 Code, § 2.3) (Ord. 34, passed 12-5-1967)

### § 50.04 RECEPTACLES REQUIRED.

(A) The owner, occupant or lessor, or any agent thereof, of every premises where garbage and rubbish accumulate shall cause to be provided for said premises sufficient and proper receptacles as herein prescribed. Receptacles that are broken, without handles or which otherwise fail to comply with the requirements of this section may be classed as “rubbish” and, after due notice to the user, may be collected as rubbish.

(B) The receptacle for garbage shall be kept on the premises in the rear thereof within an approved distance of the rear entrance to the dwelling or premises. Containers shall be placed at the curb on pickup days and readily accessible to the collectors. Where approved liners are used, it will only be necessary to place the liner and contents at the curb, securely bound at the top.

(C) Garbage receptacles shall be of substantial approved construction, free of holes, with proper handles and a tight fitting cover and shall have a capacity of not less than ten gallons nor more than 100 pounds when full. Garbage receptacles shall be adequate in size and number to hold one-week’s accumulation. All garbage receptacles shall be maintained in a sanitary condition.

(D) Rubbish receptacles shall be metal or wooden bushel baskets with handles, in good condition, and shall weigh not to exceed 100 pounds when full. Rubbish containers, other than metal or wooden baskets with handles, in good condition, as herein specified, may be collected as rubbish without notice, except that garbage receptacles may be used as rubbish containers.

(E) Accumulations of rubbish larger than can be contained in a receptacle shall be securely tied in compact bundles not to exceed 100 pounds in weight and placed in a location designated by the Supervisor.

(F) Empty containers shall not be left at the curb for more than 24 hours.

(G) Ashes will be removed only when placed in rubbish containers as herein specified.

(H) No person shall disturb the contents of any garbage or rubbish receptacle or bundle or leave the receptacle or contents in a condition other than this section provides.

(I) Fixed or stationary garbage or rubbish receptacles may be used only upon the approval of the Supervisor as to size, location and construction.

(J) It shall be unlawful for any resident of the city to bring into the city, cause to be brought into the city, or knowingly allow another person to bring into the city, garbage and/or rubbish that is placed for pickup by the city or by the agent of the city.

(K) It shall be unlawful for any person who is not a resident of the city to bring into the city, or cause to be brought into the city, garbage and/or rubbish that is placed by said person or another for pickup by the city or by the agent of the city.

(1979 Code, § 2.4) (Ord. 34, passed 12-5-1967; Ord. 95, passed 3-3-1987) Penalty, see § 10.99

### § 50.05 INDUSTRIAL BUILDING WASTE.

(A) Industrial waste from manufacturing plants may be removed upon agreement between the operation of such plants and the Supervisor. Industrial waste shall not be deposited at the city dump except by agreement with the Supervisor and upon payment of the fee fixed by the Supervisor and approved by City Council.

(B) Other waste materials resulting from building construction or repair may be removed by agreement between the contractor or owner and the Supervisor. Such waste materials may be deposited at the city dump upon payment of the fee prescribed by the Supervisor and approved by City Council.

(1979 Code, § 2.5) (Ord. 34, passed 12-5-1967)

### § 50.06 DEPOSITING OR BURNING.

(A) No person shall bury or burn any garbage, or deposit garbage or rubbish upon any public way or upon any property owned by another or in any body of water within the city, nor shall any person deposit or place any garbage upon any premises owned or occupied by him or her, unless the garbage be enclosed in a suitable container, as herein required.

(B) No waste material shall be burned except in receptacles provided for such purpose within the city, contrary to the health or fire regulations or in any manner as to cause offensive smoke, objectionable odors or any fire hazard.

(1979 Code, § 2.6) (Ord. 34, passed 12-5-1967) Penalty, see § 10.99

### § 50.07 OWNERS AND OCCUPANTS; DUTIES.

Every owner, occupant or lessor, or any agent thereof, of any building where garbage or rubbish accumulates shall arrange with the Supervisor for garbage and rubbish collection.

(1979 Code, § 2.7) (Ord. 34, passed 12-5-1967)

### § 50.08 GARBAGE AND RUBBISH RACKS.

(A) For every single-family home which abuts on an alley, each multiple dwelling and every business establishment where garbage is collected, the owner, lessor or agent of every building must provide the garbage can container rack.

(B) In each classification listed in division (A) above, all garbage cans shall be placed on a rack not less than 12 inches and not more than 24 inches above the ground with a clear space under the rack for cleaning out spilled waste matter. Can covers shall be chained or securely tied with a two-foot length of chain or rope fastened to the rack. Cans shall not be chained or tied to the rack. A diagram of how to build the rack is available at the City Clerk's office.

(C) All racks shall be located on private property. In alley collection areas, the rack shall be located as near as possible to the alley line, but not in any alley, street or other public property, except where it has been deemed impractical by the Supervisor.

(1979 Code, § 2.8) (Ord. 34, passed 12-5-1967)

### § 50.09 CHARGES AND RATES.

(A) (1) The charges and rates for the collection and disposal of garbage and trash shall be a monthly charge set by the City Council for each occupied residence within the corporate limits of the city.

(2) Changes in the rates specified in this section may be changed from time to time by resolution of the City Council.

(B) The charges and rates herein provided for shall be due and payable quarter-annually and the said rates and charges shall be billed quarter-annually and shall be included in the city water bills as a miscellaneous account item.

(C) The city shall have a security lien for the collection of the charges and rates provided for herein. Said lien shall attach to the premises supplied with such service immediately upon the supplying of such service and enforced according to the manner herein provided. Suit may be instituted by the city in a court of competent jurisdiction for the collection of such rates and charges as an additional remedy.

(D) All charges for garbage and rubbish services shall be payable on or before the due date shown on the statement. If any garbage or rubbish charges shall not be paid on or before the due date shown on the statement, there shall be added to the amount shown on such statement a collection fee of 10%. Such collection fee shall be charged to the account of the customer and added to the next succeeding statement and payment shall be enforced as a single lot special assessment against such premises, as provided in Ch. 33.

(1979 Code, § 2.9) (Ord. 65, passed 7-6-1978; Ord. 72, passed 3-20-1979)

## CHAPTER 51: WATER

Section

## § 51.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***CITY WATER DISTRIBUTION SYSTEM.*** All mains, connections, pipes, meters, hydrants and appurtenances connected, with or served by, the City Water System.

***DEPARTMENT.*** The Water Department of the city.

***SERVICE CONNECTION.*** A connection serving a single water customer consisting of one connection, one curb stop and one meter.

***SUPERINTENDENT.*** The Superintendent of the Water Department or his or her authorized representative.

***WATER CONNECTION.*** Part of the City Water Distribution System connecting the water main with the premises served.

***WATER MAIN.*** Part of the City Water Distribution System located within easement lines or streets designed to supply more than one water connection.

***WATER TAP.*** The connection of the water service to the water main.

(1979 Code, § 2.21) (Ord. 40, passed 6-3-1969)

## § 51.02 SERVICE CONNECTIONS.

(A) The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the city and abutting on any street, alley or right-of-way in which there is located, or in which there may be located in the future, a public water service of the city, are hereby required, at their own expense, to install suitable water facilities therein and to connect such facilities directly to the public water service in accordance with this section, provided, said water service is within 100 feet of the nearest property line of said premises.

(B) Application for water connections shall be made to the Department on forms prescribed and furnished by it. The Department may refuse to authorize a larger service pipe than reasonably required by the premises served. Water connections and water meters shall be installed in accordance with rules and regulations of the Department and upon payment of a water tap fee, a service connection fee and a meter installation charge, if applicable. The fees so charged shall be as follows.

(1) *Water rates and fees.*

(a) Water tap fees.

| ***Unit or Building*** | ***Fee*** |
|---|---|
| ***Unit or Building*** | ***Fee*** |
| Commercial or industrial building: 0.75” tap | $500 |
| Commercial or industrial building: 1” tap | $500 |
| Commercial or industrial building: 1.5” tap | $730 |
| Commercial or industrial building: 2” tap | $850 |
| Existing homes now connected to the water system on temporary mains | $100 |
| Mobile home parks per single-family unit | $500 |
| Single-home residential units | $500 |
| Two-family or multiple-residential units per single-family unit | $500 |

(b) Rates for larger size taps will be computed on request.

(2) *Service connection fees.* Service connection fees for installation of the service line from the water main to the property line shall be on a time and material basis with a minimum fee of $500. A service connection fee of $250 per dwelling unit shall also be required at the time of application for water service.

(3) *Meter installation charges.* Meters installed by the city shall be on the basis of time and material. All meters and water connections shall be the property of the city. Connection fees and meter installation charges shall not be less than the cost of materials, installation and overhead attributable to such installations. The following regulations shall apply in the installation of water connections.

(a) The city shall install that part of the water connection from the water main to, and including, the curb cock and shut off box.

(b) Maintenance of the service line from the water main to the curb cock and shut off box is the responsibility of the city.

(c) Maintenance of the line from the shut off box downstream is the responsibility of the property owner. The owner shall keep the stop box visible and in good repair, free from dirt, stones or other substances.

(d) No tap fee shall be required for any existing building or the rebuilding or renovation of a building site where the water tap fee has previously been paid and where the existing water lines can be utilized.

(4) *Inspection fee.* The City Clerk shall, at the time any of the fees and/or charges required by this section are paid, collect an administration fee that shall be 10% of the fee or charge and shall collect an inspection fee of $35. The latter shall be for one inspection. Any additional inspections shall be paid for at the rate of $35 each.

(5) *Adjustments.* All fees and charges required by this section may be adjusted by resolution of the City Council.

(C) *Quarterly fees by meter size:*

| | |
|---|---|
| 5/8” and 3/4” meter | $6.00 |
| 1” meter | $7.00 |
| 1 1/2” meter | $19.00 |
| 2” meter | $26.00 |
| 4” meter | $81.00 |
| 6” meter | $128.00 |

(1979 Code, § 2.22) (Ord. 54, passed 10-7-1975; Ord. 139, passed 9-21-1999; Ord. 212, passed 6-1-2021)

### § 51.03 TURNING ON WATER SERVICE.

(A) No person, other than an authorized employee of the Department, shall turn on or off any water service, except that a licensed plumber may turn on water service for testing his or her work (when it must be immediately turned off) or upon receiving a written order from the Department, provided that, upon written permit from the Department, water may be turned on for construction purposes only prior to the granting of a certificate of occupancy for the premises and upon payment of the charges applicable thereto, which shall include the water tap and service connection fees, meter installation fee and deposit, administrative fee and inspection fee.

(B) In any circumstance where a water meter is required, the water service shall not be turned on until the water meter is installed.

(1979 Code, § 2.23) (Ord. 108, passed 12-18-1990) Penalty, see § 51.99

### § 51.04 WATER METERS.

(A) All premises using water shall be metered on or before September 10, 2001. No person except a Department employee shall break or injure the seal or change the location of, alter or interfere in any way with the water meter.

(B) All premises located outside the corporate limits of the city shall have a water meter and shall pay fees required by § 51.02 multiplied by a factor of two except for the administration fee and inspection fee which shall be the same as users within the city.

(C) Residential structures currently on a flat rate for water service are required to be metered as noted below.

(1) Any structure not metered on or before September 30, 2001 shall have its water service shut off by the city not less than 30 days after written notice by the city to the record owner of such structure.

(2) Water service to any such structure shall remain shut off until the structure is metered.

(3) Any new structure with meter service, including new residential structures, must be metered.

(4) Any structure, including residential structures with water service shall not be sold or title otherwise transferred unless a water meter has been installed prior to the proposed transfer or sale.

(D) Any premises where a water meter is installed shall not be permitted to return to billing on a flat rate for water service.

(1979 Code, § 2.24) (Ord. 108, passed 12-18-1990; Ord. 147, passed 12-5-2000)

### § 51.05 METER LOCATION.

(A) Meters shall be set in an accessible location and in a manner satisfactory to the Superintendent. Where the premises contains no basement or cellar or other satisfactory inside location, the meter shall be installed outside in a meter pit or box, the location of which shall be approved by the Superintendent. Where it is necessary to set the meter in a pit or box, such pit or box shall be built at the expense of the owner as directed by the Superintendent.

(B) If at any time a meter must be relocated, or is relocated at the request of the owner, the owner shall pay the cost thereof on a time and material basis plus a 10% administration fee and a $35 inspection fee.

(1979 Code, § 2.25) (Ord. 139, passed 9-21-1999)

### § 51.06 ACCESS TO METERS.

The Department shall have the right to shut off the supply of water to any premises where the Department is not able to obtain access to the meter. Any qualified employee of the Department shall, at all reasonable hours, have the right to enter the premises where such meters are installed for the purpose of reading, testing, removing or inspecting 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 care and maintenance of such water meter.

(1979 Code, § 2.26) (Ord. 40, passed 6-3-1969)

### § 51.07 REIMBURSEMENT FOR DAMAGE.

Any damage, which a meter may sustain resulting from carelessness of the owner, agent or tenant, or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water or steam backing from a boiler shall be paid by the owner of the property to the city on presentation of a bill which shall be based on time and materials plus 15% for overhead.

(1979 Code, § 2.27) (Ord. 40, passed 3-3-1969)

### § 51.08 METER FAILURE.

If any meter shall fail to register properly, the Department shall estimate the consumption on the basis of former consumption and bill accordingly.

(1979 Code, § 2.28) (Ord. 40, passed 6-3-1969)

### § 51.09 INACCURATE METERS.

An owner may require that the meter be tested upon written request to the Superintendent of Public Works. If the meter test registers within 5% of the water passing through it, the owner shall be billed for the cost of removal, test of meter and reinstallation. If charges are not paid within 30 days, the charges shall be applied to the water billing and collected as such.

(1979 Code, § 2.29) (Ord. 153, passed 1-21-2003)

### § 51.10 ACCURACY REQUIRED.

A meter shall be considered accurate if, when tested, it registers not to exceed 5% more or 5% less than the actual quantity of water passing through it. If a meter registers in excess of 5% 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 5% less than the actual quantity of water passing through it, it shall be considered “slow” to that extent.

(1979 Code, § 2.30) (Ord. 40, passed 6-3-1969)

### § 51.11 BILL ADJUSTMENT.

(A) If a meter has been tested at the request of a consumer and shall have been determined to register “fast”, the city shall credit the consumer with a sum equal to the percent “fast” multiplied by the amount of all bills incurred by said consumer within three months prior to the test and, if a meter so tested is determined to register “slow”, the Department may collect from the consumer for the prior three months.

(B) 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 above provided, if the meter is found to be “slow”.

(1979 Code, § 2.31) (Ord. 40, passed 6-3-1969)

### § 51.12 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.

(1979 Code, § 2.32) (Ord. 40, passed 6-3-1969) Penalty, see § 51.99

### § 51.13 CROSS-CONNECTIONS.

(A) The city adopts by reference the Water Supply Cross Connection Rules of the State Department of Public Health being R 235.11401 to 325.11407 of the State Administrative Code.

(B) 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 is deemed possible. The frequency of inspections and reinspections, based on potential health hazards involved, shall be as established by the Board of Public Works and as approved by the State Department of Public Health.

(C) The representative of the city shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping system or systems thereof for cross-connections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.

(D) The Board of Public Works is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this section exists and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross-connections have been eliminated in compliance with the provisions of this section.

(E) The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this section and by the State and City Plumbing Code. Any water outlet which could be used for potable or domestic purposes, and which is not supplied by the potable system, must be labeled in a conspicuous manner as follows.

WATER UNSAFE

FOR DRINKING

(F) This section does not supersede the State Plumbing Code and the city's plumbing installation costs set out in § 52.16 of this code but is supplementary to them.

(G) Private wells are not permitted anywhere on a parcel of real property if a city water main is located within 100 feet of any boundary line of said parcel, regardless of how far the well is from a city water main. The purpose of this division (G) is to prevent and limit possible cross-connections and preserve the quality of water made available by the city.

(1979 Code, § 2.33) (Ord. 68, passed 1-16-1979; Ord. 187, passed 6-21-2011) Penalty, see § 51.99

### § 51.14 STANDARDS AND ISOLATION AREA.

(A) No person shall connect to, add to, or in any manner join, a line to the city water service unless all pipes, fittings, valves and all other parts of that which is joined, added or connected meets A.W.W.A. standards in effect at the time of such connection, addition or junction.

(B) There shall be an isolation area around all city wells measured with a 200 foot radius around each well. There shall be no potential sources of ground water contamination within any such isolation area, including, but not limited to, storm and sanitary sewer pipelines, seepage points, leaching beds, barnyards or surface water and/or any other use or facility that may result in contamination of ground water. No property owner shall use or permit his/her property to be used in a manner which violates this section. In addition to any other penalty, any violation of this section shall be considered a public nuisance.

(C) In addition to any other remedies available, the City Council may, after notice and holding a public hearing, direct the owner of the land where a public nuisance under division (B) of this section is located, to abate the condition, structure or use that creates such public nuisance. The City Council may afford the property owner time to abate the public nuisance. If the owner does not abate the public nuisance within the time directed, the City Council may direct the city to abate the public nuisance with the cost of such being charged against the premises and the property owner. If the Director of Public Works determines that a public nuisance in violation of division (B) of this section is such that public safety requires immediate action, without order of City Council, he/she may direct the city immediately abate such public nuisance with the costs of the same being charged against the property and the property owner.

(1979 Code, § 2.34) (Ord. 108, passed 12-18-1990; Ord. 198, passed 9-6-2016) Penalty, see § 51.99

### § 51.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person or customer found guilty of violating any of the provisions of §51.13, or any written order of the Board of Public Works, in pursuance thereof, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $100 for each violation. Each day upon which a violation of the provisions of § 51.13 shall occur shall be deemed a separate and additional violation for the purpose of § 51.13.

(Ord. 68, passed 1-16-1979)

# CHAPTER 52: SEWERS

Section



## § 52.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***B.O.D.*** (denoting ***BIOCHEMICAL OXYGEN DEMAND*****).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in parts per million by weight.

***BUILDING DRAIN.*** The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drain pipes inside the walls of the building and conveys it to the building sewer, beginning approximately five feet outside the inner face of the building wall.

***BUILDING SEWER.*** The extension from the building drain to the public sewer or other place of disposal.

***COMBINATION SEWER*** or ***COMBINED SEWER.*** A sewer receiving both storm water and sewage.

***GARBAGE.*** Wastes from the preparation, cooking and dispensing of food and the handling, storage, processing and sale of perishable produce.

***INDUSTRIAL WASTES.*** The liquid wastes, solids or semi-solids from industrial processes as distinct from domestic sanitary sewage.

***MAY.*** The act referred to is permissive.

***NATURAL OUTLET.*** Any outlet into a watercourse, pond, ditch, lake or other body of water, either surface or ground water.

***PERSON.*** Any individual, firm, company, association, society, corporation or group.

***pH.*** The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

***PPM.*** Parts per million by weight.

***PROPERLY SHREDDED GARBAGE.*** The wastes from the cooking, preparation and dispensing of food that has been cut or shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers with no particle greater than one-half inch in any dimension.

***PUBLIC SEWER.*** A sewer in which all owners of abutting property have equal rights and which is controlled by public authority.

***SANITARY SEWER.*** A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

***SEWAGE.*** Any combination of water-carried wastes from residences, business buildings, institutions, laboratories and industrial establishments, together with such ground water, surface and storm waters as may be present.

***SEWAGE TREATMENT PLANT.*** Any arrangement of devices and structures used for treating sewage.

***SEWAGE WORKS.*** All facilities for collecting, pumping, treating and disposing of sewage.

***SEWER.*** Any pipe, tile, tubes or conduit for carrying sewage.

***SHALL.*** The act referred to is mandatory.

***STORM SEWER*** or ***STORM DRAIN.*** A sewer or drain, natural or artificial, which carries storm and surface waters and drainage but which excludes sewage and polluted industrial wastes.

***STORM WATER.*** The part of the rainfall which reaches the sewers as run-off from natural land surface, building roofs or pavements or as ground water infiltration.

***SUSPENDED SOLIDS.*** The solids that either float on the surface of, or are suspended in, water, sewage or other liquids and which are removable by laboratory filtering.

***UNCONTAMINATED INDUSTRIAL WASTES.*** Waste water which has not come into contact with any substance used in, or incidental to, industrial processing operations.

***WATERCOURSE.*** An open natural channel in which a flow of water occurs, either continuously or intermittently.

(1979 Code, § 2.41) (Ord. 41, passed 7-1-1969)

### § 52.02 WATER POLLUTION.

It shall be unlawful for any person to place or deposit, or permit to be deposited, in any area under the jurisdiction of the city for discharge into the natural watercourse, any substance which is injurious to the public health or detrimental to the public welfare.

(1979 Code, § 2.42) (Ord. 41, passed 7-1-1969) Penalty, see § 52.99

### § 52.03 PRIVIES AND SEPTIC TANKS.

It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facilities intended or used for the disposal of sewage.

(1979 Code, § 2.43) (Ord. 41, passed 7-1-1969) Penalty, see § 52.99

### § 52.04 SEWER CONNECTION REQUIRED.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is located, or may in the future be located, a public, sanitary or combined sewer of the city are hereby, at their own expense, to install suitable toilet facilities therein and to connect such facilities directly to the public sewer in accordance with the provisions of this chapter, provided that said public sewer is within 100 feet of the nearest property line of said premises.

(1979 Code, § 2.44) (Ord. 41, passed 7-1-1969)

### § 52.05 UNPOLLUTED WATER.

No person shall discharge, or cause to be discharged, any storm water, surface water, ground water, roof run-off, subsurface drainage, cooling water or unpolluted industrial process waters, except as allowed under § 52.06, into any sanitary sewer.

(1979 Code, § 2.45) (Ord. 41, passed 7-1-1969) Penalty, see § 52.99

### § 52.06 STORM DRAINAGE.

(A) Storm water, and all other unpolluted drainage, shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to an approved natural outlet.

(B) The owner, lessee and occupant of any premises now constructed shall disconnect and plug 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 basement drain or house footing drainage line. Such roof drainage shall be permitted to flow upon the ground in such manner as to reach the public storm sewer or drains by ground surface drainage as slowly as possible.

(1979 Code, § 2.46) (Ord. 41, passed 7-1-1969; Ord. 135, passed 4-20-1999)

### § 52.07 PROHIBITED USES.

Except as hereinafter provided, no person shall discharge, or cause to be discharged, any of the following described waters or wastes into a public sewer, to-wit:

(A) Any liquid or vapor having a temperature higher than 150°F;

(B) Any water or waste which may contain more than 100 PPM of animal or vegetable fat, oil or grease;

(C) Any gasoline, benzine, naphtha, fuel oil or other inflammable or explosive liquid, solid or gas;

(D) Any grease, oil or other substance that will become solid or viscous at temperatures between 32°F and 150°F;

(E) Any garbage that has not been properly shredded;

(F) Any mineral oil or grease, ashes, cinders, sand, mud, plastics, wood, paunch manure, straw, shavings, metal, glass, rags, feathers, asphalt, tar, manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;

(G) Any waters or wastes having a pH lower than 5.5 or higher than 10.0 or having any other corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the treatment works;

(H) Any wastes containing in excess of 5.0 PPM chromium, 15.0 PPM of total iron, 10. PPM of copper, 1.0 PPM of cyanide expressed as “CN”, 15.0 PPM of chloride demand, 0.02 PPM phenols, or any wastes containing zinc, cadmium or other metallic compounds sufficient to impair the operation of the sewage treatment processes;

(I) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure any sewage treatment process, constituting a hazard to humans or animals or creating any hazard in receiving waters or in the sewage treatment plant;

(J) Any noxious or malodorous gas or substance capable of creating a public nuisance;

(K) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;

(L) Any wastes that contain insoluble solids in excess of 10,000 PPM or exceeds a daily average of 500 PPM or that contains a combination of soluble and insoluble material in excess of 20,000 PPM or exceeds a daily average of 2,000 PPM; and/or

(M) Any wastes containing any insoluble substance that will not pass 4 mesh per inch screen.

(1979 Code, § 2.47) (Ord. 41, passed 7-1-1969) Penalty, see § 52.99

### § 52.08 INTERCEPTORS.

(A) Grease, oil and sand interceptors shall be provided when, in the opinion of the City Council, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All

interceptors shall be of a type and capacity approved by the City Council and shall be located so as to be readily and easily accessible for cleaning and inspection.

(B) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperatures. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

(1979 Code, § 2.48) (Ord. 41, passed 7-1-1969)

### § 52.09 INTERCEPTOR MAINTENANCE.

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.

(1979 Code, § 2.49) (Ord. 41, passed 7-1-1969)

### § 52.10 PRELIMINARY TREATMENT FACILITIES.

(A) The admission into the public sanitary or combined sewers of any waters or wastes having the following measurements shall be subject to the review and approval of the City Council:

(1) A five-day BOD greater than 300 PPM;

(2) Containing more than 350 PPM of suspended solids; or

(3) An average daily flow greater than 2% of the average daily sewage flow of the city.

(B) Where necessary, in the opinion of the City Council, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to:

(1) Reduce the BOD to 300 PPM and the suspended solids to 350 PPM by weight; and

(2) Control the quantities and rates of discharge of such water or wastes.

(C) Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the City Council and of the appropriate agency of the state and no construction of such facilities shall be commenced until the said approvals are obtained in writing.

(1979 Code, § 2.50)

(D) Where preliminary treatment facilities are provided for any wastes or waters, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

(1979 Code, § 2.51)

(Ord. 41, passed 7-1-1969)

### § 52.11 CONTROL MANHOLES.

When required by the City Council, the owner of any property served by a building sewer carrying industrial wastes shall install such control or safety devices as may be deemed necessary for the proper protection of persons or property and/or a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of waste. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the City 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.

(1979 Code, § 2.52) (Ord. 41, passed 7-1-1969)

### § 52.12 MEASUREMENTS AND TESTS.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in §§ 52.07 and 52.10 shall be determined in accordance with *Standard Methods for the Examination of Water and Sewage*, as published by the American Public Health Association, and shall be determined at the control manhole provided for in § 52.11 or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(1979 Code, § 2.53) (Ord. 41, passed 7-1-1969)

### § 52.13 AGREEMENTS.

No statement contained in this chapter shall be construed as preventing any special arrangement between the city and any person whereby any waste or unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern.

(1979 Code, § 2.54) (Ord. 41, passed 7-1-1969) Penalty, see § 52.99

## § 52.14 POINT CONDITIONS APPLY.

All the preceding specific conditions are to apply at the point where wastes are discharged into a public sanitary or combined sewer and all chemical and/or mechanical corrective treatment must be accomplished to practical completion before this point is reached.

(1979 Code, § 2.55) (Ord. 41, passed 7-1-1969)

## § 52.15 PERMITS.

(A) *Permit required.* No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereto without first obtaining a written permit from the city and each day's use of a sewer connection unlawfully made shall constitute a separate offense punishable as prescribed in § 10.99 hereof.

(1979 Code, § 2.61)

(B) *Permit fees.*

(1) There shall be three classes of building sewer permits:

(a) For residential and commercial service;

(b) For service to establishments producing industrial wastes; and

(c) For service to new school buildings.

(2) In any case, the owner, or his or her agent, shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information (e.g., satisfactory evidence indicating compliance with all state laws and regulations) considered pertinent in the judgment of the Engineer. The fees for building sewer permits shall be as follows:

(a) For residential service: $1,000 per dwelling unit;

(b) For mobile home parks: $1,000 per dwelling unit;

(c) For commercial service: $1,000 per store, office or separate commercial unit;

(d) For industrial service: The fee will be computed based on the size of sewer connection required and the quantity and quality of waste to be discharged into the public sewer; and

(e) For new school buildings: $0.10 for residential equivalent unit (R.E.U.) per student based on the maximum rated student capacity for the building.

(3) No sewer permit fee shall be required for any existing building or rebuilding or renovation on a building site where the sewer permit fee has previously been paid and where the existing sewer lines can be utilized.

(4) All fees and charges required by this section may be adjusted by resolution of the City Council.

(5) The City Clerk shall, at any time any of the fees and/or charges required by this section are paid, collect an administration fee that shall be 10% of the fee or charge and shall collect an inspection fee of $35. The latter shall be for one inspection. Any additional inspections shall be paid for at the rate of $35 each.

(1979 Code, § 2.62)

(Ord. 41, passed 7-1-1969; Ord. 136, passed 7-20-1999) Penalty, see § 52.99

## § 52.16 INSTALLATION COSTS.

All costs and expenses incidental to the installation and connection of the building sewer to the public sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(1979 Code, § 2.63) (Ord. 41, passed 7-1-1969)

## § 52.17 BUILDING SEWERS.

(A) *Separate building sewers.* A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(1979 Code, § 2.64)

(B) *Used building sewers.* Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City Engineer, to meet all requirements of this section.

(1979 Code, § 2.65)

(Ord. 41, passed 7-1-1969)

### § 52.18 PIPE SPECIFICATIONS.

The building sewer shall be cast iron pipe, soil pipe, ASTM specifications, A74-42 or equal, vitrified clay sewer pipe, ASTM specifications C13-54 or equal; rigid plastic pipe ASTM specifications D 2665 PVC DWV schedule 40, SDR 26 or equal; or other suitable material approved by the City Engineer. Joints shall be tight and waterproof. Cast iron pipe with leaded joints may be required by the City Engineer where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of cast iron soil pipe, except that non-metallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the City Engineer.

(1979 Code, § 2.66) (Ord. 135, passed 4-20-1999)

### § 52.19 SIZE AND SLOPE.

The size and slope of the building sewer shall be subject to the approval of the City Engineer, but in no event shall the diameter be less than four inches for four units or less or six inches for multiple use over four units. The slope of both the four- and the six-inch pipe shall not be less than one-eighth inch per foot.

(1979 Code, § 2.67) (Ord. 119, passed 8-16-1994)

### § 52.20 CONNECTION AT BUILDING.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to, or within three feet of, any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipes and fittings.

(1979 Code, § 2.68) (Ord. 41, passed 7-1-1969)

### § 52.21 SUMP PUMP.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

(1979 Code, § 2.69) (Ord. 41, passed 7-1-1969)

### § 52.22 EXCAVATIONS.

(A) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City Engineer. Pipe laying and backfill shall be performed in accordance with ASTM specifications C12-54 except that no backfill shall be placed until the work has been inspected.

(1979 Code, § 2.70)

(B) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(1979 Code, § 2.74)

(Ord. 41, passed 7-1-1969)

### § 52.23 JOINTS.

(A) All joints and connections shall be made gastight and watertight. Cast iron pipe joints shall be firmly packed with oakum or hemp and filled with molten lead, federal specifications QQ-L-156, not less than one inch deep. Lead shall be run in one pouring and caulked tight. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved.

(B) All joints in vitrified clay pipe or between such pipe and metals shall be made with approved hot-poured painting material or cement mortar, as specified below.

(C) Material for hot-poured joints shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of 160°F, nor be soluble in any of the wastes carried by the drainage system. The joint shall first be caulked tight with jute, hemp or similar approved material.

(D) Cement joints shall be made by packing a closely twisted jute or oakum gasket of suitable size to fill partly the armular space between the pipes. The remaining space shall be filled, and firmly compacted, with mortar composed of one part Portland cement and two parts fire clay. The material shall be mixed dry and only sufficient water shall be added to make the mixture workable. Mortar which has begun to set shall not be used or retempered. Lime putty or hydrated lime may be substituted to the extent of not more than 25% of the volume of the Portland cement that may be added.

(E) Other jointing materials and methods may be used only by approval of the City Engineer.

(1979 Code, § 2.71) (Ord. 41, passed 7-1-1969)

## § 52.24 CONNECTION TO PUBLIC SEWER.

(A) The connection of the building sewer into the public sewer shall be made at the “Y” branch if such branch is available at a suitable location. If the public sewer is 12 inches in diameter or less, and no properly located “Y” branch is available, the owner shall, at his or her expense, install a “Y” branch in the public sewer at the location specified by the City Engineer. Where the public sewer is greater than 12 inches in diameter, and no properly located “Y” branch is available, the owner shall:

(1) Install a“Y” branch as heretofore specified; or

(2) Obtain entry by cutting a neat hole into the public sewer to receive the building sewer, either at the top for entry by means of a vertical riser or at the side with entry in the downstream direction at an angle of about 45 degrees. A bell and spigot section shall be used to make the (2) type connection, with the spigot end cut so as not to extend past the inner surface of the public sewer.

(B) (1) The invert of the building sewer at the point of connection shall be the same or at a higher elevation than the invert of the public sewer.

(2) A smooth, neat joint shall be made and the connection made secure and watertight by encasement in concrete.

(3) Special fittings may be used for the connection only when approved by the City Engineer.

(1979 Code, § 2.72) (Ord. 41, passed 7-1-1969)

## § 52.25 INSPECTION.

The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City Inspector.

(1979 Code, § 2.73) (Ord. 41, passed 7-1-1969)

## § 52.26 PROTECTION FROM DAMAGE.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment that is a part of the municipal sewage works.

(1979 Code, § 2.75) (Ord. 41, passed 7-1-1969) Penalty, see § 52.99

## § 52.27 POWERS AND AUTHORITY OF INSPECTORS.

Duly authorized representatives of the city 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 section at any time during reasonable or usual business hours. Any person guilty of refusing or obstructing such entry shall be guilty of a violation of this section.

(1979 Code, § 2.76) (Ord. 41, passed 7-1-1969) Penalty, see § 52.99

## § 52.28 NOTICE TO CEASE VIOLATION.

(A) Any person found to be violating any provisions of this chapter except §52.27 shall be served with written notices stating the nature of such violation and providing a reasonable time limit for the satisfactory correction thereof.

(B) The offender shall, within the period of time stated in such notice, take such corrective action as may be necessary. Such notice shall be served by:

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

(2) Mailing said 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 said notice in some conspicuous place on the premises.

(1979 Code, § 2.77) (Ord. 41, passed 7-1-1969)

## § 52.99 PENALTY

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) Any person who shall continue any violation beyond the time limit provided in §52.28 shall, upon conviction thereof, be fined not less than $25 nor more than $500 or by imprisonment for not more than 90 days or by both such fine and imprisonment in the discretion of the court. Each day or fraction of a day, in which such violation shall continue shall be deemed a separate offense. Any officer, agent or employee guilty of aiding or abetting such violation or, being responsible therefor, refuses or neglects to take corrective action, shall be guilty as a principal.

(1979 Code, § 2.78)

(2) Any person violating any of the provisions of this chapter shall be liable to the city for any expense, loss or damage occasioned to the city by reason of such violation and recovery therefor may be had in an appropriate action in any court of competent jurisdiction.

(1979 Code, § 2.79)

(3) Any continued violation, after due notice as provided in §52.28, shall be deemed a public nuisance and may be abated by suit in equity by the city in any court of competent jurisdiction. This remedy shall be in addition to those heretofore provided for.

(1979 Code, § 2.80)

(Ord. 41, passed 7-1-1969)

# CHAPTER 53: WATER AND SEWER RATES

Section



## § 53.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***DEPARTMENT.*** The City Department of Water.

***PERSON.*** Any individual, firm, association, public or private corporation or public agency or instrumentality.

***PREMISES.*** Each lot or parcel of land, building, premises, dwelling unit or apartment unit having any connection to the Water Distribution System of the city or the Sewage Disposal System of the city.

(1979 Code, § 2.101) (Ord. 69, passed 2-6-1979)

## § 53.02 BASIS OF CHARGES.

(A) All water service shall be charged for in one of the following three ways.

(1) All water customers will be charged based on actual usage but no less than a minimum of 7,500 gallons usage per quarter or those which do not have meters shall be charged a flat rate based on presumed usage of 22,500 gallons per quarter, except as noted in division (A)(3) below.

(2) Multiple-unit dwellings of two or three dwellings units, as defined inCh. 150, which do not have meters shall be charged per dwelling unit as indicated in division (A)(1) above.

(3) Water service customers connected to the water system requesting a temporary or seasonal water shutoff will be charged a fee no less than a minimum charge based on 7,500 gallons usage per quarter whether metered or not metered.

(B) All sewage disposal charges shall be based on water consumption.

(C) No free water service or sewage disposal service shall be furnished to any person.

(1979 Code, § 2.102) (Ord. 110, passed 4-16-1991; Ord. 141, passed 2-1-2000; Res. passed 5-16-2006)

## § 53.03 WATER RATES.

(A) *Consumption charges.* All water will be charged for at the rate of $7.00 per 1,000 gallons.

(B) *Per gallon usage rate.* The per gallon usage rate shall apply to all customers and may from time to time be changed for all customers by resolution of the City Council.

(1979 Code, § 2.103) (Ord. 110, passed 4-16-1991; Res. passed 5-27-2020)

### § 53.04 SEWER RATES.

Charges for sewage disposal service shall be levied upon all premises having any sewer connection with the public sewers. The sewer charge shall be 100% of the water charge for each premises at the rates and charges above set forth payable quarterly.

(1979 Code, § 2.104) (Ord. 69, passed 2-6-1979)

### § 53.05 SERVICE TO THE CITY.

The city shall pay the same water and sewer rates for service to it as would be payable by a private customer for the same service. The city shall pay a charge of $140 per year per fire hydrant. All such charges for service and fire hydrants 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.

(1979 Code, § 2.105) (Ord. 69, passed 2-6-1979)

### § 53.06 BILLING.

Charges for water service and sewage disposal service shall be billed and collected quarterly. All water meters shall be read at least every third month and bills rendered promptly thereafter. Water and sewage bills shall be immediately due and payable and may be paid, without penalty, on or before the due date provided for in said bill. If a water service and/or sewage disposal bill is not paid in full by the due date stated thereon, a penalty in the amount of 10% of the total bill shall be added to the amount due.

(1979 Code, § 2.106) (Ord. 188, passed - -)

### § 53.07 COLLECTION.

(A) The Department of Water is hereby authorized to enforce the payment of charges for water and/or sewer to such premises by discontinuing water and/or sewer service pursuant to § 53.08 to any premises 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 94 of 1933, being M.C.L.A. §§ 141.101 through 141.138, as amended, are made and shall constitute a lien on premises to which such services are furnished.

(B) The Superintendent of the Water Department shall, annually on April 1, certify all unpaid charges for water and/or sewage service furnished to any premises which, on the preceding March 31, 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 the event water service is turned on and/or off at premises, there shall be a turn on and/or turn off charge in the amount of the actual costs incurred by the city in turning on and/or off water service, plus 10% or $50, whichever is greater.

(C) In cases where the city is properly notified in accordance with said Public Act 94 of 1933, being M.C.L.A. §§ 141.101 through 141.138, as amended, that a tenant is responsible for water or sewage disposal service charges, water service and these services are terminated pursuant to § 53.08 will not be turned on again until the turn on and/or turn off fees are fully paid. Where the water service to any premises is turned off pursuant to § 53.08 to enforce the payment of water service charges or sewage disposal services and the city was not properly notified a tenant was responsible for the water and/or sewage disposal charged, the water service shall not be recommenced until all delinquent charges, including turn on and/or turn off fees have been paid.

(1979 Code, § 2.107) (Ord. 189, passed 6-21-2011)

### § 53.08 DISCONNECTION FOR LATE PAYMENT.

(A) It is the policy of the city to discontinue utility service to customers by reason of nonpayment of bills, only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, room number and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect that:

(1) All bills are due and payable on or before the date set forth on the bill;

(2) If any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

(3) Any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(B) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(C) When it becomes necessary for the city to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge in an amount set by the city.

# TITLE VII: TRAFFIC CODE

Chapter



## CHAPTER 70: GENERAL PROVISIONS

Section



### STATE VEHICLE CODE

#### § 70.01 STATE VEHICLE CODE; ADOPTION BY REFERENCE.

The State Motor Vehicle Code, Public Act 300 of 1949, being M.C.L.A. §§ 257.1 through 257.923, as amended, is hereby adopted by reference.

(Ord. 145, passed 8-15-2000)

#### § 70.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***LOCAL AUTHORITIES.*** The City Council of the City of Memphis.

***LOCAL UNIT OF GOVERNMENT.*** The City of Memphis.

(Ord. 145, passed 8-15-2000)

#### § 70.03 CIVIL INFRACTIONS.

(A) Any provision in this chapter which describes any act or omission as constitutes a civil infraction as defined in the Motor Vehicle Code shall be processed as a civil infraction.

(B) Any person found to have committed a civil infraction may be ordered to pay a civil fine and costs in accordance with the provisions and terms of the Motor Vehicle Code.

(Ord. 145, passed 8-15-2000)

#### § 70.04 MAXIMUM PENALTY.

In the event that the Motor Vehicle Code shall provide a penalty or sentence for a violation thereof that exceeds the maximum allowable penalty or sentence that a city may impose, the penalty or sentence imposed for a violation shall not thereby be invalid or void, but said penalty or sentence shall only be enforceable up to the maximum penalty or sentence a city is allowed to impose by law.

(Ord. 145, passed 8-15-2000)

#### § 70.05 IMPEDING TRAFFIC.

(A) No person shall operate a motor vehicle on any street, highway or area open to the general public in the city in such manner as to impede the flow of traffic.

(B) A person who violates this section shall be responsible for a municipal infraction.

(Ord. 195, passed 12-4-2012) Penalty, see § 10.99

### § 70.06 EFFECTIVE DATE.

The ordinance from which the provisions of §§70.01 through 70.04 derive shall be effective ten days after publication.

(Ord. 145, passed 8-15-2000)

## UNIFORM VEHICLE CODE

### § 70.20 UNIFORM VEHICLE CODE; ADOPTION BY REFERENCE.

The Uniform Vehicle Code, Public Act 62 of 1956, being M.C.L.A. §§ 257.951 through 257.955, as amended is hereby adopted by reference.

# CHAPTER 71: OPERATION OF OFF-ROAD VEHICLES ON CITY ROADS

Section



### § 71.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***CITY.*** The City of Memphis, Michigan.

***CITY BOARD.*** A Board of Council Members of a city.

***DRIVER'S LICENSE.*** A license, permit, or temporary license issued under the laws of the State of Michigan pertaining to the licensing of persons to operate motor vehicles.

***MUNICIPALITY.*** The City of Memphis.

***OPERATE.*** To ride in or on and/or to physically control an ORV.

***OPERATOR.*** A person who operates and/or is in actual physical control of an ORV.

***ORV.*** A motor driven off-road recreation vehicle capable of cross country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ***ORV*** includes, but is not limited to, a multitrack or multiwheel drive vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving power from a source other than muscle or wind. ***ORV*** does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil and gas company when performing maintenance on said company's facilities or on property over which said company has an easement, a construction or logging vehicle used in performance of

its common function, or a registered aircraft.

***ROAD.*** A city primary road or city local road as described in M.C.L.A. § 247.655.

***SAFETY CERTIFICATE.*** A certificate issued pursuant to Michigan Public Act 451 of 1994, as amended, M.C.L.A. § 324.81129, or a comparable ORV ***SAFETY CERTIFICATE*** issued under the authority of another state or a province of Canada.

***STREET.*** A city or village major street, or a village local street as described in M.C.L.A. § 247.659

***VISUAL SUPERVISION.*** The direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.

(Ord. 202, passed 6-5-2018)

### § 71.02 OPERATION OF OFF-ROAD VEHICLES.

Subject to the following conditions, an ORV may be operated on the far right of the maintained portion of roads within the city.

(A) An ORV may not be operated on paved or asphalted roads that have a speed limit above 25 miles per hour. Provided, ORVs may utilize such roads for ingress and egress purposes so long as the ORVs are operated consistent with all other provisions of this chapter.

(B) In the event the Road Commission closes, or in the event a city or municipality adopts an ordinance closing certain roads to ORV use, as permitted pursuant to M.C.L.A. § 324.81131(4), operation of an ORV on such roads is prohibited under this section.

(C) This chapter does not authorize the operation of an ORV upon a state trunkline highway.

(D) ORVs may only be operated on roads between the hours of 5:00 a.m. and 10:00 p.m.

(E) ORVs may not be operated on M-19.

(Ord. 202, passed 6-5-2018; Ord. 207, passed 9-3-2019)

### § 71.03 LIMITATION ON CLOSURE OF ROADS.

The city may close roads to the operation of ORVs in order to protect the environment and/or if the operation of ORVs poses a particular and demonstrable threat to public safety. Provided, the city may not close more than 30% of the linear miles of roads to the operation of ORVs pursuant to this provision.

(Ord. 202, passed 6-5-2018)

### § 71.04 COMPLIANCE WITH STATE AND FEDERAL LAWS.

An ORV may not be operated on the road surface, roadway, shoulder, or right-of-way of any state or federal highway in the city. ORVs may not be operated on M-19 or Bordman Road.

(Ord. 202, passed 6-5-2018)

### § 71.05 REQUIREMENTS FOR OPERATION.

Subject to the following conditions, and, except as set forth herein or otherwise provided by law, an ORV may be operated on a road in the city subject to the following conditions.

(A) The ORV is operated at a speed of no more than 25 miles per hour or a lower posted ORV speed limit.

(B) A person under 16 years of age shall not operate an ORV on a road unless the person is in possession of a valid driver license or under the direct supervision of a parent or guardian, and the person has in his or her immediate possession a valid safety certificate. A person under 12 years of age shall not operate an ORV under this section.

(C) The ORV is operated with the flow of traffic.

(D) The ORV is operated in a manner which does not interfere with traffic on the road.

(E) ORVs must travel single file except when over taking and passing another ORV.

(F) An ORV is not operated when visibility is substantially reduced due to weather conditions.

(G) The ORV has working and visible lighted headlight and lighted taillight.

(H) The operator and each passenger of the ORV must wear a crash helmet and protective eyewear approved by the United States Department of Transportation unless the ORV is equipped with a roof that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened seat belt.

(I) The ORV is equipped with a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically idle.

(J) The ORV is equipped with a spark arrester type, United States Forest Service approved muffler in good working order and in constant operation.

(K) The ORV is operated consistent with noise and emission standards defined by law.

(L) Two-wheeled motor vehicles are not allowed on any streets unless registered with the state.

(Ord. 202, passed 6-5-2018)

### § 71.06 OPERATION BY MINORS.

A minor less than 16 years old shall not operate an ORV on a road unless the minor is under the direct visual supervision of an adult and the minor has in his or her immediate possession a valid safety certificate. A person under 12 years of age shall not operate an ORV under this chapter.

(Ord. 202, passed 6-5-2018)

### § 71.07 ORV REGISTERED AS MOTOR VEHICLE.

Unless a person possesses a valid driver's license, a person shall not operate an ORV on a road if the ORV is required to be registered as a motor vehicle with the state and is either more than 60 inches wide or has three wheels.

(Ord. 202, passed 6-5-2018)

### § 71.08 GOLF CARTS.

Golf carts are subject to all the provisions of this chapter.

(Ord. 202, passed 6-5-2018)

### § 71.09 IMMUNITY.

The city, City Council, and Memphis Police Department are immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use of an ORV on maintained or un-maintained roads, streets, shoulders, and rights-of-way over which the city has jurisdiction.

(Ord. 202, passed 6-5-2018)

### § 71.10 PRIMA FACIE NEGLIGENCE.

In a court action in the state, if competent evidence demonstrates that a vehicle which is permitted to operate on a road pursuant to state law, was involved in a collision with an ORV required to be operated on the far right of the maintained portion of a road pursuant to this chapter, the operator of the ORV shall be considered prima facie negligent.

(Ord. 202, passed 6-5-2018)

### § 71.11 RESTITUTION.

A court may order a person who causes damages to environment, a road, or other property, as a result of the operation of an ORV, to pay full restitution for that damage above and beyond the penalties paid for civil fines.

(Ord. 202, passed 6-5-2018)

### § 71.12 ENFORCEMENT.

This chapter shall be enforced by the Memphis Police Department.

(Ord. 202, passed 6-5-2018)

### § 71.99 PENALTY.

Any person who violates this chapter is guilty of a civil infraction and may be ordered to pay a civil fine of up to $500.

(Ord. 202, passed 6-5-2018)

# TITLE IX: GENERAL REGULATIONS

Chapter

# CHAPTER 90: PARKS AND RECREATION

Section



## § 90.01 INJURY TO PARK PROPERTY.

No person shall obstruct any walk or drive in any public park or playground and no person shall injure, mar or damage, in any manner, any monument, ornament, fence, bridge, seat, tree, fountain, shrub, flower, playground equipment, fireplaces or other public property within, or pertaining to, any park or playground.

(1979 Code, § 3.1) Penalty, see § 10.99

## § 90.02 WASTE CONTAINERS.

No person shall place or deposit any garbage, glass, tin cans or papers or miscellaneous waste in any park or playground except in containers provided for that purpose.

(1979 Code, § 3.2) Penalty, see § 10.99

## § 90.03 BALL GAMES.

No baseball, football or softball throwing, or other violent or rough exercises or play shall be engaged in in any public park or other public place except in such areas or spaces designated for such exercise or play under rules adopted hereunder.

(1979 Code, § 3.3) Penalty, see § 10.99

## § 90.04 PICNICS.

Picnics may be held in such parts of any park as shall be designated for that purpose, subject to any rules and regulations pertaining thereto.

(1979 Code, § 3.4)

## § 90.05 OPEN FIRES.

No person shall kindle or build fires in any park or playground except in fireplaces or stoves provided for that purpose. Upon leaving such fire, it shall be the duty of the person last using it to see that said fire is extinguished.

(1979 Code, § 3.5) Penalty, see § 10.99

## § 90.06 VEHICLES IN PARKS.

No person shall drive or park any vehicle in any park or playground except in spaces set aside and designated as parking areas or drives under rules adopted hereunder. Driving and parking on all streets and public ways within any park, or bordering on the same, shall be subject to all of the provisions of Title VII of this code regulating traffic generally and to such additional rules and regulations as are adopted.

(1979 Code, § 3.6) Penalty, see § 10.99

## § 90.07 HOURS.

City parks shall be closed at the following times:

(A) Monday through Thursday: 11:00 p.m.;

(B) Friday and Saturday: 1:00 a.m.; and

(C) Sunday: 11:00 p.m.

(1979 Code, § 3.7)

### § 90.08 ADDITIONAL RULES.

The Chief of Police is hereby empowered to make such additional rules and regulations, subject to the approval of the City Council, pertaining to the conduct and use of parks and public grounds as are necessary to administer the same and to protect public property and the safety, health, morals and welfare of the public and any violation of said rules and regulations shall constitute, and may be punished as, a violation of this chapter by imposition of the penalty prescribed in § 10.99.

(1979 Code, § 3.8)

# CHAPTER 91: STREETS AND SIDEWALKS

Section

# GENERAL PROVISIONS

## § 91.001 DEFINITIONS.

For the purpose of §§ 91.001 through 91.016, 91.030, 91.031 and 91.045 through 91.048, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***DEPARTMENT.*** The Department of Public Works of the city.

***STREET.*** All of the land lying between property lines on either side of all streets, alleys and boulevards in the city and the area reserved therefor where the same are not yet constructed and includes lawn extensions, ditches, drainage structures and sidewalks.

***SUPERINTENDENT.*** The Superintendent of Public Works of the city.

(1979 Code, § 4.1) (Ord. 167, passed 5-1-2007)

## § 91.002 DAMAGE AND OBSTRUCTION PROHIBITED.

(A) 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 §§ 91.001 through 91.016, 91.030, 91.031 and 91.045 through 91.048.

(B) No person shall place any article, thing or obstruction in any street, except under the conditions and in the manner permitted in §§ 91.001 through 91.016, 91.030, 91.031 and 91.045 through 91.048.

(C) No person shall take any action, or permit any activity, in any street that interferes with, obstructs or otherwise affects the natural flow of surface or storm water. This provision shall not be deemed to prohibit such temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises nor to the lawful parking of vehicles within the part of the street reserved for vehicular traffic.

(1979 Code, § 4.2) (Ord. 167, passed 5-1-2007) Penalty, see § 91.999

## § 91.003 PERMITS AND BONDS.

(A) Where permits are authorized in §§ 91.001 through 91.016, 91.030, 91.031 and 91.045 through 91.048, they shall be obtained upon application to the Superintendent, upon such forms as he or she shall prescribe, and there shall be a charge of $1 for each such permit, except as otherwise provided by resolution of the Council. Such permit shall be revocable by the Superintendent for failure to comply with §§ 91.001 through 91.016, 91.030, 91.031 and 91.045 through 91.048, rules and regulations adopted pursuant hereto and the lawful orders of the Superintendent, or his or her duly authorized representative, and shall be valid only for the period of time endorsed thereon.

(B) Application for a permit under the provisions of §§ 91.001 through 91.016, 91.030, 91.031 and 91.045 through 91.048 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.

(C) Where liability insurance policies are required to be filed on making application for a permit, they shall be in not less than the following amounts, except as otherwise specified in §§ 91.001 through 91.016, 91.030, 91.031 and 91.045 through 91.048:

(1) On account of injury to, or death of, any person in any one accident: $25,000;

(2) On account of any one accident resulting in injury to, or death of, more than one person: $50,000; and

(3) On account of damage to property in any one accident: $5,000.

(D) 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.

(E) Where cash deposits are required with the application for any permit hereunder, such deposit shall be in the amount of $50, except as otherwise specified in §§ 91.001 through 91.016, 91.030, 91.031 and 91.045 through 91.048, 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 completion of the work done under the permit, any balance of such cash deposit unexpended shall be refunded.

(F) In any case where the deposit does not cover all costs and expenses of the city, the deficit shall be paid by the applicant.

(1979 Code, § 4.3)

### § 91.004 STREET OPENINGS.

No person shall make any excavation or opening in or under any street without first obtaining a written permit from the Superintendent. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by § 91.003.

(1979 Code, § 4.4) Penalty, see § 91.999

### § 91.005 EMERGENCY OPENINGS.

The Superintendent may, if the public safety requires immediate action, grant permission to make a necessary street opening in an emergency provided that a permit shall be obtained on the following business day and the provisions of §§ 91.001 through 91.016, 91.030, 91.031 and 91.045 through 91.048 shall be complied with.

(1979 Code, § 4.5)

### § 91.006 BACKFILLING.

All excavations in a public street or other public place, except by special permission, shall be excavated, backfilled and restored in accordance with regulations developed by the Department of Public Works and approved by the Council. Any further settlement shall be so corrected within eight hours after notification to do so.

(1979 Code, § 4.6)

### § 91.007 SIDEWALK VAULTS.

(A) Openings through the sidewalk for the delivery of fuel, when lawfully in existence, shall not be greater than 30 inches in diameter, shall be circular in form and shall be effectually closed, when not in actual use, by an iron cover set flush within the surface of the sidewalk, level with the sidewalk and securely locked in place.

(B) All openings in the sidewalk for the admission of light and air shall be closed and protected either by substantial iron grating or illuminating pavement of a design and so placed as to be satisfactory to the Superintendent.

(1979 Code, § 4.7) Penalty, see § 91.999

### § 91.008 UTILITY POLES.

Utility poles may be placed in such streets as the Superintendent shall prescribe and shall be located thereon in accordance with the directions of the Superintendent. Such poles shall be removed or relocated as the Superintendent shall from time to time direct.

(1979 Code, § 4.8)

### § 91.009 MAINTENANCE OF INSTALLATIONS IN THE STREET.

Every owner of, and every person in control of, any estate hereafter maintaining a sidewalk vault, coalhole, manhole or any other excavation or any post, pole, sign, awning, wire, pipe, conduit or other structure in, under, over or upon, any street which is adjacent to or a part of his or her estate shall do so only on 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.

(1979 Code, § 4.9)

### § 91.010 NEW PAVING.

Whenever the City Council shall determine to pave or resurface any street, the Superintendent shall, not less than 30 days prior to commencement of construction, serve notice upon all public utilities, requiring them to install all necessary underground work.

(1979 Code, § 4.10)

### § 91.011 SEWER AND WATER CONNECTIONS.

(A) When such paving or resurfacing shall have been ordered or declared necessary by the City Council, such sewer and water connections, as are necessary, shall be installed in advance of such paving or resurfacing and the cost thereof shall be charged against the premises adjacent thereto as a part of the special assessment for such paving or resurfacing.

(B) Where such paving or resurfacing is financed otherwise than by special assessment, the cost of the sewer and water connections so installed shall be a lien on said premises adjacent thereto, or to be served thereby, and shall be collected as provided for assessments on single lots pursuant to the provisions of § 33.18.

(1979 Code, § 4.11)

### § 91.012 DETERMINATION OF NECESSITY.

(A) The necessity for such sewer and water connections shall be determined by the Superintendent, which determination shall be based upon the size, shape and area of each abutting lot or parcel of land, the lawful use of such land under the zoning regulations of the city, the character of the locality and the probable future development of each abutting lot or parcel of land.

(B) The Superintendent shall give written notice of the intention to install such sewer and water connections and to charge the cost of the same to the premises, each owner of land abutting the street to be furnished with such connections as shown by the records of the City Assessor in accordance with § 10.12.

(C) Any owner objecting to the installation of any such sewer or water connection shall file his or her objections in writing within seven days after service of such notice with the Superintendent who shall, after considering each such objection made in writing, make a final determination of the sewer and water connections to be installed.

(1979 Code, § 4.12)

### § 91.013 PROHIBITED OPENINGS.

No permit to make any opening or excavation in or under a paved street shall be granted to any person within a period of three years after the completion of any paving or resurfacing thereof. If a street opening is necessary as a public safety measure, the Superintendent may suspend the operation of this section, as to such street opening.

(1979 Code, § 4.13)

### § 91.014 CURB CUTS.

(A) No opening in or through any curb or any street shall be made without first obtaining a written permit from the Superintendent.

(B) Curb cuts and sidewalk driveway crossings, to provide access to private property, shall comply with the following provisions.

(1) No single curb cut shall exceed 25 feet nor be less than ten feet.

(2) The minimum distance between any curb cut and a public crosswalk shall be five feet.

(3) The minimum distance between curb cuts, except those serving residential property, shall be 25 feet.

(4) The maximum number of lineal feet of sidewalk driveway crossings permitted for any lot, parcel of land, business or enterprise shall be 45% of the total abutting street frontage up to, and including, 200 lineal feet of street frontage plus 20% of the lineal feet of street frontage in excess of 200 feet.

(5) The necessary adjustments to utility poles, light standards, fire hydrants, catch basins, street or railway signs, signals or other public improvements or installations shall be accomplished without cost to the city.

(6) All construction shall be in accordance with plans and specifications approved by the Superintendent.

(1979 Code, § 4.18) Penalty, see § 91.999

### § 91.015 SIDEWALK OBSTRUCTIONS.

No person shall occupy any street with any materials or machinery incidental to the construction, demolition or repair of any building adjacent to said street, or for any other purpose, without first obtaining a permit from the Superintendent and posting a cash deposit and filing an insurance policy as required by § 91.003.

(1979 Code, § 4.20) Penalty, see § 91.999

### § 91.016 PEDESTRIAN PASSAGE.

At least six feet of sidewalk space shall be kept clean and clear for the free passage of pedestrians, and, if the building operations are such that such free passageway is impracticable, a temporary plank sidewalk with substantial railings or

sidewalk shelter, built in accordance with Ch. 154, shall be provided around such construction.

(1979 Code, § 4.21) Penalty, see § 91.999

## SAFETY REQUIREMENTS

### § 91.030 SAFEGUARDS.

(A) All openings, excavations and obstructions shall be properly and substantially barricaded and railed off and, at night, shall be provided with red warning lights.

(B) Warning lights perpendicular to the flow of traffic shall not be more than three feet apart and parallel to the flow of traffic not over 15 feet apart.

(1979 Code, § 4.23) Penalty, see § 91.999

### § 91.031 SHORING EXCAVATIONS.

All openings and excavations shall 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.

(1979 Code, § 4.24) Penalty, see § 91.999

## HOUSE MOVING

### § 91.045 MOVING OF BUILDINGS.

(A) No person shall move, transport or convey any building, or other similar bulky or heavy object, including machinery, trucks and trailers larger in width than 14 feet, into, across or along any street, alley or other public place in the city, without first obtaining a permit from the Superintendent. 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, 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.

(B) The applicant shall deposit with the city the total estimated cost to the Police Department and Department of Public Works, plus a cash deposit, as required by § 91.003, and shall file with the city a liability insurance policy in the amount of $100,000 for injury to one person and $300,000 for injury to more than one person and property damage insurance in the amount of $15,000.

(1979 Code, § 4.26) Penalty, see § 91.999

### § 91.046 ADDITIONAL REGULATIONS.

The Superintendent may make additional regulations pertaining to openings and excavations in the streets, curb cuts, street obstructions and house moving, which regulations shall be subject to the approval of the City Council. No person shall fail to comply with any such regulations.

(1979 Code, § 4.27) Penalty, see § 91.999

### § 91.047 REMOVAL OF ENCROACHMENT.

Encroachments and obstructions in the street may be removed and excavations refilled and the expense of such removal or refilling charged to the abutting land owner when made or permitted by him or her, or suffered to remain by him or her, otherwise than in accordance with the terms and conditions of §§ 91.001 through 91.016, 91.030, 91.031 and 91.045 through 91.048. The procedure for collection of such expenses shall be as prescribed in §33.18.

(1979 Code, § 4.28)

### § 91.048 TEMPORARY STREET CLOSINGS.

(A) The Superintendent shall have authority to temporarily close any street, or portion thereof, when he or she shall deem 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 said street, indicating that the same is closed to public travel.

(B) When any street, or portion thereof, shall have been closed to public travel, no person shall drive any vehicle upon or over said 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.

(C) No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the Superintendent.

(1979 Code, § 4.29) Penalty, see § 91.999

## SIDEWALKS

### § 91.060 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***SIDEWALK.*** The portion of the street right-of-way designed for pedestrian travel.

***SUPERINTENDENT.*** The Superintendent of Public Works of the city.

(1979 Code, § 4.41)

### § 91.061 SPECIFICATIONS AND REQUIREMENTS.

(A) No person shall construct, rebuild or repair any sidewalk except in accordance with the line, grade, slope and specifications established by the Superintendent nor without first obtaining a written permit from the Superintendent, except that sidewalk repairs of less than 50 square feet of sidewalk may be made without a permit. The said written permit shall be prominently displayed on the construction site.

(B) The fee for such permit shall be $0.02 per square foot up to 275 square feet and a minimum of $2; 1-1/2¢ per square foot from 275 square feet to 800 square feet and $0.01 per square foot in excess of 800 square feet.

(1979 Code, § 4.42) Penalty, see § 91.999

### § 91.062 LINE AND GRADE STAKES.

The Superintendent shall furnish line and grade stakes as may be necessary for proper control of the work but this shall not relieve the owner of responsibility for making careful and accurate measurements in constructing the work to the lines furnished by the Superintendent. Where it is necessary to replace engineer’s stakes disturbed or destroyed, without fault on the part of the city or its employees, a charge of $1 per stake shall be paid.

(1979 Code, § 4.43)

### § 91.063 SIDEWALK SPECIFICATIONS.

All sidewalks within the city shall be constructed in accordance with the following specifications.

(A) All walks must be at least four feet in width unless a different width is approved by the Superintendent.

(B) On all clay soil the trench shall be excavated to a depth of eight inches below the established grade and then filled with gravel or good filling dirt, free from clay, to a depth of four inches. Where the top soil is not clay, the trench shall be excavated to a depth of four inches below the established grade and no foundation shall be required.

(C) Forms shall be of wood or metal, straight and free from warp and of sufficient strength to resist springing. Forms shall be used to the full depth of the concrete and shall be so installed as to provide a transverse slope to one-quarter inch per foot toward the street.

(D) In all new construction, where practicable, the sidewalk grade shall be established at not less than three inches nor more than six inches above the grade of the top of the curb.

(E) Sidewalks shall be constructed of thoroughly mixed concrete of a minimum thickness of four inches at all points except for driveways where the minimum thickness shall be six inches. All concrete used shall consist of one part cement to two parts very clean, sharp sand and two and one-half parts clean, hard gravel or crushed stone, well graded from one-quarter inch to one inch in size or transit mix of a mixture approved by the Superintendent.

(F) All surfaces shall be finished to a true contour and granular surface.

(G) One-half inch expansion joints shall be provided at intervals of approximately 25 feet and wherever the walk abuts a curb or another walk or building. Joining materials shall extend from the surface of the subgrade, shall be at right angles to the sidewalk surface and shall extend the full width of the walk. Surface edges of each slab shall be rounded to a one-quarter inch radius. Markings shall be exactly at cuts between slabs.

(1979 Code, § 4.44)

### § 91.064 PERMIT REVOCATION.

(A) The Superintendent may revoke any permit issued under the terms of this subchapter for incompetency or failure to comply with the terms of this subchapter or the rules, regulations, plans and specifications established by the Department of Public Works for the construction, reconstruction or repair of any sidewalk.

(B) The Superintendent may cause work to be stopped under any permit granted for the construction, reconstruction or repair of any sidewalk for any of the causes enumerated in this section, which stop order shall be effective until the next regular meeting of the City Council and, if confirmed by the Council at its next regular meeting, such stop order shall be permanent and shall constitute a revocation of the permit.

(1979 Code, § 4.45)

### § 91.065 ORDERING CONSTRUCTION.

(A) The City Council may, by resolution, require the owners of lots and premises to build sidewalks in the public streets adjacent to and abutting upon such lots and premises.

(B) When such resolution shall be adopted, the City Clerk shall give notice thereof, in accordance with §10.12, to the owner of such lot or premises requiring him or her to construct or rebuild such sidewalk within 20 days from the date of such notice.

(1979 Code, § 4.46)

### § 91.066 CONSTRUCTION BY CITY.

If the owner of any lot or premises shall fail to build any particular sidewalk as described in said notice, and within the time and in the manner required thereby, the Superintendent is hereby authorized and required, immediately after the expiration of the time limited for the construction or rebuilding by the owner, to cause such sidewalk to be constructed and the expense thereof shall be charged to such premises and the owner thereof and collected as provided for single lot assessments in § 33.18 of this code.

(1979 Code, § 4.47) Penalty, see § 91.999

### § 91.067 SIDEWALK MAINTENANCE.

No person shall permit any sidewalk which adjoins property owned by him or her to fall into a state of disrepair or to be unsafe.

(1979 Code, § 4.48) Penalty, see § 91.999

### § 91.068 SIDEWALK REPAIR.

(A) Whenever the Superintendent shall determine that a sidewalk is unsafe for use, notice may be given to the owner of the lot or premises adjacent to and abutting upon said sidewalk of such determination which notice shall be given in accordance with § 10.12. Thereafter, it shall be the duty of the owner to place said sidewalk in a safe condition. Such notice shall specify a reasonable time, not less than seven days, within which such work shall be commenced and shall further provide that the work shall be completed with due diligence.

(B) If the owner of such lot or premises shall refuse or neglect to repair said sidewalk within the time limited therefor, or in a manner otherwise than in accordance with this subchapter, the Superintendent shall have said sidewalk repaired. If the Superintendent determines that the condition of said sidewalk is such that immediate repair is necessary to protect the public, he or she may dispense with said notice. The cost of repairs hereunder shall be charged against the premises which said sidewalk adjoins and the owner of said premises and shall be collected as provided for single lot assessments in § 33.18 of this code.

(1979 Code, § 4.49) Penalty, see § 91.999

### § 91.069 FAILURE TO CLEAR SIDEWALKS OR REMOVE VEHICLES.

(A) If any occupant or owner shall neglect or fail to clear snow, ice or litter from the sidewalks adjoining his or her premises as required by this section or § 91.070, fail to remove a vehicle parked on said sidewalk or remove a vehicle parked in the public right-of-way between the sidewalk and the curb or street when requested by a peace officer to do so, he or she shall be responsible for a municipal civil infraction.

(B) In addition thereto, the Superintendent may cause the snow, ice or litter to be cleared or removed and the expense thereof shall be charged to such premises and the owner thereof and collected as a special assessment against said premises or by an action at law.

(C) The owner of any premises or property adjacent to and abutting a sidewalk within the city shall be liable to the city for any and all damages and expenses recovered against the city by any person by reason of such sidewalk being unsafe, in disrepair or because snow, ice or litter was allowed to remain or accumulate on said sidewalk.

(1979 Code, § 4.50) (Ord. 191, passed - -) Penalty, see § 91.999

### § 91.070 SIDEWALKS TO BE CLEARED.

The occupant of every lot or premises adjoining any street, or the owner of such lot premises, if the same are not occupied, shall be responsible to clear ice, snow and litter from sidewalks adjoining such lot or premises as herein stated.

(A) When an accumulation of four inches or more of snow occurs, such snow shall be cleared from the sidewalks within 24 hours after such accumulation.

(B) The occupant or owner shall make a prudent effort to control ice accumulation by complete removal or by applying sufficient amounts of de-icing material or sand.

(C) Notwithstanding anything contained in this provision to the contrary, no owner or occupant of any property abutting a sidewalk shall at any time permit snow, ice or litter to accumulate or remain on said sidewalk which creates or presents a hazard or risk of injury to any pedestrian using said sidewalk.

(1979 Code, § 4.52) (Ord. 113, passed - -) Penalty, see § 91.999

### § 91.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) The city may notify the property owner or party responsible for a violation of §91.002 to take immediate corrective action. If the responsible party fails to take the appropriate corrective action, he or she shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $500 and the cost of the prosecution or imprisonment of not more than 90 days or both such fine and imprisonment.

(2) In addition thereto, if the city determines the violation to constitute a nuisance, the city or its designee, may take the action necessary to correct the violation and abate the nuisance at the cost of the responsible party. The cost of the corrective action may be charged to the responsible party and collected by an action of law.

(3) The party responsible for a violation of § 91.002 shall be liable to the city for any and all damages and expense caused by a violation § 91.002 and/or recovered against the city by any person by reason of any such violation.

(Ord. 167, passed 5-1-2007)

# CHAPTER 92: NUISANCES

Section



## GENERAL REGULATIONS

### § 92.01 NUISANCE; DEFINITION; PROHIBITION.

(A) *Definition.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***PUBLIC NUISANCE.*** Whatever annoys, injures or endangers the safety, health, comfort or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, highway, navigable lake or stream; or in any way renders the public insecure in life or property is hereby declared to be a ***PUBLIC NUISANCE***. ***PUBLIC NUISANCES*** shall include, but not be limited to, whatever is forbidden by any provision of this chapter.

(1979 Code, § 9.1)

(B) *Public nuisances per se.* The following acts, services, apparatuses and structures are hereby declared to be public nuisances:

(1) The maintenance of any pond, pool of water or vessel holding stagnant water;

(2) (a) The throwing, placing, depositing or leaving in any street, highway, lane, alley, public place, square or sidewalk, park or any private place or premises, by any person of any animal or vegetable substance, dead animal, fish, shell, tin cans, bottles, glass or other refuse, trash, rubbish, dirt, excrement, filth, rot, unclean or nauseous water, liquid or gaseous fluids, hay, straw, soot, garbage, swill, animal bones, hides, horns, rotten soap, grease, tallow, offal or any other offensive article or substance whatever;

(b) Anything contained in division (B)(2)(a) above hereof shall not be construed to prevent any person from obtaining written permission from the Superintendent of Public Works to dump wood, tree and brush trimmings or other items that, in

the opinion of the said Superintendent, are readily combustible (except petroleum or petroleum distillates) at any place specified by the Superintendent in said written permission; provided, however, said Superintendent shall not be required to grant such permission;

(3) The pollution of any stream, lake or body of water by, or the depositing into or upon any highway, street, lane, alley, public street or square, or into any adjacent lot or grounds of, or depositing or permitting to be deposited, any refuse, foul or nauseous liquid or water, creamery or industrial waste, or forcing or discharging into any public or private sewer or drain any steam, vapor or gas;

(4) The emission of noxious fumes or gas in such quantities as to render occupancy of property uncomfortable to a person of ordinary sensibilities;

(5) Any vehicle used for any immoral or illegal purpose;

(6) All indecent or obscene pictures, books, pamphlets, magazines and newspapers;

(7) Betting, bookmaking, prize fighting and all apparatuses used in such occupations;

(8) All gambling devices, slot machines and punch boards;

(9) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;

(10) The distribution of samples of medicines or drugs unless such samples are placed in the hands of an adult person;

(11) All explosives, inflammable liquids and other dangerous substances stored in any manner, or in any amount, contrary to the provisions of this code or statute of the state;

(12) Any use of the public streets and/or sidewalks which causes large crowds to gather, obstructing the free use of the streets and/or sidewalks;

(13) All buildings, walls and other structures which have been damaged by fire, decay or otherwise and all excavations remaining unfilled or uncovered for a period of 90 days or longer and which are so situated as to endanger the safety of the public;

(14) All dangerous, unguarded excavations or machinery in any public place or so situated, left or operated on private property as to attract the public; and

(15) The owning, driving or moving upon the public streets and alleys of trucks or other motor vehicles which are constructed or loaded so as to permit any part of its load or contents to blow, fall or be deposited upon any street, alley, sidewalk or other public or private place or which deposits from its wheels, tires or other parts onto the street, alley, sidewalk, or other public or private place, dirt, grease, sticky substances or foreign matter of any kind. Provided, however, that under circumstances determined by the Superintendent of Public Works to be in the public interest, he or she may grant persons temporary exemption from the provisions of this division (B)(15), conditioned upon cleaning and correcting the violating condition at least once daily and execution of an agreement by such person to reimburse the city for any extraordinary maintenance expense incurred by the city in connection with such violation.

(1979 Code, § 9.7)

(C) *Prohibitions.*

(1) No person shall commit, create or maintain any nuisance.

(1979 Code, § 9.1)

(2) No person shall have in his or her possession, either inside or outside of any building, structure or dwelling, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or any other similar airtight container of any kind which has a snap latch or other locking device thereon, without first removing the snap latch or other locking device or the doors from such icebox, refrigerator or other container.

(1979 Code, § 9.25)

(Ord. 77, passed 8-5-1980) Penalty, see § 10.99

### § 92.02 DANGEROUS STRUCTURES; PROHIBITION; NOTICE; ABATEMENT.

(A) *Dangerous structures.* No person shall maintain any structure which is unsafe or which is a menace to the health, morals or safety of the public.

(1979 Code, § 9.2)

(B) *Notice and hearing.* The Council may, after notice to the owner and after holding a public hearing thereon, condemn such structure by giving notice to the owner of the land upon which such structure is located, specifying in what respects said structure is a public nuisance and requiring said owner to alter, repair, tear down or remove the same within such reasonable time, not exceeding 60 days, as may be necessary to do, or have done, the work required by said notice. Said notice may also provide a reasonable time within which such work shall be commenced.

(1979 Code, § 9.3)

(C) *Abatement.*

(1) If, at the expiration of any time limit in said notice the owner has not complied with the requirements thereof, the Superintendent of Public Works shall carry out the requirements of said notice. The cost of such abatement shall be charged against the premises and the owner thereof in accordance with the provisions of the City Charter.

(1979 Code, § 9.4)

(2) The Superintendent of Public Works may abate any such public nuisance, if the public safety requires immediate action, without preliminary order of the Council. Thereafter, the cost of abating such nuisance shall be charged against the premises and the owner thereof in accordance with the provisions of the City Charter.

(1979 Code, § 9.5)

Penalty, see § 10.99

### § 92.03 EXCESSIVE NOISE.

(A) All loud or unusual noises or sounds and annoying vibrations which offend the peace and quiet of persons of ordinary sensibilities are hereby declared to be public nuisances.

(1979 Code, § 9.20)

(B) Each of the following acts is declared unlawful and prohibited, but this enumeration shall not be deemed to be exclusive, namely the following:

(1) *Animal and bird noises.* The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person;

(2) *Construction noises.* The erection (including excavating therefor), demolition, alteration or repair of any building, and the excavation of streets and highways on Sundays, and other days except between the hours of 7:00 a.m. and 6:00 p.m., unless a permit be first obtained from the Superintendent of Public Works;

(3) *Sound amplifiers.* Use of any loud speaker, amplifier or other instrument or device, whether stationary or mounted on a vehicle for any purpose except one which is noncommercial in character and when so used shall be subject to the following restrictions:

(a) The only sounds permitted are music or human speech;

(b) Operations are permitted for four hours each day except on Sundays and legal holidays when no operations shall be authorized. The permitted four hours of operation shall be as designated by the Chief of Police;

(c) Sound amplifying equipment mounted on vehicles shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten miles per hour except when said truck is stopped or impeded by traffic;

(d) Sound shall not be issued within 100 yards of hospitals, schools or churches; and

(e) The volume of sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the sound amplifying equipment and so that the volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.

(4) *Engine exhausts prohibition of compression (Jake) brakes.* No person shall operate a truck or other motor vehicle within the city limits in such a manner so as to operate or activate a compression brake or Jake brake. Additionally, the discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a muffler or other device which effectively prevents loud or explosive noises therefrom;

(5) *Handling merchandise.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers;

(6) *Blowers.* The discharge into the open air of noise from a compressor, blower or power fan unless the noise from such compressor, blower or fan is muffled sufficiently to deaden such noise;

(7) *Hawking.* The hawking of goods, merchandise or newspapers in a loud and boisterous manner;

(8) *Horns and signal devices.* The sounding of any horns or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control or to give warning of intent to get under motion or, if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device or any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time;

(9) *Radio and musical instruments.* The playing of any radio, television set, phonograph or any musical instrument in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type of residence or of any persons in the vicinity;

(10) *Shouting and whistling.* Yelling, shouting, hooting, whistling or singing or the making of any other loud noise on the public streets between the hours of 11:00 p.m. and 7:00 a.m. or the making of any such noise at any time so as to annoy or disturb the quiet, comfort or repose of persons in any school, place of worship or office or in any dwelling, hotel or other type of residence or of any persons in the vicinity; and

(11) *Whistle or siren.* The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire or danger.

(1979 Code, § 9.21)

(C) None of the terms or prohibitions of division (B) above shall apply to, or be enforced against, the following:

(1) Any police or fire vehicle or any ambulance, while engaged upon emergency business; or

(2) Excavations or repairs of bridges, streets or highways by, or on behalf of, the city or the state, during the night, when the public safety, welfare and convenience renders it impossible to perform such work during the day.

(1979 Code, § 9.22)

(Ord. 150, passed 9-4-2001) Penalty, see § 10.99

### § 92.04 BILL POSTING.

(A) *Bill posting in streets.* No person shall attach, place, paint, write, stamp or paste any sign, advertisement or any other matter upon any lamp post, electric light, railway, telegraph or telephone pole, shade tree, fire hydrant or on any thing within any park. Public officers posting any notice required or permitted by law shall be excepted from the provisions of this section.

(1979 Code, § 9.28)

(B) *Bill posting; private trees.* No person shall attach, place, paint, write, stamp or paste any sign, advertisement or other matter upon any house, wall, fence, gate, post or tree without first having obtained the written permission of the owner or occupants of the premises and having complied with all provisions of this section pertaining thereto.

(1979 Code, § 9.29)

Penalty, see § 10.99

## WEED CONTROL

### § 92.20 WEED GROWTH PROHIBITED.

No person occupying any premises, and no person owning any unoccupied premises shall permit or maintain on any such premises any growth of noxious weeds; nor any growth of grass or other rank vegetation to a greater height than 12 inches on the average; nor any accumulation of dead weeds, grass or brush. “Noxious weeds” shall include Canada thistle (Circium arvense), dodders (any species of Cuscuta), mustards (charlock, black mustard and Indian mustard, species of Brassica or Sinapis), wild carrot (Daucu carota), bindweed (Convolvulus arvensis), perennial sowthistle (Sonchus arvensis), hoary alyssum (Berteroa incana), ragweed (ambrosia elatior 1.), poison ivy (rhus toxicondendron) and poison sumac (toxicondendron vernix).

(1979 Code, § 9.41)

### § 92.21 DUTY OF OCCUPANT OR OWNER.

It shall be the duty of the occupant of every premises and the owner of unoccupied premises within the city, to cut and remove or destroy by lawful means all such noxious weeds and grass as often as may be necessary to comply with the provisions of § 92.20.

(1979 Code, § 9.42)

### § 92.22 CUTTING BY CITY.

If any person shall fail to comply with the provisions of §92.21 by the specified time, the city Superintendent of Public Works shall cause all such grass and noxious weeds to be cut or destroyed upon lands of the person not complying with the provisions hereof. An accurate account of all expense incurred with respect to each parcel of land entered upon in carrying out the provisions of this chapter shall be kept.

(1979 Code, § 9.43)

### § 92.23 COLLECTION FROM OWNER.

A copy of said account of the costs incurred on each of the several descriptions or parcels of property, shall be transmitted to the City Treasurer. The City Treasurer shall add to all said accounts 10% of the amount of all such expenditures to cover the costs of publication overhead and other expense, and collect the total amount as a single lot assessment as provided in Chapter 150 of this code.

(1979 Code, § 9.44)

### § 92.24 NOTICE OF REQUIREMENTS.

The City Clerk shall on or before the fifteenth of June of each year give notice of the requirements and provisions of §§ 92.20 through 92.23 by publishing a notice thereof once a week for two successive weeks in a newspaper of general circulation in the city.

(1979 Code, § 9.45)

### § 92.25 VIOLATION NOT EXCUSED.

The fact that grass or noxious weeds are cut by the city and the cost thereof charged to or paid by the owner shall not excuse the owner from responsibility for the violation of this code thereby abated. Failure to cut grass or noxious weeds by the owner as required herein shall constitute a violation of this code punishable as provided in § 10.99 of this code regardless of whether such grass and noxious weeds are cut subsequent to the commission of such violation.

(1979 Code, § 9.46)

# CHAPTER 93: ANIMALS

Section



## GENERAL PROVISIONS

### § 93.01 CRUELTY TO ANIMALS.

No person shall cruelly treat or abuse any animal or bird.

(Ord. 123, passed 4-16-1996) Penalty, see § 10.99

### § 93.02 POISONING ANIMALS.

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

(Ord. 123, passed 4-16-1996) Penalty, see § 10.99

### § 93.03 BIRDS AND BIRDS NESTS.

No person, except a police 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.

(Ord. 123, passed 4-16-1996) Penalty, see § 10.99

### § 93.04 ANIMAL WASTE REMOVAL.

No person owning, harboring, keeping or in charge of any animal shall cause, suffer or allow such animal to defecate, or to commit any nuisance, on any public thoroughfare, sidewalk, passageway, bypass, play area, park or any place where people congregate or walk or upon any public property whatsoever or upon any private property without permission of the owner of said property unless the following conditions are met.

(A) The person who so owns, harbors, keeps or is in charge of such animal shall immediately remove, before the animal leaves the area, all excrement deposited by such animal by any sanitary method. The person shall possess a container of sufficient size to collect and remove the above-mentioned excrement and exhibit the container if requested by any official empowered to enforce this section.

(B) The excrement removed from the aforementioned areas shall be disposed of by the person owning, harboring, keeping or in charge of such animal, in a sanitary method, on the property of the person owning, harboring or in charge of said animal.

(C) It shall be likewise unlawful and a violation of this section for an owner to permit an accumulation of dog or other animal excretion or feces on premises owned and/or occupied by him or her, which accumulation shall result in an odor which can be detected by a person on an adjoining property.

(Ord. 151, passed 6-4-2002) Penalty, see § 10.99

### § 93.05 UNLAWFUL ANIMALS.

(A) No person, firm or corporation shall keep any horses, cattle, swine, sheep, ponies, goats, rabbits, reptiles (snakes, lizards, turtles), exotic or wild animals, poultry or other animals and fowl, except four dogs and four cats, within the corporate limits of the city.

(B) Wherein any person, firm or corporation does have on his, her or its premises any horses, cattle, swine, sheep, ponies, goats, rabbits, reptiles (snakes, lizards, turtles), exotic or wild animals, poultry or other animals and fowl or more than four dogs and four cats within the corporate limits of the city, prior to the effective date of the ordinance from which the provisions of this section derive, said person, firm, or corporation shall make written application to the city requesting to keep said animals in violation of this section.

(C) For consideration on such application, the City Clerk shall notify the residents directly to the north, south, east and west of the subjects property. The City Council has the authority to review the application and either grant or deny the applicant's request after consideration of the following criteria:

(1) The total number and type of animals, reptiles, poultry or fowl kept on subject's property prior to the effective date of the ordinance from which the provisions of this section derive;

(2) The intent and circumstances surrounding the request along with information regarding the place where said animals, reptiles, poultry or fowl and the distance from such place of keeping to the public streets and the property lines of the applicant's premises; and

(3) 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.

(D) If it shall appear to the City Council after reviewing said application that it will not be detrimental to the health, safety and welfare of any of the inhabitants of the city or constitute a public nuisance, the City Council shall grant to the person or persons applying therefore a permit in writing, signed by the Mayor of the city, authorizing the applicant to keep the specified animal(s), reptile(s), poultry or fowl.

(E) Any person, firm or corporation granted permission by the City Council to allow such animals, reptiles, poultry or fowl in violation of the effective date of the ordinance from which the provisions of this section derive is expected to comply with this section and that, at such time that the animals, reptiles, poultry or fowl are sold, given up or die, they shall not be replaced so eventually there is compliance.

(F) The City Council shall have the authority to impose reasonable conditions upon such permit. Such conditions are designed to encourage compliance with the ordinance from which the provisions of this section derive, particularly the provisions prohibiting an animal's constituting a public nuisance. In addition, owners of domestic cats that run free must have them neutered or spayed.

(G) The provisions of this section shall not be construed or interpreted as applying to the keeping of any canary, parakeet or similar bird kept as a pet within any dwelling house or place of business within said city.

(Ord. 123, passed 4-16-1996) Penalty, see § 10.99

## EXOTIC ANIMALS

### § 93.20 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***CIRCUS.*** A commercial variety show featuring animal acts for public entertainment.

***DOMESTIC ANIMALS.*** Animals that have traditionally, through a long association with humans or under the dominion and control of humans, have been kept as tame pets no longer possessing a disposition or inclination to escape, raised as livestock or used for commercial breeding purposes.

***EXOTIC OR WILD ANIMAL.*** A wild animal not occurring naturally, either presently or historically, in this state.

***NATURE PRESERVE.*** An area where exotic or wild animals are kept in a natural setting where the animals are not hunted or trapped.

***PERSON.*** An individual, partnership, association, corporation, trust, estate or other legal entity.

***WILDLIFE SANCTUARY.*** An area where exotic or wild animals are protected and where the animals are not hunted or trapped.

(Ord. 124, passed 11-7-1995)

### § 93.21 ANIMALS EXCLUDED.

(A) Except as otherwise provided in this subchapter, it is unlawful in this city for a person to possess, breed, exchange, buy or sell the following exotic or wild animals:

(1) Non-human primates;

(2) Venomous cold blooded reptiles, other cold blooded reptiles and other cold blooded animals that, if in contact with humans, are capable of inflicting fatal injury to the average human;

(3) All poisonous animals;

(4) Constrictor snakes;

(5) Cats (wild family, including but not limited to, bobcat, cheetah, cougar, jaguar, leopard, lion, lynx, mountain lion, panther, puma or tiger);

(6) Non-domesticated carnivores including hybrid crosses of non-domesticated carnivores;

(7) Crocodilia (by example, crocodiles, alligators);

(8) Piranha fish;

(9) Chondrichthyes (sharks);

(10) Struthio (ostriches);

(11) Poisonous spiders;

(12) Venomous or poisonous insects;

(13) Proboscidea (by example, elephants);

(14) Perissodactyla (generally nonruminant ungulate mammals with odd number of toes, by example, rhinoceros);

(15) Artiodactyla (generally hoofed mammals with even number of toes, by example, camel); and

(16) Other wild animals not occurring naturally, either presently or historically, in this state.

(B) A person who owns an exotic or wild animal listed in division (A) above on the effective date of the ordinance from which the provisions of this subchapter derive shall, within 30 days of the effective date of said ordinance, remove the animal from the city.

(Ord. 124, passed 11-7-1995) Penalty, see § 10.99

### § 93.22 EXCEPTIONS.

Exceptions to this subchapter shall be as follows:

(A) Zoological parks and aquariums that are accredited by the American Association of Zoological Parks and Aquariums; and

(B) Wildlife sanctuaries, nature preserves, circuses and bona fide scientific, medical or educational research facilities.

(Ord. 124, passed 11-7-1995)

### § 93.23 NUISANCE PER SE.

Any continuing violation, or a repeated violation, of this subchapter shall constitute a nuisance per se and may be abated by an action in Circuit Court separately or in addition to criminal proceedings.

(Ord. 124, passed 11-7-1995)

### § 93.24 ENFORCEMENT.

This subchapter shall be enforced by the City Ordinance Enforcement Officer or such person as may be appointed by the City Council.

(Ord. 124, passed 11-7-1995)

### § 93.25 EFFECTIVE DATE.

The ordinance from which the provisions of this subchapter derive shall take effect ten days after adoption and publication in accordance with law.

(Ord. 124, passed 11-7-1995)

## DOGS

### § 93.40 DOGS; POSSESSION OR OWNERSHIP.

No person owning, possessing or having charge of any dog shall permit such dog to be at large at any time in the city in violation of any of the following restrictions.

(A) No person shall permit any vicious dog of which he or she is the owner, caretaker or custodian to be unconfined unless securely muzzled and led by a leash. Any dog shall be deemed vicious which has bitten a person or domestic animal without molestation or which, by its actions, gives indication that it is liable to bite any person or domestic animal without molestation.

(B) No person who is an owner of any female dog shall permit or allow such female dog to go beyond the premises without being on a leash of such owner when said dog is in heat.

(C) No person shall own, harbor or keep a dog which by loud or frequent or habitual barking, yelping or howling shall cause annoyance to the people in the neighborhood.

(D) No person shall own, harbor or keep a dog that has been bitten by an animal known to have, or reasonably suspected of having been afflicted with, rabies at the time such dog was bitten, unless such dog shall have been surrendered to the Police Department or dog warden, held for observation and released by the Health Officer of the city.

(E) No person shall own, harbor or keep any dog, either licensed or unlicensed that, by the destruction of the property or trespassing on property of others, becomes a nuisance in the vicinity where kept.

(Ord. 123, passed 4-16-1996) Penalty, see § 10.99

### § 93.41 SEIZURE AND IMPOUNDING OF DOGS.

(A) *Seizure and impoundment.* Any dog which is in violation of any section of this subchapter may be seized and impounded by the County Animal Control or any police officer of the city or authorized city employee. Any continuing violation or repeated violations of this subchapter shall constitute a nuisance per se and may be abated by an action in circuit court separately or in addition to criminal proceedings.

(B) *Impounding and release.*

(1) Any dog impounded of observation for rabies shall be held until released by the Health Officer or otherwise disposed of.

(2) Any dog impounded for having bitten any person shall be held for not less than 14 days and, in case any complaint shall have been made before any court asking that said dog be killed or confined, then said dog shall be confined until the case is finally disposed of.

(Ord. 123, passed 4-16-1996)

### § 93.42 RABIES PREVENTION.

(A) *Prevention.* Any person who shall have in his or her possession a dog which has contracted rabies or which has been subjected to the same or which is suspected of having rabies or which has bitten any person shall, upon demand of the Police Department or the Health Officer, produce and surrender up such dog to be held for observation as hereinafter provided.

(B) *Vaccination requirements.* No person, firm or corporation shall be permitted to keep or house any dog four months

and older without a valid rabies vaccination and current dog license within the city limits.

(Ord. 123, passed 4-16-1996) Penalty, see § 10.99

### § 93.43 EXPOSURE TO RABIES; NOTICE.

It shall be the duty of any person owning or harboring a dog which has been attacked or bitten by another dog or other animal showing the symptoms of rabies, immediately, to notify the Police Department of his or her possession of such dog.

(Ord. 123, passed 4-16-1996)

### § 93.44 RUNNING AT LARGE.

(A) No dogs shall be permitted to run at large within the city. Every person, firm or corporation owing, harboring or keeping any dog shall keep said dog under the reasonable control of some person at all times.

(B) ***UNDER REASONABLE CONTROL*** shall mean said dog is:

(1) Secured by a leash held by the owner or the owner's agent;

(2) Secured by a leash which is attached to a stationary object and attended by the owner or the owner's agent;

(3) On the premises of the owner and unable to leave the property; or

(4) Confined in a vehicle.

(Ord. 191, passed - -) Penalty, see § 10.99

### § 93.45 KENNELS.

(A) *Prohibitions.* There shall be no kennels in the city except as by exception listed below.

(B) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***KENNEL.*** Any location wherein or whereon three or more dogs are kept for the purpose of breeding, sale, are temporarily boarded or for sporting purposes.

(C) *Dog limits.*

(1) Wherein any person, firm or corporation does have more than three dogs, prior to the effective date of the ordinance from which the provisions of this section derive, which are kept for the purpose of breeding, sale, boarding or sporting purposes, said person, firm or corporation shall make written application to the City Council requesting permission to continue to keep more than three dogs for said purposes.

(2) For consideration on such application, the City Clerk shall notify the residents directly to the north, south, east and west of the subjects property. The City Council has the authority to review the application and either grant or deny the applicant's request after consideration of the following criteria:

(a) The total number of dogs kept on subjects premises prior to the effective date of the ordinance from which the provisions of this section derive and should be able to verify the breed and licensure of each dog;

(b) The intent and circumstances surrounding the request, along with information regarding the place where said applicant proposes to keep said dogs and the distance from such place of keeping to the public streets and the property lines of the applicant's premises; and

(c) 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) (a) If permission to keep said dogs is granted, it shall be approved by motion and noted in the minutes of the City Council. Such permission shall be personal to the applicant and remain effective only until such date that said person, firm or corporation sells and/or vacates the property or for another period of time as determined by City Council. Such permission is subject to all other rules and regulations of this section. Failure to comply with such rules and regulations shall be sufficient grounds for penalty provisions of § 93.41(A) as well as revocation of such permission by City Council to operate such kennel.

(b) Any person, firm or corporation granted permission by the City Council to allow dogs in violation on the effective date of the ordinance from which the provisions of this section derive is expected to comply with this section that, as such time that the dogs are sold, given up or die, they shall not be replaced so eventually there is compliance.

(Ord. 123, passed 4-16-1996) Penalty, see § 10.99

### § 93.46 EFFECTIVE DATE.

The ordinance from which the provisions of §§93.01 through 93.05, 93.40 through 93.45 derive shall take effect ten days after adoption and publication in accordance with law.

(Ord. 123, passed 4-16-1996)

# CHAPTER 94: FIRE PREVENTION AND SAFETY

Section



## § 94.01 SMOKE DETECTORS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***DWELLING.*** Any building, or portion thereof, which contains one or more dwelling units used, intended or designated to be built, used, resold, leased, let or hired out to be occupied or which are occupied for living purposes.

***DWELLING UNIT.*** A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

***SMOKE DETECTOR.*** An approved AC operated detector which senses visible or invisible particles of combustion and emits a loud auditory signal when smoke is detected. The ***DETECTOR*** shall bear a label, or other identification, issued by an approved testing agency, having a service for inspection of materials and workmanship at the factory during fabrication and assembly.

(1979 Code, § 9.151)

(B) *Smoke detector required*.

(1) Every dwelling hereafter constructed or so remodeled, renovated or expanded to the extent that a building permit is required to be issued under this code, shall be provided with a smoke detector.

(2) The smoke detector shall be mounted on the ceiling or on a wall within 12 inches of the ceiling and shall be so located as to be no further than 20 feet from the door of any room or portion of a room used for sleeping purposes.

(1979 Code, § 9.152)

(Ord. 63, passed 6-6-1978)

## § 94.02 FIREWORKS.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***FIREWORKS.***

(a) A device made from explosive or flammable composition used primarily for the purpose of producing a visible display or audible effect, or both, by combustion, deflagration or detonation, including those items defined as Class B and Class C fireworks by M.C.L.A.§ 23.451.

(b) ***FIREWORKS*** shall not include paper caps containing not more than 0.25 of a grain of explosive content per cap, toy pistols, toy cannons, toy canes and toy guns of a type approved by the Director of the Department of State Police in which paper caps are used, sparklers containing not more than 0.0125 pounds of burning portion per sparkler, flitter sparklers in paper tubes not exceeding one-eighth inch in diameter, toy snakes not containing mercury, signal flares of a type approved by the Director of the Department of State Police, blank cartridges or blank cartridge pistols specifically for a show or theater, for the training or exhibiting of dogs, for signal purposes in sports or for use by military organizations.

(1979 Code, § 9.161)

(B) *General regulations.* It shall be unlawful for any person to manufacture, offer for sale, expose for sale, sell at retail, keep with the intent to sell at retail, possess, give, furnish, transport, use, explode or cause to explode any fireworks except pursuant to a permit issued by the city pursuant to this section.

(1979 Code, § 9.162)

(C) *Permits.*

(1) (a) Permits for the possession, transportation, sale and use of fireworks for outdoor pest control or agricultural purposes or for public display by municipality, fair association, amusement parks or other organizations or groups of individuals or to a resident wholesale dealer or jobber shall be applied for in writing at least 15 days in advance of the date

of the intended transportation, sale, possession or use of fireworks.

(b) Application shall be made to the Fire Department and the transportation, sale, possession or use of fireworks shall be lawful only under the permit, together with such terms and conditions as may be imposed by the Fire Department as reasonable and necessary under the circumstances for the protection of persons and property. A permit granted hereunder shall not be transferrable nor shall a permit be issued to a person under 18 years of age nor shall any permit be extended beyond the dates set out therein.

(1979 Code, § 9.163)

(2) The applicant for a permit shall furnish a bond in an amount deemed adequate by the Fire Department for the payment of all damages which may be caused either to a person or persons or to property by reason of the permitted use and arising from any acts of the holder of the permit, his or her or her agents, employees or subcontractors.

(D) Fireworks shall be prohibited in the City of Memphis, other than show put on by the professionals and/or shows that have been brought before the City Council and been approved by a majority of members present. A person may ignite, discharge or use consumer grade fireworks that have been approved by the State of Michigan shall be limited to the following days and hours.

(1) Between 11:00 a.m. on December 31 to 1:00 a.m. immediately following January 1;

(2) Between 11:00 a.m. and 11:45 p.m. on Saturday immediately preceding Memorial Day;

(3) Between 11:00 a.m. and 11:45 p.m. on Sunday immediately preceding Memorial Day;

(4) Between 11:00 a.m. and 10:30 p.m. on Memorial Day;

(5) Between 11:00 a.m. and 11:45 p.m. on June 29, June 30, July l, July 2, July 3 and July 4;

(6) Between 11:00 a.m. and 11:45 p.m. on July 5, if that date is a Friday or Saturday;

(7) Between 11:00 a.m. and 11:45 p.m. on the Saturday immediately preceding Labor Day;

(8) Between 11:00 a.m. and 11:45 p.m. on the Sunday immediately preceding Labor Day;

(9) Between 11:00 a.m. and 10:30 p.m. on Labor Day;

(10) Between 11:00 a.m. and 10:30 p.m. on the Friday and Saturday of Memphis Days; and

(11) For special occasions a person may request a permit to use fireworks on Friday and Saturday only between the hours of 11:00 a.m. and 10:30 p.m.

(E) Under the fireworks special permit if the igniting or use of fireworks is by a licensed pyrotechnic then an inspection by the Memphis Fire Department is required.

(1979 Code, § 9.164)

(Ord. 64, passed 6-20-1978; Ord. 206, passed 9-3-2019) Penalty, see § 10.99

### § 94.03 OPEN BURNING; LEAVES, DEAD GRASS, TREES, TRIMMINGS, BRUSH AND CLIPPINGS.

(A) (1) No person shall engage in the open burning of leaves, dead grass, tree trimmings, brush and clippings except as follows.

(a) The open burning of leaves, dead grass, tree trimmings, brush and clippings shall be permitted during the hours of one hour before sunrise to one hour after sunset during the last week in April and the first two weeks in May and the last week of October and the first two weeks in November.

(b) The dates for open burning and publication of notice for open burning, as provided in this section, may be adjusted annually by resolution of the City Council.

(2) No person shall allow an open fire on premises owned or occupied by him or her to be unattended at any time.

(1979 Code, § 9.171)

(B) (1) The City Clerk shall, on or before April 15 and October 10 of each year, give notice of the requirements and provisions of divisions (A)(1) and (B)(2) above by publishing a notice thereof once a week for two successive weeks in a newspaper of general circulation in the city.

(2) A person who burns in violation of divisions (A)(1) and (A)(2) above shall be responsible for a municipal civil infraction.

(1979 Code, § 9.172)

(Ord. 80, passed 4-20-1982; Ord. 165, passed 2-7-2006; Ord. 191, passed - -) Penalty, see § 10.99

### § 94.04 INTERNATIONAL FIRE CODE.

(A) The city adopts the current International Fire Code (“Code”), including Appendix Chapters A through G, as published

by the International Code Council, on file at the office of the City Clerk and adopted and made part of as if fully set out in this section. The City Council may from time to time adopt by resolution periodic update editions of the International Fire Code.

(B) The following sections of the Code are hereby revised:

(1) Section 101.1 - Insert: The City of Memphis;

(2) Section 109.3 - Insert: Persons violating this code shall be guilty of a misdemeanor punishable by fine of not more than $500 nor more than 90 days in jail; and

(3) Section 111.4 - Insert: Persons violating a stop work order shall be subject to the penalties as provided in § 109.3.

(Ord. 158, passed 7-1-2003)

# CHAPTER 95: HAZARDOUS MATERIALS

Section



## § 95.01 PURPOSE.

The purpose of this chapter is to enable the city to require reimbursement of costs of abatement, containment, clean up, disposal and restoration from property owners or those responsible for the leaking, spilling or otherwise allowing certain dangerous or hazardous substances or materials to escape containment.

(1979 Code, § 9.192) (Ord. 114, passed 10-6-1992)

## § 95.02 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***DANGEROUS, HAZARDOUS SUBSTANCES OR MATERIALS.*** Any substance which is spilled, leaked or otherwise released from its container which, in the determination of the Fire Chief, or his or her authorized representative, is dangerous or harmful to the environment or human or animal life, health or safety or is obnoxious by reason of odor or is a threat to public health, safety or welfare; this shall include, but not be limited to, such substances as chemicals and gases, explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiological (biologic) agents, inflammables or corrosives.

(1979 Code, § 9.193) (Ord. 114, passed 10-6-1992)

## § 95.03 DUTY TO REMOVE AND CLEAN UP.

It shall be the duty of any occupant and any property owner of land where leakage, spillage or dissemination of dangerous or hazardous substances or materials occur or any person or other entity which causes or controls leakage, spillage or any other dissemination of dangerous or hazardous substances or materials, to immediately remove such and clean up the area of such spillage or release in such a manner that the area involved is fully restored to its condition prior to such happening. The city, by its Fire Chief or his or her designee, may, as the circumstances warrant and in the discretion of the Fire Chief or his or her designee, immediately clean up and restore the area of a release of a dangerous or hazardous substance.

(1979 Code, § 9.194) (Ord. 114, passed 10-6-1992; Ord. 160, passed 10-7-2003)

## § 95.04 FAILURE TO REMOVE AND CLEAN UP.

(A) Any property owner and occupant of the area involved in a release of a hazardous or dangerous substance, and any other person or entity responsible for the release of a hazardous or dangerous substance, is responsible for, and shall pay the city for, its costs and expenses, including the cost incurred by the city to any party which it engages, for the complete abatement, containment, clean up, disposal and restoration of the affected area. Costs incurred by the city shall include the following:

(1) Actual labor costs of the city personnel (including worker compensation benefits, fringe benefits, administration overhead, cost of equipment operation); and

(2) Costs of any material directly by the city and the cost of any contract labor and materials and legal expenses.

(B) Costs under this section shall not include actual fire suppression services which are normally or usually provided by the city without charge.

(1979 Code, § 9.195) (Ord. 114, passed 10-6-1992; Ord. 160, passed 10-7-2003) Penalty, see § 10.99

### § 95.05 ENFORCEMENT.

If any person or entity fails to reimburse the city as provided and such person or entity is the owner of the affected property, the city shall have the right and power to assess any and all costs of clean up and restoration as a special assessment to the property and, upon the failure to pay the special assessment within 60 days of notice thereof, to add the amount thereof to the tax roll as to 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. The city shall also have the right to confiscate any vehicle and its contents where said costs cannot be added to the tax roll. The city shall also have the right to bring an action in the appropriate court to collect such costs if it deems such action to be necessary. The rights stated herein shall be cumulative and choice of any shall not exclude use of any others.

(1979 Code, § 9.196) (Ord. 114, passed 10-6-1992)

## CHAPTER 96: ABANDONED AND RECOVERED STOLEN PROPERTY

Section



### § 96.01 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***CHIEF OF POLICE.*** The Chief of Police of the City of Memphis or, in the event that position is unfilled, the chief law enforcement officer of the City of Memphis.

(Ord. 91, passed 12-3-1985)

### § 96.02 REPORT; REQUEST OF AUTHORITY.

Whenever the Chief of Police shall come into possession of any stolen, abandoned or confiscated personal property, which personal property shall remain unclaimed for 180 days after recovery or discovery thereof, he or she shall report the recovery or discovery of that property, including money, to the City Council and shall request authority to dispose of the property, as provided in this chapter, or to give the property to the Sheriff of the county to dispose of as provided in Public Act 54 of 1959, being M.C.L.A. §§ 434.171 through 434.174.

(Ord. 91, passed 12-3-1985)

### § 96.03 DISPOSITION OF PROPERTY.

(A) The City Council shall act upon the request of the Chief of Police within not less than 60 days after receipt of the request and not more than 180 days after receipt of the request.

(B) If the City Council authorizes the Chief of Police to give the property to the Sheriff, the Chief of Police shall deliver the property to the Sheriff within ten days.

(C) If the City Council authorizes the Chief of Police to dispose of the property pursuant to this chapter, the Chief of Police shall conduct a sale in the manner provided in division (D) below.

(D) The Chief of Police shall publish a notice in a newspaper of general circulation in the counties not less than five days before the proposed sale of the property. The notice shall describe the property, including money, and shall state the time and place of the public sale at which the property may be purchased by the highest bidder. The Chief of Police may obtain an appraisal to determine whether money, because of age, origin, metal content or value as a collector's item has a value other than its face value. Money which does not have a value other than its face value shall not be subject to the public sale provisions contained in this section. Until the date of the sale, the property may be claimed at the office of the Chief of Police. If ownership of the property is proved, the property shall be turned over to the owner and the sale shall be canceled insofar as the claimed property is concerned.

(Ord. 91, passed 12-3-1985)

### § 96.04 SALE OF UNCLAIMED PROPERTY.

The Chief of Police shall conduct the sale of the unclaimed property and shall deposit the proceeds of the sale and money not subject to public sale, after deducting the cost of the sale, including reasonable appraisal fees, with the City Treasurer to the credit of the General Fund.

(Ord. 91, passed 12-3-1985)

### § 96.05 CLAIMS AFTER SALE OF PROPERTY.

(A) If, within six months after the sale, the owner of the property files with the City Council a claim for the property and proves a right to the property, the City Council shall direct the Treasurer, who received proceeds of the sale of that property, to pay the owner the amount of proceeds or the face value of money not subject to the public sale provision contained in this chapter. The City Council shall not approve any claims filed more than 180 days after the sale.

(B) The Chief of Police disposing of property as provided in this chapter shall not be liable to the owner of that property.

(C) Whenever any administrative officer of the city shall, in the performance of his or her duties, come into possession of abandoned or lost personal property or recovered stolen property, including money, a description of the property and the date of possession shall be entered in a log to be maintained by the City Clerk. When such property has been held and unclaimed for a period of six months, the City Clerk shall report the fact to the City Council and request authority to dispose of it as hereinafter provided. Money that is unclaimed for six months may be deposited in the City General Fund.

(Ord. 91, passed 12-3-1985)

# TITLE XI: BUSINESS REGULATIONS

Chapter



## CHAPTER 110: LICENCES

Section

## § 110.01 LICENSES REQUIRED.

No person shall engage, or be engaged, in the operation, conduct or carrying on of any trade, business, profession or privilege in the city without first obtaining a license therefor from the city in the manner provided for in this chapter. Provided, the city shall not issue a license pursuant to this chapter to any person or entity engaged in any activity, operation or business that is in violation of any local, state or federal statute, law, ordinance or regulation. Any person duly licensed on the effective date of this section shall be deemed licensed hereunder for the balance of the current license year.

(1979 Code, § 7.1) (Ord. 107, passed 12-4-1990; Ord. 184, passed - -) Penalty, see § 10.99

## § 110.02 MULTIPLE BUSINESSES.

The granting of a license or permit to any person operating, conducting or carrying on any trade, profession, business or privilege which contains within itself or is composed of trades, professions, businesses or privileges shall not relieve the person to whom such license or permit is granted from the necessity of securing individual licenses or permits for each such trade, profession, business or privilege.

(1979 Code, § 7.2) (Ord. 107, passed 12-4-1990)

## § 110.03 STATE LICENSES OR PERMITS.

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 exempt such person from the necessity of securing a license from the city.

(1979 Code, § 7.3) (Ord. 107, passed 12-4-1990)

## § 110.04 LICENSE APPLICATION.

Unless otherwise provided in this chapter, every person required to obtain a license from the city to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall make application for said license to the City Clerk upon forms provided by the City Clerk and shall state under oath or affirmation such facts as may be required for, or applicable to, the granting of such license.

(1979 Code, § 7.4)

## § 110.05 LICENSE YEAR.

Except as otherwise herein provided as to certain licenses, the license year shall begin January 1 of each year and shall terminate at midnight on December 31 of that year. Original licenses shall be issued for the balance of the license year at the full license fee. License applications for license renewals shall be accepted and licenses issued for a period of 15 days prior to the annual expiration date. In all cases where the provisions of this chapter permit the issuance of licenses for periods of less than one year, the effective date of such licenses shall commence with the date of issuance thereof.

(1979 Code, § 7.5)

## § 110.06 CONDITIONS FOR ISSUANCE.

No license or permit required by this chapter shall be issued to any person who is required to have a license or permit from the state until such person shall submit evidence of such state license or permit and proof that all fees appertaining thereto have been paid. No license shall be granted to any applicant therefor until such applicant has complied with all the provisions of this chapter applicable to the trade, profession, business or privilege for which application for license is made.

(1979 Code, § 7.6)

## § 110.07 CERTIFICATION REQUIRED.

(A) *Where certification required.* No license shall be granted where the certification of any officer of the city is required prior to the issuance thereof until such certification is made.

(1979 Code, § 7.7)

(B) *Health Officer's certificate.* In all cases where the certification of the Health Officer is required prior to the issuance of any license by the City Clerk, such certification shall be based upon an actual inspection and a finding that the person making application and the premises in which he or she proposes to conduct, or is conducting, the trade, profession, business or privilege complies with all the sanitary requirements of the state and of the city.

(1979 Code, § 7.8)

(C) *Fire Chief's certificate.* In all cases where the certification of the Fire Chief is required prior to the issuance of any

license by the City Clerk, such certification shall be based upon an actual inspection and a finding that the premises in which the person making application for such license proposes to conduct, or is conducting, the trade, profession, business or privilege complies with all the fire regulations of the state and of the city.

(1979 Code, § 7.9)

(D) *Police Chief's certificate.* In all cases where the certification of the Chief of Police is required prior to the issuance of any license by the City Clerk, such certification shall be based upon a finding that the person making application for such license is of good moral character.

(1979 Code, § 7.10)

(E) *Building Inspector's certificate.* In all cases where the carrying on of the trade, profession, business or privilege involves the use of any structure or land, a license therefor shall not be issued until the Building Inspector shall certify that the proposed use is not prohibited by Title XV of this code of ordinances.

(1979 Code, § 7.11)

### § 110.08 LICENSE FEES.

(A) *Fees.* Except as otherwise provided herein, the fees for licenses, as required by this section, shall from time to time be set by resolution of the City Council.

(1979 Code, § 7.12)

(B) *Payment.* The fee required by this section for any license or permit shall be paid at the office of the City Treasurer upon or before the granting of said license or permit.

(1979 Code, § 7.15)

(Ord. 107, passed 12-4-1990)

### § 110.09 RENEWAL.

(A) *License renewal.* Unless otherwise provided in this chapter, an application for renewal of a license shall be considered in the same manner as an original application.

(1979 Code, § 7.19)

(B) *Late renewal.* All fees for the renewal of any license which are not paid at the time said fees shall be due may be paid without penalty for the first 30 days that such license fee remains unpaid and thereafter the license fee shall be that stipulated for such licenses, plus 50% of such fee.

(179, Code, § 7.13)

(Ord. 107, passed 12-4-1990)

### § 110.10 RIGHT TO ISSUANCE.

If the application for any license is approved by the proper officers of the city, as provided in this chapter, said license shall be granted and shall serve as a receipt for payment of the fee prescribed for such license.

(1979 Code, § 7.14)

### § 110.11 DENIAL, REVOCATION AND SUSPENSION.

(A) The issuance of licenses applied for under this chapter may be denied by the City Clerk and licenses issued may be revoked or suspended by the City Clerk, at any time, for any of the following causes:

(1) Fraud, misrepresentation or any false statement made in the application for license;

(2) Fraud, misrepresentation or any false statement made in the operation of a business;

(3) Any violation of this chapter pertaining to the licensed business;

(4) Conducting a business in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, morals, safety or welfare of the public; and/or

(5) Failure or inability of an applicant to meet and satisfy the requirements and provisions of this chapter.

(1979 Code, § 7.16)

(B) Written notice of suspension or revocation, stating the cause or causes therefor, shall be delivered to the licensee personally or mailed to his or her address as shown in his or her application for license.

(1979 Code, § 7.17)

(C) (1) Any person whose license is revoked or suspended, or any person whose application for a license is denied, shall have the right to a hearing before the City Council, provided a written request therefor is filed with the City Clerk within

ten days following the delivery or mailing of the notice of revocation or suspension or within ten days following the denial of the application for a license.

(2) The City Council may reverse any determination to issue or to deny the issuance of a license or any revocation of a license and the City Council may grant or reinstate any license. No person shall operate any business during any time when his or her license therefor has been suspended, revoked or cancelled.

(1979 Code, § 7.18)

Penalty, see § 10.99

### § 110.12 EXHIBITION OF LICENSE.

(A) No licensee shall fail to carry any license issued in accordance with the provisions of this chapter upon his or her person at all times when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license was granted; except that where such trade, profession, business or privilege is operated, conducted or carried on at a fixed place or establishment, said license shall be exhibited at all times in some conspicuous place in his or her place of business. Every licensee shall produce his or her license for examination when applying for a renewal thereof or when requested to do so by any city police officer or by any person representing the issuing authority.

(1979 Code, § 7.20)

(B) No licensee shall fail to display conspicuously on each vehicle or mechanical device or machine required to be licensed by this chapter such tags or stickers as are furnished by the City Clerk for such purpose.

(1979 Code, § 7.21)

Penalty, see § 10.99

### § 110.13 DISPLAYING INVALID LICENSE.

No person shall display any expired license or any license for which a duplicate has been issued.

(1979 Code, § 7.22) Penalty, see § 10.99

### § 110.14 TRANSFERABILITY.

No license or permit issued under the provisions of this chapter shall be transferable unless specifically authorized by the provisions of this chapter. No licensee or permittee shall, unless specifically authorized by the provisions of this chapter, transfer or attempt to transfer his or her license or permit to another nor shall he or she make any improper use of the same.

(1979 Code, § 7.23) Penalty, see § 10.99

## CHAPTER 111: PEDDLERS AND SOLICITORS

Section

***Peddlers***



***Solicitors***

# PEDDLERS

## § 111.01 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***PEDDLER.*** Any person traveling by foot, wagon, automotive vehicle or other conveyance, from place to place, from house to house or from street to street carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers or who, without traveling from place to place, shall sell, or offer the same for sale, from a wagon, automotive vehicle or other vehicle or conveyance. Any person who solicits orders and, as a separate transaction, makes deliveries to purchasers as part of a scheme or design to evade the provisions in this subchapter shall be deemed a ***PEDDLER***. The word ***PEDDLER*** shall include the words “hawker” and “huckster”.

(1979 Code, § 7.61)

## § 111.02 LICENCE REQUIRED.

No person shall engage in the business of peddling without first obtaining a license therefor. No such license shall be granted except upon certification of the Chief of Police.

| | |
|---|---|
| Investigation fee | $5 |
| Per day | $5 |
| Per week | $10 |
| Per month | $20 |
| Annual fee | $50 |

(1979 Code, § 7.62) (Res. passed 12-16-2014) Penalty, see § 10.99

## § 111.03 APPLICATION.

Applicants for a license under this subchapter must file with the City Clerk a sworn application in writing (in duplicate) on a form to be furnished by the City Clerk which shall give the following information:

(A) Name and description of the applicant;

(B) Address (legal and local);

(C) A brief description of the nature of the business and the goods to be sold and, in the case of products of farm or orchard, whether produced or grown by the applicant;

(D) If employed, the name and address of the employer together with credentials establishing the exact relationship;

(E) The length of time for which the right to do business is desired;

(F) If a vehicle is to be used, a description of the same together with license number or other means of identification;

(G) A photograph of the applicant taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner; and

(H) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

(1979 Code, § 7.63)

## § 111.04 INVESTIGATION AND ISSUANCE.

(A) Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant in accordance with § 111.03 to be made as he or she deems necessary for the protection of the public good.

(B) If, as a result of such investigation, the applicant is found to be unsatisfactory, the Chief of Police shall endorse on such application his or her disapproval and his or her reasons for the same, and return the said application to the City Clerk, who shall notify the applicant that his or her application is disapproved and that no permit and license will be issued.

(C) If, as a result of such investigation, the applicant is found to be satisfactory, the Chief of Police shall endorse on the application his or her approval and return said application to the City Clerk who shall, upon payment of the license fee prescribed in § 110.08, deliver to the applicant his or her license. Such license shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative as well as the license number and other identifying

descriptions of any vehicle used in such peddling. The Clerk shall keep a permanent record of all licenses issued.

(1979 Code, § 7.64)

### § 111.05 BASIS OF FEES.

For the purpose of this subchapter, any period of seven calendar days or less shall be considered one week. Any period of more than seven calendar days and not more than 30 calendar days shall be considered one month and any period of more than 30 calendar days and not more than one calendar year shall be treated as a year.

(1979 Code, § 7.65)

### § 111.06 LOUD NOISES AND SPEAKING DEVICES.

No peddler, nor any person in his or her behalf, shall shout, make any cry out, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system, upon any of the streets, alleys, parks or other public places of said city or upon any private premises in the said city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

(1979 Code, § 7.66) Penalty, see § 10.99

### § 111.07 USE OF STREETS.

No peddler shall have any exclusive right to any location in the public streets nor shall any peddler be permitted a stationary location nor shall he or she be permitted to operate in any congested area where his or her operations might impede or inconvenience the public. For the purpose of this subchapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

(1979 Code, § 7.67) Penalty, see § 10.99

### § 111.08 EXEMPT PERSONS.

The following shall be exempt from the licensing requirements of this subchapter but shall be subject to the other provisions hereof:

(A) Farmers or truck gardeners selling, or offering for sale, any products grown, raised or produced by them, the sale of which is not otherwise prohibited or regulated; and

(B) Any person under 18 years of age when engaged in peddling on foot in the neighborhood of his or her residence under the direct supervision of any school or recognized charitable or religious organization.

(1979 Code, § 7.68)

## SOLICITORS

### § 111.20 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***SOLICITOR.*** Any individual, whether a resident of the city or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance from place to place, from house to house or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, books or magazines, personal property of any nature whatsoever for future delivery or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not and such definition shall include any person, who, for himself or herself, or for another person, hires, leases or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery. The word ***SOLICITOR*** shall include the word “canvasser”.

(1979 Code, § 7.81)

### § 111.21 LICENSE REQUIRED.

No person shall engage in the business of a solicitor within the city without first obtaining a license therefor. No such license shall be granted except upon certification of the Chief of Police.

| | |
|---|---|
| Investigation fee | $5 |
| Per day | $5 |
| Per week | $10 |
| Per month | $20 |

| | |
|---|---|
| Annual fee | $50 |

(1979 Code, § 7.82) (Res. passed 12-16-2014) Penalty, see § 10.99

### § 111.22 LICENSE APPLICATION.

The license application filed under the provisions of §110.04 shall furnish the following information:

(A) Name and description of the applicant;

(B) Permanent home address and full local address of the applicant;

(C) A brief description of the nature of the business and the goods to be sold;

(D) If employed, the name and address of the employer, together with credentials establishing the exact relationship;

(E) The length of time for which the right to do business is desired;

(F) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed and the proposed method of delivery;

(G) A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner; and

(H) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

(1979 Code, § 7.83)

### § 111.23 LICENSE FEES.

(A) The fees for a solicitor's license shall be as specified in §110.08. No fee for a solicitor's license shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce, he or she may apply to the Mayor for an adjustment of the fees so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six months after payment of the prescribed license fee. The applicant shall, by affidavit, and supporting testimony, show his or her method of business and gross volume, or estimated gross volume, of business and such other information as the Mayor may deem necessary in order to determine the extent, if any, of such undue burden on such commerce.

(B) The Mayor shall then conduct an investigation, comparing the applicant's business with other businesses of like nature and shall make findings of fact from which he or she shall determine whether the fee fixed for the solicitor's license is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and non-discriminatory or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the Mayor shall have the power to base the fee upon a percentage of gross sales or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fee as prescribed by § 110.08.

(C) Should the Mayor determine the gross sales measure of the fee to be the fair basis, he or she may require the applicant to submit, either at the time of termination of applicant's business in the city or at the end of each three-month period, a sworn statement of the gross sales and pay the amount of fee therefor, provided that no additional fee during any one license year shall be required after the licensee shall have paid an amount equal to the annual license fee as prescribed in § 110.08.

(1979 Code, § 7.84)

### § 111.24 EXEMPT PERSONS.

Persons under 18 years of age, when engaged in soliciting on foot in the neighborhood of his, her or their residence under the direct supervision of any school or recognized charitable or religious organization, shall be exempt from the requirements of this subchapter.

(1979 Code, § 7.85)

## CHAPTER 112: ALCOHOL

Section

### § 112.01 SPECIFIC PROHIBITIONS; SALES.

(A) No person holding a license pursuant to the State Liquor Control Code, Act 58 of 1998, being M.C.L.A. §§ 436.1101 et seq. for on-premises consumption shall engage in, or permit by any person on the licensed premises, any of the following conduct:

(1) The performance of acts or simulated acts of sexual intercourse, fellatio, cunnilingus, masturbation, sodomy, bestiality, flagellation or any other act by a person involving the touching or contacting of the genitals;

(2) The erotic caressing or fondling of the breast, buttocks, pubic region or genitals;

(3) The actual or simulated displaying or exposure of the pubic hair, pubic region, anus, vulva or genitals; and/or

(4) The exposure of the postpubertal female breast.

(B) For the purpose of this section, a female breast is considered exposed if any portion of the breast below a line immediately above the top of the areola is exposed.

(1973 Code, § 7.117) (Ord. 73, passed 6-5-1979) Penalty, see § 10.99

### § 112.02 QUESTIONNAIRE PREREQUISITE; DANCE AND/OR ENTERTAINMENT PERMIT.

(A) Any person who has applied to the State Liquor Control Commission for a dance and/or entertainment permit within city limits shall obtain from the City Clerk and answer a questionnaire form, which form shall be approved by resolution of City Council, prerequisite to the City Council making recommendation to the State Liquor Control Commission dance and/or entertainment permit.

(B) The purpose of the questionnaire information furnished shall be to enable the City Council to have the applicable information necessary to properly evaluate and make recommendation to the State Liquor Control Commission. The completed questionnaire shall be filed with the City Clerk before the City Council makes recommendation to the State Liquor Control Commission.

(C) Prior to any recommendation by the City Council to the State Liquor Control Commission, the City Council shall also afford to the person applying, completing and filing the questionnaire the procedural safeguards of notice and hearing before the City Council.

(1979 Code, § 7.118) (Ord. 73, passed 6-5-1979)

## CHAPTER 113: JUNK YARDS

Section



### § 113.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***JUNK YARD.*** An ongoing business in which the business regularly purchases and sells scrap metals including the purchase and sale of used inoperative motor vehicles and used auto parts.

***MOTOR VEHICLE.*** Any of the following:

(1) Automobile;

(2) Truck;

(3) Motorized farm implement;

(4) Motorized construction equipment;

(5) Motorcycle;

(6) Snowmobile; and

(7) All terrain vehicle.

(1979 Code, § 7.120) (Ord. 98, passed 12-1-1987)

### § 113.02 LICENSE REQUIRED.

No person shall engage in the business of operating a junk yard without first obtaining a license therefor. No licenses shall be issued to any person who cannot comply with the application requirements herein.

(1979 Code, § 7.121) (Ord. 98, passed 12-1-1987) Penalty, see § 113.99

### § 113.03 APPLICATION.

(A) *License applications.* Applicants for a license under this chapter must file with the City Clerk a sworn application in writing on a form to be furnished by the City Clerk which shall give the following information:

(1) Initial license:

(a) Name and birth date of the applicant;

(b) Address (legal and local);

(c) A description of the business (i.e., autos, scrap metals or both);

(d) Location of business;

(e) Zoning status of location;

(f) A statement that the applicant has fully complied with the provisions of Ch. 150 with regard to fencing and gates; and

(g) A statement that the applicant intends to actively pursue an ongoing business and that the applicant is not seeking the license solely for storage of scrap metals or used inoperative motor vehicles or parts thereof.

(2) Renewal licenses:

(a) Name and date of birth of the applicant;

(b) All previous periods of license held by the applicant;

(c) A sworn statement of all purchases and sales by the business in the prior licensing period, setting forth for each transaction the name of the person with whom the transaction was with, a description of the subject matter of the transaction, the date of the transaction; and

(d) A sworn statement that the premises still comply with the provisions of Ch. 150.

(B) *Fees.*

(1) Application fee: $5; and

(2) Annual license fee: $25.

(1979 Code, § 7.122) (Ord. 98, passed 12-1-1987; Ord. 99, passed 12-1-1987)

### § 113.04 INVESTIGATION AND ISSUANCE.

(A) Upon receipt of the application, the same shall be referred to the Chief of Police who shall investigate to see if the property complies with the provisions of Ch. 150.

(B) If the Chief of Police determines that the premises do not comply with the provisions of Ch. 150, he or she shall so state on the application and the license shall not be issued.

(C) If the Chief of Police determines that the premises do comply with the provisions of Ch. 150, he or she shall so state on the application and return the application to the City Clerk. If the application is for an initial license, then the City Clerk shall issue a license for a period of operation for the ensuing six months, at which time the applicant shall, in order to continue doing business, apply for a renewal license. Renewal licenses shall be for a period of one year.

(D) In the case of a renewal license application before issuance of license, the City Clerk shall ascertain whether or not the business is an active, ongoing business as defined herein. If the business is an active, ongoing business, the license shall be issued. If the business does not meet the definition of an active, ongoing business, the license shall not be issued and the premises shall be cleared of all stored materials within 60 days.

(E) An ***ACTIVE, ONGOING BUSINESS***, for purposes of this chapter, shall mean a business in which there have been an average of four transactions, as set forth in the sworn statement accompanying the renewal application, for each month of the period of the prior or expiring license.

(1979 Code, § 7.123) (Ord. 98, passed 12-1-1987)

### § 113.05 STORAGE OF SCRAP METALS AND/OR INOPERATIVE MOTOR VEHICLES OR PARTS; PROHIBITED.

(A) It shall be unlawful for the owner or tenant of any real property to store thereon any scrap metal or used, inoperative motor vehicles, or the parts thereof, except in a licensed junk yard or in a completely enclosed building.

(B) The unlawful storage of scrap metal or used, inoperative motor vehicles, or the parts thereof, is hereby declared to be a public nuisance and the owner or tenant, being given notice thereof, shall abate the same as provided for in Ch. 92.

(1979 Code, § 7.124) (Ord. 98, passed 12-1-1987) Penalty, see § 113.99

### § 113.99 PENALTY.

A person found guilty of violating this chapter may be punished by a fine up to $500 or imprisonment of up to 90 days in the county jail or both such fine and imprisonment.

(1979 Code, § 7.124) (Ord. 98, passed 12-1-1987)

# CHAPTER 114: TELECOMMUNICATIONS

Section

# CABLE TELEVISION RATES; REGULATION

## § 114.01 TITLE AND PURPOSE.

The ordinance from which the provisions of this subchapter derive shall be known as the “Cable Rate Regulation and Enforcement Ordinance”. This subchapter is being adopted for the purpose of implementing a system of rate regulations on basic programming consistent with the provisions of 47 USC 201 and 521 et seq., together with the rules or regulations adopted by the Federal Communications Commission in compliance with that Act. These rate regulations shall remain in effect as long as the cable television system is without effective competition as defined by federal law.

(1979 Code, § 2.116) (Ord. 118, passed 2-1-1994)

## § 114.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***BASIC CABLE SERVICE.*** The lowest level of service provided by the grantee. This shall include all broadcast channels, public, educational and government access channels, together with any additional channels or services the grantee provides on this service level.

***BENCHMARK RATES.*** Rates as established by the Federal Communications Commission for basic cable service.

***CABLE TELEVISION SYSTEM, CABLE TV SYSTEM*** or ***CATV SYSTEM***. A system of antennas, cables, wires, lines, towers, wave guides or other conductors, convertors, equipment or facilities located within the city, designed and constructed for the purpose of producing, originating, receiving, transmitting, amplifying and distributing audio, video and other forms of electronic or electrical signals broadcasted by one or more television stations to subscribing members of the public for a fixed or periodic fee, employing wires or cables passing along, over, under, across and/or upon streets, highways, alleys or other public places, including property over which the city has an easement or right-of-way, subject to the scope and limitations of such easement and rights-of-way.

***CABLECASTING.*** Programming, exclusive of broadcast signals, carried on a cable television system, including programming of local origination exclusive of broadcast signals, carried on a cable television system over one or more channels.

***CITY.*** The City of Memphis as constituted now and in the future.

***CITY COUNCIL.*** The duly elected/appointed governing body for the City of Memphis.

***CUSTOMER SERVICE STANDARDS*** or ***CUSTOMER SERVICE OBLIGATIONS.*** Obligations specified by the Federal Communications Commission that the city may impose upon the grantee. Such imposition of customer service standards upon the grantee may be accomplished by the city through the passage of an appropriate resolution to that effect, together with enforcement provisions for these standards as shall be further set forth within this subchapter. The terms ***CUSTOMER SERVICE STANDARDS*** and ***CUSTOMER SERVICE OBLIGATIONS*** shall be interchangeable when used within this subchapter.

***FEDERAL COMMUNICATIONS COMMISSION*** or ***FCC.*** The federal agency constituted by 47 USC 201 et seq. and charged by the United States Government with regulation.

***FRANCHISE AGREEMENT.*** The agreement as adopted by the city setting forth the terms and conditions of a franchise to provide cable television service to the city.

***GRANTEE.*** Any entity authorized to do business in the state and/or its duly authorized assignees and who has acquired a right to provide cable television services to the city.

***PERSON.*** A person, firm, partnership, association, corporation, company or organization of any kind or nature whatsoever.

(1979 Code, § 2.117) (Ord. 118, passed 2-1-1994)

## § 114.03 COMPLIANCE WITH FEDERAL COMMUNICATIONS COMMISSION; RULES AND REGULATIONS.

In the implementation of this subchapter, the city and the grantee shall adhere to all regulations as adopted by the FCC by way of its obligations to promulgate such regulations under 47 USC 201 et seq. The enforcement of this subchapter shall be coordinated through, and in compliance with, FCC rules and regulations.

(1979 Code, § 2.118) (Ord. 118, passed 2-1-1994)

## § 114.04 PROCEDURE FOR THE SUBMISSION OF RATE SCHEDULES.

(A) *Submission of proposed rates.*

(1) In order to modify its regulated rates, the grantee shall submit to the City Clerk a schedule of proposed rates for basic service, equipment and other charges for customer services. Such schedules shall include the following information:

(a) The date(s) requested for the implementation of such charges;

(b) A schedule of channels and channel placement being made available to subscribing households, including all levels of available service;

(c) The grantee's designation of each such channel and whether it is defined in the grantee's offering as its basic service;

(d) The proposed monthly charges requested for the basic service including any discounts available to subscribers; and

(e) The proposed charges for installation, sale and/or rental of any equipment, including, but not limited to, the following items:

1. The cost of installation of cable television services and any surcharges or discounts applicable to such installation charges and the reason for such surcharges or discounts;

2. Where the grantee is requesting that its rates be set according to its cost of service, as defined by federal law, the items of equipment to be used for the delivery of such services including coaxial cable, fiber-optic lines, modulators, satellite receivers and de-scramblers, microwave transmission equipment, converter/de-scrambler boxes, filter traps, remote control devices and similar equipment. In outlining the proposed charges for the installation, sale or rental of this equipment, the grantee shall identify the manufacturer(s) and model numbers of the equipment to be utilized as well as the unit cost to the grantee to purchase or lease such equipment. The grantee shall specify what consumer options are available with respect to each item of equipment to be placed in, or adjacent to, the household, including, but not limited to, the availability of two-way transmission, remote control ability, premium channel de-scrambling ability, digital de-scrambling ability and volume control;

3. The late charges or penalties proposed to be charged to subscribers and the conditions under which those charges are to be imposed or may be waived;

4. The cost for the installation and maintenance of additional or modified outlets;

5. The cost for sale or rental of remote control devices;

6. The cost for cable guides or other similar publications made available to subscribers; and

7. The cost of any other equipment or material that the grantee seeks to be considered in the setting of rates.

(2) The grantee shall supply a list of the charges to subscribers for the items specified within division (A)(1)(e)2. above or comparable equipment/materials used by the grantee in prior years for the five years preceding the date of submission of the rate schedule, including the percentage increase in cost for such items or, in the event the grantee's franchise has been in effect for less than five years, then for all years the grantee has held such franchise. The grantee need only supply the items specified within division (A)(1)(e)2. above if the grantee is seeking a rate modification based upon its cost of service as defined by federal law.

(3) Concurrent with supplying the above documentation, the grantee shall supply the City Clerk with copies of all documents submitted to the FCC with respect to the grantee's cost of equipment.

(4) The grantee shall clearly designate what information it considers proprietary in nature and the circumstances under which the grantee will not object to the public release of such proprietary information. The grantee may request that the identified materials be treated as confidential and not subject to public disclosure. Such request must be submitted with a statement as to why such information should be considered proprietary and the factual basis for such statement. The City Council shall grant such request to maintain the confidentiality of the materials if it finds such request consistent with the purposes of 5 USC 552 and FCC regulation of the procedures for requesting public disclosure.

(B) *Receipt and forwarding of information.* Upon receipt of the information set forth within division (A) above, the City Clerk shall, within 20 days of receipt of the grantee's submission, do the following:

(1) Cause the proposed rate schedule for basic and regulated equipment to be published in conformance with applicable law;

(2) Provide the City Attorney and City Council with copies of all information supplied to the City Clerk's offices by the grantee; and

(3) Take all necessary measures to secure any proprietary information supplied to the Clerk and advise the grantee in writing of the measures taken to secure these materials. Such materials shall not be disclosed except as provided herein or as otherwise provided by law.

(C) *Consideration of proposal.* Following the receipt of such submission from the grantee, the Clerk shall transmit to the grantee, via first class mail, to the address provided by the grantee, a notification containing the following information.

(1) The proposed schedule of rates shall become effective 30 days after the date of the submission unless such schedule is tolled pursuant to, and in conformity with, the applicable FCC rules and this subchapter.

(2) The grantee has the burden of proof in demonstrating that the proposed rate schedules comport with the applicable FCC rules and are appropriate in terms of its costs.

(3) A tolling order for the implementation of the rate schedule may be made by the City Clerk in accordance with the terms of this subchapter.

(D) *Obligation of the City Clerk.*

(1) The City Clerk shall request from the City Attorney a determination as to whether additional information is necessary and request from the City Council a determination as to whether a public hearing should be conducted to evaluate the grantee's proposed rate schedule. In the event the City Clerk is notified by the City Attorney or by two or more of the City Council that either more information is necessary or that a public hearing should be held or the City Clerk believes, in his or her discretion, that a public hearing should be held, the City Clerk shall issue a tolling order to the grantee, delaying the implementation of the rate schedule for a period not to exceed 120 days from the date of the tolling order.

(2) In the event the City Clerk issues a tolling order, he or she shall promptly notify the grantee in writing, via first class mail, of the tolling order and setting forth the length of the tolling period. The City Clerk shall also advise the grantee that a public hearing before the City Council will occur within 60 days of the date of the tolling order.

(E) *Public hearing.* Following the issuance of the tolling order, the City Clerk shall immediately schedule a public hearing before the City Council to be held within 60 days of the date of the tolling order. Notification of the hearing date, time and location shall be transmitted to the grantee via first class mail. The following provisions are made for public hearings as to a cable rate regulation request.

(1) The notice of such public hearing shall be in writing and posted as required by applicable law.

(2) At such public hearing, the grantee shall have the opportunity to present arguments and documentation in person and/or in writing supporting its proposed rate schedule. Following this presentation, the City Council shall hear arguments and consider documentation as presented by the City Attorney, other city officials and members of the general public as to the proposed rate schedule. The grantee may then be allowed to present arguments and documentation in rebuttal.

(3) In the event the City Council needs additional information, documentation or materials from the grantee or any other person, it shall direct that the same be supplied to the City Council within 14 days of the date of the public hearing. Items submitted after the 14-day period shall not be considered. The grantee or other person shall supply these materials to the City Council and the City Clerk shall process these materials in compliance with division (B) above. Concurrently, the City Council shall schedule a second public hearing to be held at the next available City Council meeting.

(4) Upon receipt of the additional materials, the City Clerk shall distribute such materials to the members of the City Council. The City Clerk shall then prepare a written recommendation as to the proposed rate schedule. In evaluating the rates to be set for services, the City Clerk shall consider the federal benchmark standards as may be established by the Federal Communications Commission, if the grantee seeks a rate modification based upon these standards or, if grantee seeks a modification based upon its cost of service, the City Clerk shall allow a fair return on investment, taking into account appropriate costs including, but not limited to, the grantee's capital costs, basic cable programming, customer service, labor and ancillary costs attributable to obtaining and transmitting signals carried on the basic service.

(5) Also considered shall be increases in the grantee's costs as to any franchise-imposed requirements not directly related to the provision of cable television service as well as a reasonable profit to the grantee. The City Council shall presume the reasonableness of documented increases and those basic cable costs factors itemized in the "fair return on investment" standard.

(6) At the adjourned hearing, the City Council shall review all information and materials together with the written recommendation of the City Clerk. The City Council may adopt such recommendation or, after setting forth a basis for adopting a modification to that recommendation, and considering all factors outlined within division (A) above, may make and adopt a modified recommendation. Any modification and the basis for the recommendation, shall be promptly reduced to writing and supplied to the City Clerk and sent promptly to the grantee via first class mail.

(7) The recommendation of the City Council shall become final and binding upon the grantee within seven days of the date that the written recommendation is adopted. The City Clerk shall cause the rate schedule to be published in conformance with applicable law.

(1979 Code, § 2.119) (Ord. 118, passed 2-1-1994)

### § 114.05 RULES OF PROCEDURE.

The City Council shall adopt and implement such rules of procedure in the conducting of public hearings as is consistent with the FCC regulations and due process of law. At all times, the grantee, at its election, may choose to be represented by counsel.

(1979 Code, § 2.120) (Ord. 118, passed 2-1-1994)

### § 114.06 REFUNDS.

The City Council may direct the payment of refunds to subscribers retroactive to the date as may be allowed by federal and/or state law. The City Council shall direct what means the grantee will undertake in order to pay any such refunds in accordance with the procedures set forth herein.

(1979 Code, § 2.121) (Ord. 118, passed 2-1-1994)

### § 114.07 FAILURE TO GIVE NOTICE.

Any failure to give notice as provided for herein shall not invalidate any orders, recommendations or decisions as set forth under this rule.

(1979 Code, § 2.122) (Ord. 118, passed 2-1-1994)

### § 114.08 ADDITIONAL HEARINGS.

Upon reasonable notice, the City Council may schedule such additional hearings as may be necessary in the exercise of its regulatory functions as set forth within this subchapter or as otherwise provided by law.

(1979 Code, § 2.123) (Ord. 118, passed 2-1-1994)

### § 114.09 GRANTEE'S FAILURE TO COMPLY.

(A) *Failure to submit proposed rate schedule.* In the event the grantee fails to submit a proposed rate schedule and modifies regulated rates in violation of this subchapter, it may be ordered to reduce its basic rates to 75% of the FCC Benchmark of Rates and its services/rental charges to those specified within the initial franchise agreement or proposal to provide a franchise agreement or, if no specific charges are listed for the particular service/rental charges, to such amounts as may be adopted by the City Council as set forth below.

(B) *City Council; authority to set rates.*

(1) In the event the grantee fails to submit a proposed rate schedule, as set forth above, within 60 days, the City Council shall meet to review the FCC benchmark of rates as well as the charges for services/rentals within the original franchise agreement and the FCC materials regarding the service/rental expenses and issue a rate schedule binding upon the grantee.

(2) In evaluating these rates, the City Council shall consider that the grantee is entitled to a fair return on its investment and shall take into account the appropriate costs including, but not limited to, the grantee's capital costs, basic cable programming, customer service, labor and ancillary costs attributable to obtaining and transmitting signals carried on the basic service. Increases in such costs, and the costs of any franchise-imposed requirements not directly related to the provision of cable television service, as well as a reasonable profit to the grantee shall also be considered. The grantee may submit written documentation to the City Council prior to the meeting date as to any aspects of its costs. The City Council shall presume the reasonableness of any documented increases supplied by the grantee in those basic cable cost factors itemized in this "fair return on investment" standard.

(3) The City Council shall adopt the effective dates that the rate schedule shall be in effect with the beginning date being the date the grantee modified its rate schedule in violation of this subchapter or as otherwise allowed by law and the ending date being the date arrived at by subsequent implementation of this subchapter.

(4) The rate schedule shall be mailed to the grantee and published in conformance with applicable law. The rate schedule shall be effective upon its being reduced to writing and placed in the form of a resolution.

(1979 Code, § 2.124) (Ord. 118, passed 2-1-1994)

### § 114.10 REQUEST FOR DISCLOSURE OF ASSERTED PROPRIETARY INFORMATION.

(A) Requests for disclosure of any documents that the grantee asserts are proprietary may be submitted to the City Clerk by any person. The City Council shall be the sole authority to authorize public disclosure of alleged proprietary materials. In determining whether any such materials shall be disclosed, the City Council shall grant the grantee's request to maintain the confidentiality of the materials only if such request is consistent with the purposes of 5 USC 552 and applicable FCC regulations.

(B) If a request for disclosure is submitted to the City Clerk, such submission shall be in writing specifying what materials sought to be disclosed to the public and the basis for requesting such public disclosure. The City Clerk shall mail a copy of the request to the grantee. The grantee shall have 14 days from the date of mailing to respond to the request. At its next available City Council meeting, the City Council shall review the request for disclosure as well as the response submitted by the grantee. Any decision of the City Council as to such disclosure shall become final 14 days after the City Council meeting.

(1979 Code, § 2.125) (Ord. 118, passed 2-1-1994)

### § 114.11 ADDITIONAL POWERS.

The City Council's powers, as set forth herein, shall be in addition to all other powers afforded franchising authorities by applicable law or regulation.

(1979 Code, § 2.126) (Ord. 118, passed 2-1-1994)

### § 114.12 EFFECTIVE DATE.

This subchapter shall take effect upon adoption.

(1979 Code, § 2.129) (Ord. 118, passed 2-1-1994)

## TELECOMMUNICATIONS RIGHTS-OF-WAY OVERSIGHT ACT

### § 114.25 PURPOSE.

(A) The purposes of the ordinance from which the provisions of this subchapter derive 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, being M.C.L.A. §§ 484.3101 et seq. and other applicable laws, and to ensure that the city qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(B) Nothing in this subchapter shall be construed in such a manner as to conflict with the Act or other applicable laws.

(Ord. 159, passed 9-16-2003)

### § 114.26 DEFINITIONS.

(A) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ACT.*** The Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, being M.C.L.A. §§ 484.3103 et seq., as amended from time to time.

***CITY.*** The City of Memphis.

***CITY COUNCIL.*** The City Council 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.

***MAYOR.*** The Mayor or his or her designee.

***PERMIT.*** A non-exclusive permit issued pursuant to the Act and this subchapter 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 subchapter shall have the same meaning as defined or as provided in the Act, including, without limitation, the following.

***AUTHORITY.*** The Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to § 3 of the Act.

***MPSC.*** 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.

***PERSON.*** An individual, corporation, partnership, association, governmental entity or any other legal entity.

***PUBLIC RIGHT-OF-WAY.*** The area on, below or above a public roadway, highway, street, alley, easement or waterway. ***PUBLIC RIGHT-OF-WAY*** does not include federal, state or private rights-of-way.

***TELECOMMUNICATION FACILITIES*** or ***FACILITIES.*** 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 § 332(d) of part I of Title III of the Communications Act of 1934, Ch. 652, 48 Stat. 1064, 47 U.S.C. § 332 and further defined as commercial mobile radio service in 47 C.F.R. § 20.3 and service provided by any wireless, two-way communication device.

***TELECOMMUNICATIONS PROVIDER***, ***PROVIDER*** and ***TELECOMMUNICATIONS SERVICES.*** Terms as defined in § 102 of the State Telecommunications Act, Public Act 179 of 1991, being M.C.L.A. § 484.2102. ***TELECOMMUNICATIONS PROVIDER*** does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in § 332(d) of part I of the Communications Act of 1934, Ch. 652, 48 Stat. 1064, 47 U.S.C. § 332 and further defined as commercial mobile radio service in 47 C.F.R. § 20.3 or service provided by any wireless, two-way communication device. For the purpose of the Act and this subchapter only, a ***PROVIDER*** also includes all of the following:

(a) A cable television operator who provides a telecommunications service;

(b) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way; and

(c) A person providing broadband internet transport access service.

(Ord. 159, passed 9-16-2003)

## § 114.27 PERMIT REQUIRED.

(A) *Permit requirements.* 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 subchapter.

(B) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with § 484.3106(1) of the Act. A telecommunications provider shall file three copies of the application with the City Clerk. Upon receipt, the City Clerk shall make additional copies of the application and distribute a copy to the Mayor and City Attorney. Applications shall be complete and include all information required by the Act, including, without limitation, a route map showing the location of the provider's existing and proposed facilities in accordance with § 484.3106(5) of the Act.

(C) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary or confidential information which is exempt from the Freedom of Information Act, Public Act 442 of 1976, being M.C.L.A. §§ 15.231 through 15.246 pursuant to § 484.3106(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(D) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of $500.

(E) *Additional information.* The Mayor may request an applicant to submit such additional information which the Mayor deems reasonably necessary or relevant. The applicant shall comply with all such requests, in compliance with reasonable deadlines, for such additional information established by the Mayor. 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 § 484.3106(2) of the Act.

(F) *Previously issued permits.* Pursuant to § 484.3105(1) of the Act, authorizations or permits previously issued by the city under § 251 of the State Telecommunications Act, Public Act 179 of 1991, being M.C.L.A. § 484.2251, and authorizations or permits issued by the city to telecommunications providers prior to the 1995 enactment of § 251 of the State Telecommunications Act but after 1985 shall satisfy the permit requirements of this subchapter.

(G) *Existing providers.* Pursuant to 484.3105(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the city as of such date that has not previously obtained authorization or a permit under § 251 of the State Telecommunications Act, Public Act 179 of 1991, being M.C.L.A. § 484.2251, shall submit to the city an application for a permit in accordance with the requirements of this subchapter. Pursuant to § 484.3105(3) of the Act, a telecommunications provider submitting an application under this subchapter is not required to pay the $500 application fee required under division (D) above. A provider, under this division (G), shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in § 484.3105(4) of the Act.

(Ord. 159, passed 9-16-2003)

## § 114.28 ISSUANCE OF PERMIT.

(A) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the Mayor. Pursuant to § 484.3115(3) of the Act, the Mayor 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 division (B) below for access to a public right-of-way within the city. Pursuant to § 484.3106(6) of the Act, the Mayor shall notify the MPSC when the Mayor 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 Mayor shall not unreasonably deny an application for a permit.

(B) *Form of permit.* If an application for permit is approved, the Mayor shall issue the permit in the form approved by the MPSC with or without additional or different permit terms, in accordance with §§ 484.3106(1), 484.3106(2) and 484.3115 of the Act.

(C) *Conditions.* Pursuant to § 484.3115(4) of the Act, the Mayor may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(D) *Bond requirement.* Pursuant to § 484.3115(3) of the Act, and without limitation in division (C) above, the Mayor may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. 159, passed 9-16-2003)

## § 114.29 CONSTRUCTION/ENGINEERING PERMIT.

(A) A telecommunications provider shall not commence construction upon, over, across or under the public rights-of-way in the city without first obtaining a construction or engineering permit as required under the City Charter and applicable provisions of this code of ordinances, as amended, for construction within the public rights-of-way.

(B) No fee shall be charged for such a construction or engineering permit.

(Ord. 159, passed 9-16-2003)

### § 114.30 CONDUIT OR UTILITY POLES.

Pursuant to § 484.3104(3) of the Act, obtaining a permit or paying the fees required under the Act or under this subchapter does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. 159, passed 9-16-2003)

### § 114.31 ROUTE MAPS.

Pursuant to § 484.3106(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the city, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the city. The route maps should be in paper format unless and until the MPSC determines otherwise, in accordance with § 484.3106(8) of the Act.

(Ord. 159, passed 9-16-2003)

### § 114.32 REPAIR OF DAMAGE.

Pursuant to § 484.3115(5) of the Act, a telecommunications provider undertaking an excavation or construction or of installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the city, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

(Ord. 159, passed 9-16-2003)

### § 114.33 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.

In addition to the non-refundable application fee paid to the city set forth in §114.27, 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 § 484.3108 of the Act.

(Ord. 159, passed 9-16-2003)

### § 114.34 MODIFICATION OF EXISTING FEES.

(A) In compliance with the requirements of § 484.3113(1) of the Act, the city hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of § 484.3113(4) of the Act the city also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the city's boundaries so that those providers pay only those fees required under § 484.3108 of the Act.

(B) The city shall provide each telecommunications provider affected by the fee with a copy of this subchapter in compliance with the requirement of § 484.3113(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the city's policy and intent and, upon application by a provider or discovery by the city, shall be promptly refunded as having been charged in error.

(Ord. 159, passed 9-16-2003)

### § 114.35 USE OF FUNDS.

Pursuant § 484.3110(4) of the Act, all amounts received by the city from the Authority shall be used by the city solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the city from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the city under Public Act 51 of 1951, being M.C.L.A. §§ 247.651 et seq.

(Ord. 159, passed 9-16-2003)

### § 114.36 ANNUAL REPORT.

Pursuant to § 484.3110(5) of the Act, the Mayor shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.

(Ord. 159, passed 9-16-2003)

### § 114.37 CABLE TELEVISION OPERATORS.

Pursuant to § 484.3113(6) of the Act, the city shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of the Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through

broadband internet transport access services.

(Ord. 159, passed 9-16-2003)

### § 114.38 EXISTING RIGHTS.

Pursuant to § 484.3104(2) of the Act, except as expressly provided herein with respect to fees, this subchapter shall not affect any existing rights that a telecommunications provider or the city may have under a permit issued by the city or under a contract between the city and a telecommunications provider related to the use of the public rights-of-way.

(Ord. 159, passed 9-16-2003)

### § 114.39 COMPLIANCE.

(A) The city hereby declares that its policy and intent in adopting the ordinance from which the provisions of this subchapter derive 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.

(B) 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 442 of 1976, being M.C.L.A. §§ 15.231 through 15.246, as provided in § 114.27(C);

(2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with §114.27(F) of this subchapter;

(3) Allowing existing providers additional time in which to submit an application for a permit and excusing such providers from the $500 application fee, in accordance with § 114.27(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 § 114.27(A);

(5) Notifying the MPSC when the city has granted or denied a permit, in accordance with §114.28(A);

(6) Not unreasonably denying an application for a permit, in accordance with §114.28(A);

(7) Issuing a permit in the form approved by the MPSC with or without additional or different permit terms, as provided in § 114.28(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 § 114.28(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 telecommunications provider’s access and use, in accordance with § 114.28(D);

(10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with § 114.29;

(11) Providing each telecommunications provider affected by the city’s right-of-way fees with a copy of this subchapter, in accordance with § 114.34(B);

(12) Submitting an annual report to the Authority, in accordance with §114.36; and

(13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with § 114.37.

(Ord. 159, passed 9-16-2003)

### § 114.40 RESERVATION OF POLICE POWERS.

Pursuant to § 484.3115(2) of the Act, this subchapter shall not limit the city’s right to review and approve a telecommunications provider’s access to, and ongoing use of, a public right-of-way or limit the city’s authority to ensure and protect the health, safety and welfare of the public.

(Ord. 159, passed 9-16-2003)

### § 114.41 AUTHORIZED CITY OFFICIALS.

The Mayor, or his or her designee, is hereby designated as the authorized city official to issue violation notices directing alleged violators to appear in court for violations under this subchapter as provided by this code of ordinances.

(Ord. 159, passed 9-16-2003)

### § 114.42 EFFECTIVE DATE.

The ordinance from which the provisions of this subchapter derive shall take effect ten days after adoption and publication

in accordance with law.

(Ord. 159, passed 9-16-2003)

### § 114.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) In the event the grantee fails to respond to any request for additional material or information, the City Council may direct the immediate reduction of basic rates to 75% of the FCC Benchmark for cable subscribers for a period not to exceed 90 days for each violation. The City Council may also direct the imposition of penalties of up to $100 per day for each day that a violation occurs, to be chargeable to the grantee. The grantee shall be entitled to demand a public hearing before the City Council to contest the assessment of penalties hereunder.

(2) In the event the grantee fails to adhere to the rate schedule as established by §§114.01 through 114.12, the City Council may impose penalties including, but not limited to, the following:

(1) Termination of the franchise and/or filing suit within the Circuit Court for placement of such franchise in receivership;

(a) Imposition of fines not to exceed $100 per day for each scheduled item that the grantee fails to comply with;

(b) An order directing the immediate roll-back of basic cable rates to 75% of the FCC Benchmark; and/or

(c) An order directing that the appropriate refunds be made to subscribers and the means the grantee is to employ in making such refunds.

(3) The grantee shall be entitled to a public hearing before the City Council to contest the assessment of penalties hereunder.

(1979 Code, § 2.124)

(C) A violation of §§ 114.25 through 114.42, or the terms or conditions of a permit, shall be a violation of the city code and shall be subject to the penalties set forth in § 10.99. Nothing in this division (C) shall be construed to limit the remedies available to the city in the event of a violation by a person of this subchapter or a permit.

(Ord. 118, passed 2-1-1994; Ord. 159, passed 9-16-2003)

## CHAPTER 115: GAME DEVICES AND ARCADES

Section



### § 115.01 LICENSING.

(A) The City Council hereby determines that the business of operating game devices and arcades has such an effect upon the health, safety and welfare of the inhabitants of the city as to require the licensing and regulation thereof.

(B) No person shall establish or operate an arcade in the city unless the license required by this section has been issued and is conspicuously displayed at all times on the premises and unless a valid registration seal required by this section is conspicuously attached to each game device.

(C) Application for an arcade license shall be made to the City Clerk upon forms provided by the Clerk which shall include the following information:

(1) The name, address and telephone number of the applicant. If the applicant is a corporation, partnership or other organization, then the names, addresses and telephone numbers of the officers and the owners of more than 10% interest therein shall be given; and

(2) Whether any person named, or required to be named, on the application has ever been convicted of a crime and, if so, the nature of the offense.

(D) Upon receipt of the completed application and the license fee, the Clerk shall cause an inspection of the premises to

be made by the City Building Official to ensure that it conforms to all applicable city codes and the standards herein set forth.

(E) No license shall be issued to any applicant when a person named, or required to be named, on the application is under the age of 18 years of age or has been convicted of an offense involving gambling, controlled substances, criminal sexual conduct involving a minor, accosting or soliciting or contributing to the delinquency of a minor.

(F) Upon receipt of a satisfactory report from the Building Official and upon the determination that the applicant is eligible for a license, the Clerk shall issue the license which shall expire on the following December 31, regardless of the date the license was issued.

(G) Licenses shall be renewed on December 31 of each year upon payment of the annual license fee.

(H) Each applicant for a license shall file with the City Clerk a public liability and property damage insurance policy in the amount of $100,000 for injury to, or death of, any one person and in the amount of $300,000 for injury to, or death of, more than one person and in the amount of $50,000 for damages to property. Such insurance shall be written by an insurance carrier duly licensed to conduct business in the state and shall be kept and maintained in continuous force and effect as long as the applicant shall be licensed under this section. Such policy shall contain an endorsement that any cancellation shall not take effect until ten days notice in writing has been given to the City Clerk.

(1979 Code, § 7.24) (Ord. 81, passed 5-4-1982)

### § 115.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ARCADE.*** Any place open to the public in which five or more game devices are located for public use.

***GAME DEVICES.*** Any machine or device including, but not limited to, pinball machines, video and electronic games operated by means of the insertion of a token, coin or similar object or for a consideration paid to the owner or custodian thereof for the purpose of a game or contest of skill or amusement.

(1979 Code, § 7.24) (Ord. 81, passed 5-4-1982)

### § 115.03 FEES.

The fee for each license for an arcade shall be $75 annually. The fee for each game device registration seal shall be $5.

(1979 Code, § 7.24) (Ord. 81, passed 5-4-1982)

### § 115.04 PHYSICAL STANDARDS.

All arcades located in the city shall conform to the following standards.

(A) Arcades shall not be located within 500 feet in any direction from the boundaries of any public, private or parochial school building and school grounds.

(B) Arcades shall have fire exits as required by applicable city and/or state codes.

(C) Arcades shall conform in all respects to the requirements of the applicable city building, plumbing, electrical and zoning codes.

(1979 Code, § 7.24) (Ord. 81, passed 5-4-1982) Penalty, see § 10.99

### § 115.05 OPERATIONAL STANDARDS.

No licensee or person in charge of an arcade or connected with the management thereof or his, her or their servants or agents shall:

(A) Permit the operation of any game device by any person under the age of 16 years between the hours of 9:00 a.m. and 4:00 p.m., excluding Saturdays, Sundays, holidays and days when school is not in session;

(B) Allow persons under the age of 12 years to operate any game device at any time unless accompanied by a parent or guardian;

(C) Allow persons under the age of 14 years to operate any game device or to be on the premises between the hours of 10:00 p.m. and 9:00 a.m.;

(D) Operate the arcade between the hours of 11:00 p.m. and 9:00 a.m., except that this requirement shall not apply to any establishment licensed under the control of the State Liquor Control Commission;

(E) Permit gambling in any form on the premises;

(F) Permit any persons under the influence of intoxicating liquor or controlled substances to be on the premises;

(G) Permit any intoxicating liquor or any controlled substance to be brought into, sold, given away or consumed on the premises, except that, as to intoxicating liquor, this section shall not apply to any establishment under the control of the

State Liquor Control Commission;

(H) Permit disorderly or offensive conduct thereon as defined under the ordinances of the city;

(I) Permit any conduct or condition to exist contributing to juvenile delinquency;

(J) Permit loitering on the sidewalk in front of the arcade so as to obstruct the free and uninterrupted passage of the public; and/or

(K) Operate the arcade unless the owner, operator or an employee or agent of the owner is present on the premises.

(1979 Code, § 7.24) (Ord. 81, passed 5-4-1982) Penalty, see § 10.99

### § 115.06 REGISTRATION OF GAME DEVICES.

No game device shall be operated in the city in any location open to the public unless the owner, licensee or custodian thereof shall have registered the same with the City Clerk and obtained the registration seal required by this section. The Clerk shall maintain a record of registered game devices which shall include the name and address of the owner or lessee, the manufacturer of the device and its serial number. Registration seals shall expire on December 31 of each year.

(1979 Code, § 7.24) (Ord. 81, passed 5-4-1982) Penalty, see § 10.99

## CHAPTER 116: ADULT BUSINESSES

Section



### § 116.01 PURPOSE.

In the preparation and enactment of this chapter, it is recognized that there are some uses which, because of their very nature, have serious operational characteristics which have a deleterious effect upon residential, office and commercial areas. Regulation of the locations of these uses is necessary to ensure that the adverse effects of such businesses will not cause or contribute to the blighting or downgrading of the city's residential neighborhoods and commercial centers. The regulations in this chapter are for the purpose of locating these uses in areas where the adverse impact of their operations may be minimized by the separation of such uses from one another and places of public congregation.

(Ord. 162, passed 8-17-2004)

### § 116.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ADULT BOOKSTORE.*** An establishment having more than 20% of its stock in trade, books, magazines and other periodicals and/or photographs, drawings, slides, films, videotapes, recording tapes and novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, or an establishment with a segment or section devoted to the sale or display of such material which exceeds 20% of the floor area of the establishment.

***ADULT BUSINESS.*** Adult bookstores, adult movie theaters, adult personal service businesses, adult cabarets, adult novelty businesses, massage parlors, nude modeling studios and tattoo parlors, as defined in this chapter.

***ADULT CABARET.*** An establishment having as an activity the presentation or display of male or female impersonator(s), dancer(s), entertainer(s), waiter(s) or waitress(es) or employee(s) who display specified anatomical areas, as defined herein, and which may or may not feature the service of food or beverage.

***ADULT MOVIE THEATER.*** An enclosed building or room used for presenting motion picture films, videocassettes, cable television or any other visual media having, as a dominant theme, materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activity or specified anatomical areas, as defined herein, for observation by patrons therein.

***ADULT NOVELTY BUSINESS.*** A business which offers for sale devices which simulate human genitals or devices designed for sexual stimulation.

***ADULT PERSONAL SERVICE BUSINESS.*** A business having as its principal activity a person, while nude or while

displaying specified anatomical areas, as defined herein, providing personal services for another person. Such businesses include, but are not limited to, modeling studios, body-painting studios, wrestling studios, conversation parlors and theatrical performances or entertainment.

***BUTTOCK.*** The anus and perineum of any person.

***MASSAGE.*** Manipulation of body muscle or tissue by rubbing, stroking, kneading, tapping or vibrating through the use of physical, mechanical or other device of the body of another for a fee.

***MASSAGE PARLOR.*** An establishment wherein private massage is practiced, used or made available as a principle use of the premises.

***NUDE MODELING STUDIO.*** Any building, structure, premises or a part thereof used primarily as a place which offers as its principal activity the providing of models to display specified anatomical areas, as defined herein, for artists and photographers for a fee.

***SEXUAL INTERCOURSE.*** Genital coitus, fellatio, cunnilingus, anal intercourse or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another's body.

***SODOMY.*** Sexual bestiality.

***SPECIFIED ANATOMICAL AREAS.***

(1) Less than completely and opaquely covered:

(a) Human genitalia and pubic region;

(b) Buttock, anus; and

(c) Female breast below a point immediately above the top of the areola.

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(3) Fondling or other erotic touching of human genitalia, pubic region, buttock, anus or female breast.

(Ord. 162, passed 8-17-2004; Ord. 210, passed 10-6-2020)

## § 116.03 LOCATION.

Adult business uses, as defined herein, shall be permitted within the central commercial zoning district of the zoning district of Ch. 150, subject to the regulations contained inCh. 150 and further subject to the following conditions.

(A) No adult business, as defined herein, shall be permitted within a 1,000-foot radius of an existing adult business. Measurement of the 1,000-foot radius shall be made from the outermost boundaries of the lot or parcel upon which the proposed adult use will be situated.

(B) No adult business, as defined herein, shall be permitted within a 500-foot radius of a school, library, park, playground, licensed group day-care center, as defined in Public Act 448 of 1988, M.C.L.A. §§ 445.1901 et seq., or church, convent, monastery, synagogue or similar place of worship. Measurement of the 500-foot radius shall be made from the outermost boundaries of the lot or parcel upon which the proposed adult use will be situated.

(C) No adult business, as defined herein, shall be located upon any public or private right-of-way other than Main Street (M-19). The front lot line, as defined in this chapter, for all adult businesses shall, for its full frontage, directly abut the Main Street (M-19) right-of-way. All patron access for adult businesses shall be directly to and from Main Street (M-19).

(Ord. 162, passed 8-17-2004) Penalty, see § 10.99

## § 116.04 MISCELLANEOUS REQUIREMENTS.

(A) No person shall reside in or permit any person to reside on the premises of an adult business.

(B) The provisions of this chapter regarding massage parlors shall not apply to hospitals, sanitariums, nursing homes, medical clinics or the offices of a physician, surgeon, chiropractor, osteopath, psychologist, 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 an establishment duly licensed in the state, clergy, certified members of the American Massage and Therapy Association and certified members of the International Myomassethics Federation.

(C) The adult business district shall be subject to the same requirements of §150.055, as apply to the central Commercial Zoning District.

(Ord. 162, passed 8-17-2004) Penalty, see § 10.99

## § 116.05 EFFECTIVE DATE.

The ordinance from which the provisions of this chapter derive shall take effect ten days after adoption and after publication in accordance with law.

(Ord. 162, passed 8-17-2004)

# CHAPTER 117: MARIHUANA ESTABLISHMENTS

Section



***Cross-reference:***

*Drug Paraphernalia, Possession and Use of Marijuana, Ch. 132*

## § 117.01 PURPOSE AND INTENT.

(A) The purpose of this chapter is to implement the provisions of 2018 Initiated Law No. 1, being the Michigan Regulation and Taxation of Marihuana Act, the Michigan Medical Marihuana Act and the Michigan Marihuana Facilities Licensing Act so as to protect the public health, safety, and welfare of residents of the city by setting forth the manner in which certain marihuana establishments can be operated in the city. Further, the purpose of this chapter is to:

(1) Authorize the establishment of marihuana establishments within the city and provide standards and procedures for the review, issuance, renewal, and revocation of city issued permits for the same;

(2) Impose fees to defray and recover the cost to the city of the administrative and enforcement costs associated with marihuana establishments; and

(3) Coordinate with state laws and regulations addressing marihuana establishments.

(B) This chapter authorizes the establishment of certain adult use marihuana businesses within the city consistent with the provisions of the Michigan Regulation and Taxation of Marihuana Act, the Michigan Medical Marihuana Act and the Michigan Marihuana Facilities Licensing Act subject to the following:

(1) Use, distribution, cultivation, production, possession, and transportation of marihuana remains illegal under federal law, and marihuana remains classified as a "controlled substance" by federal law. Nothing in this chapter is intended to promote or condone the production, distribution, or possession of marihuana in violation of any applicable law. Nothing in this chapter is intended to grant immunity from any criminal prosecution under state or federal law. This chapter does not protect users of marihuana or the owners of properties on which a marihuana adult use business operation is located from prosecution or having their property seized by federal law enforcement authorities. This chapter is to be construed to protect the public health, safety and welfare over marihuana establishments' interests. The operation of a licensed marihuana establishment in the city is a revocable privilege and not a right. Nothing in this chapter is to be construed to or shall grant a property right for an individual or business entity to engage, obtain, or have renewed a city issued permit to engage in the use, distribution, cultivation, production, possession, transportation or sale of marihuana as a commercial enterprise in the city.

(2) Any individual or business entity which purports to have engaged in the use, distribution, cultivation, production, possession, transportation or sale of marihuana as a commercial enterprise in the city without obtaining the required authorization required by this chapter is deemed to be an illegally established nuisance, and as such is not entitled to legal nonconforming status under this chapter, the city zoning code, or state statutory or common law.

(3) Nothing in this chapter is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana in any form, that is not in strict compliance with all applicable rules and laws promulgated by the State of Michigan regarding the commercialization of marihuana. Strict compliance with all applicable state laws and regulations is deemed a requirement for the issuance or renewal of any permit issued under this chapter, and noncompliance with any applicable state law or regulation is grounds for the revocation or nonrenewal of any permit issued under the terms of this chapter.

(C) By accepting a permit issued pursuant to this chapter, the permittee waives and releases the city, its officers, elected officials, and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of marihuana business owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations. By accepting a permit issued pursuant to this chapter, the permittee agrees to indemnify, defend and hold harmless the city, its officers, elected officials, employees, and insurers, against all liability, claims or demands

arising on account of any claim of diminution of property value by a property owner whose property is located in proximity to a licensed operating marihuana establishment, arising out of, claimed to have arisen out of, or in any manner connected with the operation of a marihuana business or any claim based on an alleged injury to business or property by reason of a claimed violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1964(c).

(D) The City Council reserves the right to amend or repeal this chapter in any manner, including, but not limited to the complete prohibition of any type of marihuana establishments or increasing or reducing the number and types of marihuana establishments authorized to operate in the city. Nothing in this chapter is to be construed to grant or grandfather any marihuana business a vested right, license, permit or privilege for continued operations within the city.

(Ord. 209, passed 10-7-2020)

### § 117.02 DEFINITIONS.

The following words and phrases have the meanings ascribed to them when used in this chapter:

***CO-LOCATION*** or ***CO-LOCATED.*** The siting and operation of a combination of multiple establishments or establishment types at a single location.

***DESIGNATED CONSUMPTION ESTABLISHMENT.*** A commercial space that is licensed by LARA and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.

***EXCESS MARIHUANA GROWER.*** A license issued by LARA to a person holding five class C marihuana grower licenses and licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

***LARA.*** The Department of Licensing and Regulatory Affairs and any successor department or agency within the department, including the Marihuana Regulatory Agency.

***LICENSEE.*** A person holding a state operating license for a marihuana establishment issued by the State of Michigan.

***MARIHUANA.*** All parts of the plant genus cannabis, growing or not; the seeds of that 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. ***MARIHUANA*** 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 any sterilized seed of the plant that is incapable of germination. ***MARIHUANA*** does not include industrial hemp.

***MARIHUANA ESTABLISHMENT*** or ***ESTABLISHMENT.*** A marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, marihuana provisioning center or any other type of marihuana-related business licensed by LARA pursuant to MMFLA or the MRTMA.

***MARIHUANA GROWER*** or ***GROWER.*** A person licensed by LARA pursuant to MMFLA or the MRTMA to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

***MARIHUANA-INFUSED PRODUCT.*** A topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

***MARIHUANA MICROBUSINESS*** or ***MICROBUSINESS.*** A person licensed by LARA to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance establishment, but not to other marihuana establishments.

***MARIHUANA PROCESSOR*** or ***PROCESSOR.*** A person licensed by LARA pursuant to the MMFLA or the MRTMA to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

***MARIHUANA PROVISIONING CENTER*** or ***PROVISIONING CENTER.*** An establishment licensed by LARA to purchase marihuana from a grower or processor and who sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a registered primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this act.

***MARIHUANA RETAILER*** or ***RETAILER.*** An establishment licensed by LARA to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

***MARIHUANA SAFETY COMPLIANCE FACILITY.*** An establishment licensed by LARA pursuant to the MMMFLA or the MRTMA to test marihuana, including certification for potency and the presence of contaminants.

***MARIHUANA SECURE TRANSPORTER*** or ***TRANSPORTER.*** A person licensed by LARA pursuant to the MMFLA or the MRTMA to obtain marihuana from marihuana establishments to transport marihuana to marihuana establishments.

***MMMA.*** The Michigan Medical Marihuana Act, Initiated Law 1 of 2008, as amended, M.C.L. §§ 333.26424 et seq.

***MMMFLA.*** The Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended, M.C.L. §§ 333.27102 et

seq.

***MRTMA.*** The Michigan Regulation and Taxation of Marihuana Act, Initiated Law of 2018, M.C.L. §§ 333.27951 et seq.

***MRTMA RULES.*** Rules, including emergency rules, promulgated by LARA to implement the MRTMA.

***PREQUALIFICATION STEP*** or ***PREQUALIFIED.*** The portion of the application for a state operating license pertaining to the applicant's financial background and the criminal history of the applicant and other associated persons, as provided by State of Michigan Emergency Rule 6 relating to marihuana licenses.

***STACKED GROWER LICENSE.*** More than one state operating license issued to a single licensee to operate as a grower of class C-2,000 marihuana plants as specified in each license at an establishment.

***STATE OPERATING LICENSE*** or ***LICENSE.*** State operating license or, unless the context requires a different meaning, ***LICENSE*** means a license that is issued by LARA under the MRTMA or MMMFLA that allows the licensee to operate a marihuana establishment.

(Ord. 209, passed 10-7-2020)

## § 117.03 AUTHORIZED ESTABLISHMENTS.

(A) *Authorization and zoning compliance certificate required.* No person shall operate a marihuana establishment in the city without written final authorization issued by the city pursuant to the provisions of this chapter and a zoning compliance certificate issued by the building inspector confirming the proposed location of the marihuana establishment satisfies all criteria under the city zoning ordinance.

(B) *Number of establishments permitted.* The following number of marihuana establishments may be authorized to operate in the city at one time, subject to this chapter, provided the operators of such establishments are licensed by the State of Michigan and comply with all requirements of the City of Memphis Code:

(1) Not more than one marihuana grower operating under a Class A license issued by LARA under either the MMMFLA or the MRTMA;

(2) Not more than one marihuana grower operating under Class B or Class C license issued by LARA under either the MMMFLA or the MRTMA;

(3) Not more than one marihuana retailer operating under a license issued by LARA under the MRTMA;

(4) Not more than one provisioning center operating under a license issued by LARA under the MMMFLA;

(5) Not more than one marihuana processor operating under a license issued by LARA under either the MMMFLA or the MRTMA;

(6) Not more than marihuana secure transporter operating under a license issued by LARA under either the MMMFLA or the MRTMA;

(7) Not more than one marijuana safety compliance facilities operating under a license issued by LARA under either the MMMFLA or the MRTMA;

(8) Zero microbusinesses;

(9) Zero designated marihuana consumption establishments;

(10) Zero excess marihuana growers.

(11) The City Council may in its discretion, by resolution, allow for additional marihuana establishments.

(C) *Co-location and stacked licenses.* Subject to the below, co-location and stacked grower licenses (with up to three grower licenses per zoning lot) are permitted in the city upon satisfying all requirements of this chapter.

(1) A marihuana establishment with a stacked grower license counts as a single grower for purposes of division (B) of this section;

(2) On a site with co-location, each license (other than stacked grower licenses) authorized to operate at a single location counts as a separate establishment.

(D) *Final authorization from city required.* A proposed establishment is not eligible to operate until:

(1) The City Clerk grants final authorization pursuant to this chapter;

(2) The applicant receives a zoning compliance certificate under the city zoning ordinance; and

(3) The applicant receives all required approvals and licenses from LARA.

(Ord. 209, passed 10-7-2020)

## § 117.04 APPLICATION FOR AUTHORIZATION.

(A) *Timing of submission.* Beginning 15 days from the date this chapter is adopted, a person may apply for authorization

to operate an establishment within the city by complying with the requirements of this section.

(B) *Required application materials.* An application is not considered complete until all the following are received by the City Clerk:

(1) A nonrefundable application fee in an amount established by resolution of the City Council.

(2) An advance of the full annual administrative fee applicable for each license requested.

(3) A photocopy of a valid, unexpired driver's license or state issued identification card for all owners, directors, and officers of the proposed establishment.

(4) A signed application (available in the City Clerk's office), which must include all the following information and documents:

(a) If the applicant is an individual, the applicant's name; date of birth; Social Security number; physical address, including residential and any business address; copy of government-issued photo identification; email address; one or more phone numbers, including emergency contact information;

(b) If the applicant is not an individual, the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; email address; and one or more phone numbers of each stakeholder of the applicant, including designation of the highest ranking representative as an emergency contact person; contact information for the emergency contact person; articles of incorporation or organization; assumed name registration; Internal Revenue Service EIN confirmation letter; copy of the operating agreement of the applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust, or a copy of the bylaws or shareholder agreement, if a corporation;

(c) The name, address, tax identification number, and current zoning designations of the location for the proposed marihuana establishment;

(d) The name and address of the current property owner of record of the location of the proposed marihuana establishment;

(e) If the current property owner is different than the applicant (e.g. where the applicant has a lease, option, land contract, or other future interest in the property), the property owner's signature is required in addition to the applicants;

1. An applicant may submit separate applications for multiple properties. However, only one application shall be submitted per property, unless the applications are for proposed co-located establishments;

(f) The proposed establishment type;

(g) If the proposed establishment type involves stacked growing licenses, the number of licenses sought;

(h) A complete list of all marihuana related permits and licenses held by the applicant;

(i) Written consent for the city to inspect the establishment at any time during normal business hours to ensure compliance with applicable laws and regulations;

(j) A location area map of the proposed marihuana establishment and surrounding area that identifies the relative locations and the distances (closest property line to the proposed marihuana establishment's building) to the closest real property comprising a public or private elementary, vocational or secondary school;

(k) A copy of all documents submitted by the applicant to LARA in connection with the application for a state operating license under the MRTMA (including documents submitted for prequalification), if applicable;

(l) A copy of all documents submitted by the applicant to LARA in connection with the application for a state operating license under the MMMFLA (including documents submitted for prequalification), if applicable;

(m) A copy of all documents issued by LARA indicating that the applicant has been prequalified for a state operating license under the MRTMA;

(n) Any other information reasonably requested by the city relevant to the processing or consideration of the application; and

(o) The pre-qualification documents from the state proving the applicant is approved.

(Ord. 209, passed 10-7-2020)

**§ 117.05 INITIAL RECEIPT PERIOD.**

(A) The initial application receipt period for marihuana establishments shall commence 15 days after the passage of this chapter and shall end at the close of business 60 days after the passage of this chapter (the "Initial Period"). During the initial period, the City Clerk will accept and receive completed applications that include the information and documents required herein unless the city has already received a completed application for the same property (other than an application for a proposed co-located establishment) from another applicant. Upon receiving a completed application during the initial period, the City Clerk will time and date-stamp the application and inform the applicant of the process by which applicants may be selected pursuant to this chapter.

(B) The Clerk will conditionally authorize establishments during the initial period as follows:

(1) If, after the close of business and the end date of the initial period, there are not more applications for a given establishment type than permitted herein, the Clerk shall conditionally authorize each such completed application.

(2) If, after close of business on the end date of the initial period, the city has received more applications for a given establishment type than would be permitted under § 117.03, the city will decide among competing applications by a competitive process intended to select applicants who are best suited to operate in compliance with the MRTMA and/or MMMFLA, as applicable, in the city. The city will provide applicants with 21 calendar days' notice that the applicants must provide supplemental written information and documentation to the city, detailing why the applicant should be chosen.

(3) The application and all supplemental information shall be delivered to the city's Establishment Selection Committee ("Selection Committee"). The Selection Committee shall be comprised of the City Clerk, the City Mayor, the Advisory Committee, Chairperson of Planning Commission and the Police Chief. All meetings of the Selection Committee shall be conducted in accordance with the Open Meetings Act, Act 267 of 1976, M.C.L. §§ 15.261 et seq., as amended.

(4) After expiration of the period which applicants may submit supplemental information, the Selection Committee shall hold a public meeting to determine, based on their criteria, which applicant(s) are best suited for the city and able to operate in compliance with applicable laws, ordinances and regulations. The Selection Committee may approve questions or criteria for its members to consider in evaluating applicants. To be conditionally approved a simple majority of members of the Selection Committee who vote, in a roll call vote, must vote to conditionally approve an applicant. In the event an applicant is conditionally approved, the Clerk shall conditionally approve the applicant and notify the applicant that they have been granted conditional authorization. The Selection Committee's decision to grant conditional authorization is final and is not appealable to the City Council, City Zoning Board of Appeals, or any other city official or body.

(5) Once the Clerk has issued conditional authorizations for the full number of establishments that are permitted, the Clerk will place all other applications at the end of a waiting list for that establishment type in the order received. If an applicant was not granted a conditional authorization as a result of a vote by the Selection Committee, that applicant may withdraw its application or request to be included in the waiting list.

(C) The Clerk will grant final authorization for an establishment if the applicant:

(1) Was conditionally approved;

(2) Submits the paperwork for the establishment-specific step of the application for a state operating license (and all related applications for stacked licenses) to LARA within 30 days of receiving conditional authorization;

(3) Submits an application for a zoning compliance certificate from the city building inspector within 30 days of receiving conditional authorization and obtains a zoning compliance certificate within six months of receiving conditional authorization;

(4) Receives all required licenses and approvals from LARA to operate the establishment within 18 months after conditional authorization is granted; and

(5) Enters into a written agreement with the city confirming that the marihuana establishment will operate in accordance with the business plans, building plans, design standards, and all other operational standards described by the applicant in the application and in any supplemental materials provided to the city, including the Selection Committee. The agreement shall further provide that if the establishment breaches the agreement, then the city may revoke authorization of the establishment following notice and a public hearing, and that in such event, the city shall be entitled to injunctive relief barring further operation of the establishment in the city.

(D) *Expiration of conditional authorization.* If the applicant for a conditionally authorized establishment fails to satisfy any of the deadlines established above, the conditional authorization will automatically expire, unless the time to comply is extended by the City Council in its sole discretion.

(E) *Waiting list and refund of administrative fee.* The Clerk will keep and maintain the waiting list established pursuant to division (B)(5) until the maximum number of establishments of the type to which the list pertains are operating in the city pursuant to final authorizations. If a conditional authorization for a proposed establishment of that establishment type expires, the Clerk will conditionally authorize the next application on the waiting list, if there is only one applicant on the waiting list. If there are additional applicants on the waiting list, conditional approval will be determined by the Selection Committee pursuant to the process detailed herein. At any time an applicant on the waiting list can request to be removed from the waiting list, at which point the Clerk will refund that applicant's advance of the annual administrative fee and remove the applicant from the waiting list. The Clerk shall refund all applicants that were on the waiting list but who did not receive conditional authorization after all available final authorizations have been be issued for the given establishment type. Once all refunds are issued, the waiting list shall be considered closed. All future available authorizations for establishment licenses will require new applications and fees.

(F) *License availability.* After the full number of licenses that are permitted are authorized, further conditional authorization will become available when:

(1) The state operating license for an establishment with final authorization expires or is revoked by LARA;

(2) The city revokes an establishment license previously issued and such revocation becomes final;

(3) A conditionally authorized licenses expires without a final license being issued; or

(4) The City Council by resolution permits additional establishments of that establishment type.

(G) *Process for subsequent authorizations.* After the initial period, when an establishment license becomes available for authorization, the City Clerk will select a date within 60 days on which the city will begin accepting applications from interested persons, and will publish notice of the selected date in a newspaper of general circulation. On the selected date, the Clerk will begin accepting applications using the same process described herein during the initial period. Applications will be processed in the same manner as during the initial period, including the Selection Committee selecting an applicant for conditional authorization, if necessary.

(Ord. 209, passed 10-7-2020)

## § 117.06 RELOCATION OF ESTABLISHMENTS, TRANSFERS OF LICENSES AND EXPANSION OF GROW OPERATIONS.

(A) An existing establishment may be moved to a new location in the city, subject to applicable zoning regulations, prior City Council approval, and approval by LARA. In deciding whether to approve a new location for an existing establishment, the City Council shall consider the following nonexclusive factors:

(1) The impact of the establishment's new location on the community as a whole; and

(2) The existing establishment's compliance with city ordinances and with state law and administrative rules.

(B) A license for an existing establishment may be transferred to a new licensee that intends to continue operating at the same location, subject to approval by City Council upon recommendation by the Selection Committee and LARA for $200. To be approved, a proposed transferee must meet all requirements to be a licensee under this chapter and state law. The Selection Committee may request any information from the proposed transferee it deems necessary to make a recommendation.

(C) A licensee may expand growing operations by upgrading the class of the license (e.g., from class A to class B, or from class B to class C), or by obtaining a stacked license, subject to all the limitations established provided in this chapter. To do so, the licensee must submit a new application to the city satisfying the requirements in this chapter which shall include payment of the application fee and an advance of any additional annual administrative fee that will be owed due to the addition of stacked licenses. The application shall be conditionally approved upon receipt of all required materials.

(Ord. 209, passed 10-7-2020)

## § 117.07 GENERAL REGULATIONS.

(A) *Submission of supplementary information to the city.* Applicants for city authorization and persons operating existing establishments in the city must provide the City Clerk with copies of all documents submitted to LARA in connection with the initial license application, subsequent renewal applications, or investigations conducted by LARA. The documents must be provided to the Clerk within seven days of submission to LARA, and may be submitted by electronic media unless otherwise requested by the Clerk.

(B) *Compliance with applicable laws and regulations.* Marihuana establishments must be operated in compliance with all applicable rules, ordinances and regulations, including, MRTMA, MMMFLA and MRTMA. Compliance with the foregoing does not create immunity from prosecution by federal authorities or other authorities of competent jurisdiction.

(C) *No consumption on premises.* No smoking, inhalation, or other consumption of marihuana shall take place on or within the premises of any establishment. It shall be a violation of this chapter to engage in such behavior, or for a person to knowingly allow such behavior to occur. Evidence of all of the following gives rise to a rebuttable presumption that a person allowed the consumption of marihuana on or within a premise in violation of this section:

(1) The person had control over the premises or the portion of the premises where the marihuana was consumed;

(2) The person knew or reasonably should have known that the marihuana was consumed; and

(3) The person failed to take corrective action.

(D) *Annual fee.* Unless the City Council approves a different fee by resolution, a licensee must pay to the city the maximum annual fee as permitted by MRTMA, MMMFLA and MRTMA (as applicable) for each license (i.e. a separate fee is required for each stacked license) used within the city in order to help defray administrative and enforcement costs. The initial annual fee(s) must be paid to the City Clerk when the application for city approval is submitted. In each subsequent year, fees are due on the date on which the licensee submits an application to LARA for renewal of the state operating license.

(E) *Renewal of city issued establishment license.* A valid city issued marihuana establishment license may be renewed on an annual basis by submission of a renewal application upon a form provided by the City Clerk and payment of the annual nonrefundable license fee set by city resolution or as provided in this chapter. Requests for renewal must be submitted to the city within 60 days of the expiration of the city issued establishment license. The failure to timely file for renewal is sufficient grounds to deny renewal of a license to operate a marihuana establishment in the city. In determining whether to renew an establishment license, the members of the Selection Committee will evaluate the licensee's compliance with the statements provided with its initial application and submission with its request for renewal of the following information:

(1) The staffing plan for the business which describes the actual number of employees, including the number and type of jobs that the facility has created, and the amount and type of compensation (including benefits) paid for such jobs;

(2) An explanation, with supporting factual data, of the economic benefits to the city and the job creation for local residents achieved by the business, results of efforts for community outreach and worker training programs;

(3) An explanation, with supporting factual data, of the efforts and success achieved by the business to promote and encourage participation in the marihuana industry by local residents; and

(4) Whether the business is in default to the city for any property tax, special assessment, utility charges, fines, fees or other financial obligation owed to the city; and

(5) Other information requested by the Selection Committee.

(F) If the Selection Committee recommends renewal, the City Clerk shall renew the existing permit for a period of one year, on the condition that the state operating license for the establishment is renewed. If the Selection Committee does not recommend renewal, the Selection Committee may, after notice and hearing, suspend, revoke or refuse to renew a license.

(Ord. 209, passed 10-7-2020)

### § 117.08 TEMPORARY MARIHUANA EVENTS.

Temporary marihuana events are not permitted in the city.

(Ord. 209, passed 10-7-2020)

### § 117.09 VIOLATIONS.

(A) *Request for revocation of state operating license.* If at any time an authorized establishment violates this chapter or any other applicable city ordinance, the City Council may request that LARA revoke or refrain from renewing the establishment's state operating license. The City Council may also, in its discretion, notify LARA of any violations of this chapter.

(B) *Civil infraction.* It is unlawful to disobey, neglect, or refuse to comply with any provision of this chapter. A violation of this chapter is a civil infraction subject to a fine of up to $500 per day. Each day the violation continues shall be a separate offense.

(C) *Other remedies.* The foregoing sanctions are in addition to the city's right to seek other appropriate and proper remedies, including actions in law or equity, including injunctive relief to compel compliance with this chapter.

(Ord. 209, passed 10-7-2020)

### § 117.10 POLICY REVIEW.

On or before March 31, 2021, and annually thereafter, the City Clerk shall submit a report to the City Council regarding the administration of this chapter and the provisions of the zoning ordinance pertaining to adult-use marihuana, and regarding any other pertinent information relating to the operation of adult-use marihuana establishments in the city. The report may include proposed ordinance amendments or other proposed policy changes.

(Ord. 209, passed 10-7-2020)

## CHAPTER 118: OIL AND GAS WELLS

Section

## § 118.01 PURPOSE.

(A) The business and occupation of drilling and exploring for, producing, obtaining, transporting, gathering and storing of oil, gas, petroleum and hydrocarbons within the limits of the City of Memphis is a hazardous and dangerous business and occupation. As such, it is necessary that such business and occupation be regulated, controlled and limited for the purpose of providing protection for the lives, health, welfare and safety of the citizens of the city and of the public generally and for the protection of property from the danger of fire, explosion, gas, leaks, nuisances and other hazards, injurious to the public peace, health, welfare and safety. The provisions of this chapter shall be deemed to be the minimum requirements for the preservation of the public peace, health, safety and welfare, and compliance with all terms thereof shall not be deemed to relieve any person from any duty imposed by law to use all necessary care and take all necessary precautions for the safeguarding of the public peace, health and safety and the rights of any individual or group of individuals, and it shall be the duty of any person drilling, operating or maintaining any well to use all necessary care and take all precautions reasonably necessary under the circumstances to protect the public or the rights of any part thereof.

(B) This chapter applies to the location, installation, drilling and operation of any well for the commercial extraction of oil, gas or other hydrocarbons in the city. No well owner or operator or property owner shall allow any activity which is not in compliance with the requirements of this chapter.

(C) Words used in this chapter, unless otherwise defined, shall be the common meaning of such words as generally understood in the oil and gas industry, unless the content of this chapter clearly implies otherwise.

(Ord. 211, passed 1-5-2021)

## § 118.02 PERMIT REQUIRED.

It shall be unlawful for any person, partnership, association of persons, syndicate, combination, corporation or estate to drill, explore or commence to drill any well for oil, gas, petroleum or other hydrocarbons in any area within the corporate limits of the city or for the secondary recovery thereof, or to extend to deepen one already drilled without first having applied for and received a permit therefor by the authority of the City Council in accordance with the terms of this chapter and the applicant having complied with the terms of this chapter.

(Ord. 211, passed 1-5-2021) Penalty, see § 118.99

## § 118.03 PERMIT APPLICATION.

(A) The producer or owner of any proposed well shall fill out, sign and file an application in writing therefor upon forms provided by the City Clerk. The application shall contain the information as to the location where the proposed well is to be drilled, and attached thereto shall be a map, plat or survey of the area to be drilled and the location of the well on said spacing and the exact location of tanks, flowlines, fences and details incident to the proposed location. The location of said well shall be stated in relation to established street or plat lines, or in lieu thereof quarter section lines. The application shall show the names of owners of the oil and gas in all of the area to be drilled and the lease or leases thereon. Said application shall also be accompanied by the consent in writing of the owner or owners of the drill site to be drilled consenting to the drilling of the well on his, or their property as well as any approvals or denials received from the State of Michigan. Attached to said application shall be duly certified, sworn or photo copies of all leases for the discovery and removal of oil and gas and ratifications thereof, executed by the owners of the oil or gas in such area, owned or controlled by the application, and also a statement of other leases insofar as known setting forth the names of the lessors and lessee of each such respective lease. In the event said lease or leases shall by express terms and provisions provide for and consent to such drilling, the consent therein provided shall qualify for and be deemed sufficient compliance with the requirements for consent of lessor as herein provided. Bond as hereinafter set forth shall also accompany and be filed with such application.

(B) All applicants for a permit to drill a well for oil or gas shall at the time of making such applications pay to the City Clerk the sum of $500 as an application fee to apply on the cost and expenses of the administration of this chapter, of which amount $400 thereof shall be refunded if the application is not granted and the balance retained.

(Ord. 211, passed 1-5-2021)

## § 118.04 APPLICATION CONSIDERATION.

(A) If it appears, either upon the face of such application or by other satisfactory proof, that the applicant for permission to drill a well for oil and gas is the owner of or has under his control, either as owner or lessee, or both, all interests in said area to be drilled, and said application showing compliance with the requirements of this chapter, the City Council, or its designee, may grant the permit without further notice.

(B) If said application shows that the applicant to drill a well for oil or gas is not the owner, or does not have under his control for drilling purposes as owner or lessee, or both, or assignee under a valid and recorded assignment of lease, all the interest in all the oil or gas in the area which it is proposed to drill, or in the event the City Council shall for other cause shown refuse an application for a permit, then the City Council shall fix a time and place for the hearing thereon and enter the same of record. The following shall apply if City Council determines a hearing is necessary:

(1) The applicant shall cause notice of such hearing on forms to be furnished by the City Clerk to be given by certified mail to all known owners of the lands containing oil and gas within the area to be drilled and the lessees thereof under valid oil and gas leases of record addressed to their last known place of residence, not less than seven days prior to the date of the hearing. In addition thereto, said applicant shall publish a notice in a public newspaper published and printed in the city

at least five days prior to the hearing and shall post notices thereof in not less than five public places in the city at least five days prior to said hearing. Such notices shall be dated and contain a description of the property affected, state the time, date, place and purpose of the hearing. An affidavit of the applicant or someone in his behalf shall be executed showing such mailing, posting and publishing and shall be prima facie evidence of the compliance with all the requirements of this for notice and the same shall be filed with the City Clerk at or prior to the time set for the hearing.

(2) The City Council shall at the time set and place designated in said notice, or at some later date to which the hearing may be adjourned, conduct the hearing upon the application to drill such well for oil, gas, petroleum or other hydrocarbons. At such hearing all persons interested may be heard. All witnesses shall be examined under oath and documentary evidence may be introduced. The City Council shall keep a record of its proceedings as regards the granting of said permits and the hearings thereon and may require the pooling of properties, or parts thereof, within the area or areas to be drilled and shall make any and all reasonable requirements necessary to protect and safeguard the rights of all parties affected by such order or orders. The City Council shall have the power and reserve the authority to refuse any application for a permit where by the reason for the location of the proposed well, and the character and value of the permanent improvements already erected in or adjacent to the area in question and the use of which the land and surroundings are adapted for civic purposes or for sanitary reasons, the drilling of any oil or gas well will be serious disadvantage or hazard to the city and its inhabitants as a whole. It shall be discretionary with the City Council to grant or deny a permit in any industrial area or in any area in which residences or other buildings may have been erected when the granting of said permit shall be creative of fire hazards or otherwise destructive of property interests.

(Ord. 211, passed 1-5-2021)

### § 118.05 BOND AND INSURANCE.

The application shall also be accompanied by and no permit for the drilling of any well shall be issued without:

(A) A duly executed bond in the penal amount of not less than $10,000 given by the applicant as principal and executed by a bonding or indemnity company authorized to do business in the state as surety, running to the City of Memphis, Michigan, for the benefit of the city and all persons, firms and corporations concerned, conditioned that if the permit be granted the applicant and his or its assignees will comply with all the terms and conditions of this chapter and with all laws of the state and the federal government and with the rules and regulations of the Supervisor of Wells and of the Department of Conservation of the State in the drilling and operation of the proposed well and that the applicant will clear from the area to be drilled all litter, machinery, derricks, trenches, pits, debris, oil and other substances used thereon in the drilling or producing operations whenever the well shall be abandoned or the operation thereof discontinued and that the applicant will promptly clear or pay any legal or other expense necessary to clear the title to any leased property for which said permit may be granted.

(B) An insurance policy issued by an insurance company authorized to do business in the state specifically naming the city as a party insured in amount of not less than $1,000,000 to insure the city against all claims, demands, actions, causes of action, and all other liability whatever for damages on account of injury to property, either public or private, and bodily injury, or death, received or suffered by any person or persons, firm or corporation, and resulting from the drilling, operating, maintaining or abandoning of any well or any structures, equipment, machinery, vehicles, lines or appurtenances thereto used or allowed in the drilling or producing operations of the applicant and his or its assignees.

(C) In case any bond or insurance policy required herein shall lapse or become void for any reason whatever, the permit issued under the terms of this chapter shall immediately become inoperative and void until a new bond or insurance policy shall have been provided and filed with the City Clerk and approved or the existing bond or insurance policy reinstated in full force, and such well and the drilling operations and production thereunder shall be forthwith shut down, suspended and discontinued until the filing of such new bond or insurance policy or reinstatement of such existing bond or insurance policy. Each and every bond and insurance policy, both original and renewal, shall be approved by the City Council and shall be filed with the City Clerk. Said bonds and insurance policies shall be made for a term of not less than one year, and a new bond and insurance policy shall be furnished at the expiration of any existing one if the operation of such well covered thereby is continued.

(Ord. 211, passed 1-5-2021)

### § 118.06 COMPLIANCE WITH STATE AND FEDERAL LAWS.

All drilling operations for the discovery of oil, gas, petroleum or other hydrocarbons, equipping of wells, producing and marketing of oil, gas, petroleum and hydrocarbons, plugging of wells and all material used and work done in connection with the exploring for, producing and marketing petroleum products shall be in conformity with all state and federal laws and statutes and rules and regulations pertaining thereto and particularly with the statutes of the state and the regulations of the Supervisor of Wells of the State.

(Ord. 211, passed 1-5-2021) Penalty, see § 118.99

### § 118.07 RIGHT OF ENTRY.

The city Fire Chief, Superintendent of Public Works or such other employee or designee of the city as shall be designated for that purpose by the Council shall have the right and privilege at any time to enter upon the premises where any well or proposed operation covered by this chapter is located for the purpose of making inspections thereof to determine if the requirements of this chapter are complied with or the requirements of any other ordinance of this city are met.

(Ord. 211, passed 1-5-2021) Penalty, see § 118.99

## § 118.08 OIL AND GAS WELLS.

(A) The location, installation, drilling, operation, maintenance, completion, and abandonment of oil and gas wells shall comply with all applicable local, federal and state laws, regulations, rules, orders, and permits.

(B) Oil and gas wells shall not be located closer than 1,000 feet from a residential dwelling or place of worship, school, childcare facility or public park. An oil or gas well shall not be closer than 300 feet from an adjoining property line, unless the adjoining property is pooled with the well site property, and unless the location is 600 feet from another well. This division shall not be construed to restrict or prohibit underground horizontal directional drilling or horizontal drilling where lawfully permitted by a Michigan regulatory agency that oversees such operations (EGLE, etc). Notwithstanding the preceding sentence, the setback distance requirements in this division are in addition and supplemental to the spacing and setback requirements prescribed by Michigan Statutes, Administrative Regulations and Supervisor of Wells Orders and Instructions.

(C) Prior to drilling, the owner or operator of an oil or gas well shall provide to the city a copy of the Environmental Impact Assessment filed with the Michigan Department of Environmental Quality in connection with a well permit under Part 615 of the National Resources and Environmental Protection Act, M.C.L. §§ 524.61501 et seq, and the administrative rules promulgated under Part 615, as amended, and a hydrogeological study. The owner or operator shall install at least one groundwater monitoring well in close proximity to, and down gradient of, the well location prior to commencing drilling. The owner or operator shall collect a water sample from the monitoring well prior to commencing drilling operations and at monthly intervals following completion of drilling operations. Water samples shall be tested for specific conductance, chloride, benzene, ethylbenzene, toluene, and xylene. The owner or operator shall provide the results of the sample analysis to the designee of the city within two business days after the results are available.

(D) An oil or gas well site shall be completely enclosed with an eight foot high fence designed to prevent unauthorized entry during well drilling, completion and operation.

(E) Measures deemed adequate by an engineer chosen by the city, at the expense of the owner/operator of the well, shall be implemented at the oil or gas well site to prevent or control any objectionable dust, noise, vibrations, fumes, or odors from leaving the property or adversely affecting or unreasonably disturbing persons living or working in the vicinity. All operations shall be conducted in accordance with the best practices determined by the Michigan Department of Environmental Quality, or other agency designated by the State of Michigan, for the production of oil, gas and hydrocarbons in urban and residential areas. All costs incurred by the city for this purpose shall be reimbursed by the owner or operator.

(F) Exterior lighting shall be shielded to prevent unnecessary light or glare from being directed off-site.

(G) The completed wellhead structure shall not exceed 20 feet in height. The temporary drilling rig shall not exceed 100 feet in height.

(H) An oil or gas well shall include measures or controls satisfactory to an engineer chosen by the city, at the expense of the owner/operator of the well, to prevent migration, runoff or discharge of any hazardous materials, including but not limited to any chemicals, oil or gas, to adjoining property or to the City of Memphis Sanitary Sewer System, stormwater system or any natural or artificial watercourse, wetland, lake or pond. There shall be no off-site discharge of stormwater except at an approved drainage system in accordance with the requirements of an engineer chosen by the city. All costs to the city, including any costs incurred in retaining an engineer, shall be reimbursed by the owner or operator of the well. Failure to reimburse the city for such costs shall be grounds for immediate revocation of the privilege to operate a well in the city.

(I) All brine, mud, slush, saltwater, chemicals, wastewater, fluids or waste produced or used in the drilling or production of oil or gas shall, under the supervision of the Michigan Department of Environmental Quality or other agency designated by the State of Michigan, be safely, lawfully and properly disposed of to prevent infiltration of or damage to any fresh water well, groundwater, watercourse, pond, lake or wetland. Injection wells for the disposal of brine or chemicals from the production of oil or gas or any other source are prohibited in the city.

(J) The oil or gas well site shall be kept in a clean and orderly condition, free of trash and debris, with weeds cut. Machinery and equipment not currently in use in the operation of the well shall not be kept or stored at the wellsite.

(K) Landscaping and screening shall be provided to limit public view of wellheads and equipment after the completion of drilling/boring operation.

(L) No drilling rigs, construction vehicles, tanker trucks or heavy equipment used in connection with the drilling or production operations of oil or gas wells in the city shall be moved over the public roads and streets under the city's jurisdiction without obtaining approval from the city's Street Administrator, who shall specify the streets that may be used and any conditions that may apply.

(M) The owner or operator of a well shall provide to the city and its emergency responders any information necessary to assist the city's emergency responders with an emergency response plan and hazardous materials survey establishing written procedures to minimize any possible hazard resulting from the operation, and shall further provide to the city and its emergency responders up-to-date contact information and a means to contact a responsible representative of the owner or operator on a 24-hour basis.

(N) Hydraulic fracturing, as defined in Michigan Admin. Code, R324.1401 et seq. (i.e., a well completion operation that involves pumping fluid and proppants into the target formation under pressure to create or propagate artificial fractures, or enhance natural fractures, for the purpose of improving the deliverability and production of hydrocarbons), is prohibited in

and under the city.

(O) The owner or operator of an oil or gas well shall maintain written procedures to minimize the hazards resulting from an emergency. A copy of these written procedures shall be filed with the city prior to commencement of drilling. These procedures shall at a minimum provide for the following:

(1) Prompt and effective response to emergencies including but not limited to:

(a) Leaks or releases that may impact public health, safety or welfare;

(b) Fire or explosions at or in the vicinity of the oil or gas well;

(c) Natural disaster;

(d) Effective procedures and protocols to notify and communicate required and pertinent information to local fire, police, public officials and affected residents during an emergency;

(e) The availability of personnel, equipment, tools and materials as necessary at the scene of an emergency;

(f) Measures to be taken to reduce public exposure to injury and probability of accidental death or dismemberment;

(g) Emergency shut down of the well operation;

(h) The safe resumption of operations following an emergency or incident; and

(i) A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.

(P) Upon discovery of an oil or gas well emergency or incident, the owner or operator shall immediately communicate to the 911 system the following information:

(1) A general description of the emergency or incident;

(2) The location of the emergency or incident;

(3) The name and telephone number of the person reporting the emergency or incident;

(4) The names of the well owner and operator;

(5) Whether or not any hazardous material is involved and identification of the hazardous material so involved; and

(6) Any other information as requested by the emergency dispatcher or other such official at the time of reporting the emergency or incident.

(Q) The drilling location of any well shall in no instance be nearer than 500 feet from any street line, alley line or railroad right-of-way line.

(R) All equipment and materials used in the drilling of wells for the discovery of oil, gas, petroleum and hydrocarbons shall be modern and shall be kept in good working condition at all times. All equipment, materials and operations shall conform to the provisions of Act No. 61 of Public Acts of Michigan of 1939 (M.C.L. §§ 319.1 et seq., MSA 13.139(1) et seq.), and the regulations promulgated thereunder.

(S) No tanks or other facilities for the storage of gas, petroleum or hydrocarbons produced from any well within the corporate limits of the city shall be kept, erected or maintained except in areas where such is permitted by the city's zoning ordinance. All such facilities shall be connected to any well by pipes or pipelines by the nearest possible route.

(T) All pipes or pipelines leading to or from a well location shall be of welded steel construction and shall be buried underground to a minimum depth of 36 inches below the normal surface of the ground and before a pipeline is laid in, down or along a street, the person or company laying such line shall deposit with the City Treasurer the sum of $0.30 per foot for the laying of such line, and in the construction of such lines the owner/operator of such lines shall pay to the city all damages sustained by it by reason of the construction of such lines and the repair of any streets crossed by or extending along such pipelines in an amount sufficient to place the city property in the same condition as prior to the laying of such lines and shall pay to the city any and all damages incident to the taking up or repairing of such lines thereafter. No concrete or asphalt paving shall be cut or disturbed unless absolutely necessary, and then only under supervision of the city. The owner/operator shall be required to replace and repair the paving at his own expense and under the supervision of the Superintendent of Public Works of the city.

(Ord. 211, passed 1-5-2021) Penalty, see § 118.99

### § 118.09 RESTORATION; ABANDONMENT.

(A) Upon the discontinuance of the drilling operations or the production of any oil or gas from any working well, the well shall be abandoned and plugged under the supervision of the Supervisor of Wells of the State.

(B) All plugging operations on all dry or abandoned wells shall commence within 60 days after drilling is completed, or, if the well is productive of oil and/or gas, then within 60 days after production operations shall have ceased and shall be carried through forthwith to completion.

(C) The owner, operator and/or property owner of a well or well site shall fill all pits and cellars with dirt and level off the surface and restore the same as nearly as possible to its condition prior to the commencement of the drilling operation. All equipment shall be removed from the location promptly and all machinery, tanks, pipes and tools shall be transported from the well site and embankments leveled and the surface of the land restored to its former condition.

(D) The owner and operator of a well shall not permit any undue accumulation of slush, salt water or oil or any other offensive or dangerous substances to accumulate, and upon the completion of the well shall remove and eliminate all debris and eliminate all conditions and circumstances contributing to the hazard of fire or pollution.

(E) An escrow account shall be established for the plugging and/or restoration of the well and well site of a minimum of $40,000 cash bond or approved letter of credit from a state financial institution or other such amount as determined by resolution of the Council to pay for any city costs incurred through default of the owner to plug and restore the well site. Any and all salvage monies will become the property of the city. At the completion of the plugging/restoration, all remaining funds in the escrow account shall be refunded provided the city and the State Department of Natural Resources have given final approval of the well site plugging and restoration.

(Ord. 211, passed 1-5-2021) Penalty, see § 118.99

### § 118.99 PENALTY.

(A) Each and every violation of this chapter whether denominated as unlawful or an offense, or not, is hereby declared to be a public nuisance per se and may be abated by appropriate proceedings provided by law. The city shall have the right enforce the requirements of the chapter through legal action.

(B) Any violation of the terms of this chapter shall likewise be deemed a misdemeanor and any person, either for himself or by an agent, servant or employee who shall violate any provision of this chapter, or who shall be engaged in any work or the erection of any structure, derrick, drilling rig, tank, pipeline or other drilling apparatus which shall be in violation of any provision of this chapter, upon conviction thereof shall be deemed guilty of a misdemeanor, and upon conviction of such violation shall be punished as provided in § 10.99 of the City of Memphis Code of Ordinances. Any person, agent or employee engaged in such violation shall, upon conviction, be so punished therefor.

(Ord. 211, passed 1-5-2021)

## CHAPTER 119: MOBILE FOOD VENDING

Section



### § 119.01 PURPOSE AND INTENT.

This chapter is established to provide a framework for mobile food vendors to operate within the city in a safe manner and to add the vibrancy and desirability of the city.

(Ord. 213, passed 7-6-2021)

### § 119.02 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.

***FOOD TRUCK.*** A self-contained, motorized vehicle, identified generically as a***MOBILE FOOD VENDING UNIT***, which is used for the preparation and distribution or sale of food.

***MOBILE FOOD VENDING.*** Vending, serving, or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a ***FOOD SERVICE ESTABLISHMENT*** under Public Act 92 of 2000, and which may include the ancillary sales of branded items consistent with the food or vendor, such as a tee shirt that bears the name of the company, restaurant or organization engaged in mobile food vending.

***MOBILE FOOD VENDING UNIT.*** Any motorized or nonmotorized vehicle, trailer, food truck, or other device designed to be portable and not permanently attached to the ground from which food is vended, served, or offered for sale.

***VENDOR.*** Any individual, company, restaurant or organization engaged in the business of mobile food vending; if more than one individual is operating a single cart, food truck, or other means of conveyance, then ***VENDOR*** shall mean all individuals operating such means of conveying food.

***OPERATE.*** All activities associated with the conduct of business, including setup and takedown and/or hours of operation and locations where the mobile food vending units are allowed to be open for business.

(Ord. 213, passed 7-6-2021)

### § 119.03 PERMIT REQUIRED.

No vendor shall engage in mobile food vending, including, operating a mobile vending unit or food truck without a valid permit issued by the City Clerk pursuant to this chapter. The City Clerk shall prescribe the form of such license and application for such permit. All permits shall be prominently displayed on the mobile food vending unit. No vending through a mobile food vending unit of food and other human consumables shall be permitted unless it meets the definition of mobile food vending as defined by this chapter.

(Ord. 213, passed 7-6-2021)

### § 119.04 DURATION; NO TRANSFERABILITY.

(A) Except for single event permits, permits issued by the City Clerk under this chapter shall be valid only for the calendar year in which they are issued and are valid only for the mobile food vending unit/food truck identified on the permit.

(B) A single event permit is also available from the City Clerk for vendors wishing to operate a food truck or mobile food vending unit during a city-sponsored or city-endorsed special event or to operate at a public or private event held on public property or in a public park. Single event permits shall be valid only during the time of the event for which they are issued and are valid only for the mobile food vending unit/food truck identified on the permit.

(C) The application for a permit under this chapter shall be accompanied by a fee as defined in this chapter. Any permit issued under this chapter is nontransferable from vendor to vendor or from food truck/mobile food vending unit to food truck/mobile food vending unit, even if owned and operated by the same vendor.

(Ord. 213, passed 7-6-2021)

### § 119.05 APPLICATION FOR PERMIT.

No person or entity shall engage in mobile food vending, including operating a mobile vending unit without a valid permit issued by the City Clerk pursuant to this chapter. Any person or entity desiring to operate a mobile food vending unit or otherwise engage in mobile food vending in the city shall submit a completed application to the City Clerk. An applicant for a permit under this section shall truthfully state, in full, all information requested on the application for permit issued by the City Clerk. Additionally, the applicant shall provide all documentation, such as insurance, as required by this chapter, the application, to the Clerk or City Council. The application for a permit shall be accompanied by a fee in an amount determined by resolution of the City Council. There shall be no proration of fees. Fees are nonrefundable once a permit has been issued by the Clerk.

(Ord. 213, passed 7-6-2021)

### § 119.06 REQUIREMENTS.

Any vendor engaging in mobile food vending shall comply with the following requirements:

(A) Food trucks/mobile food vending units shall only operate locations approved by resolution of the City Council;

(B) Vendors shall not operate on city-owned property or on public streets without prior authorization and approval of the City Clerk. No food service shall be allowed on the driving lane side of the mobile food vending unit. If operating on a private street, the customer service area for mobile food vending units shall be on the curb, lawn, or sidewalk when parked;

(C) No food shall be sold, prepared or displayed outside of the food truck or mobile food vending;

(D) Vendors shall provide appropriate waste receptacles at the site of the unit and remove all litter, debris, and other wastes attributable to the vendor and/or customers on a daily basis or more often if necessary;

(E) Vendors shall not use any flashing, blinking or strobe lights, or similar effects to draw attention to the food truck or mobile food vending unit; all exterior lights over 60 watts shall contain opaque hood shields to direct the illumination downward;

(F) Vendors shall not use loud music, amplification devices, or crying out or any other audible methods to gain attention which causes a disruption or safety hazard as determined by the city;

(G) Vendors shall not use external signage, bollards, seating or other equipment that is not contained in the vehicles. Signage is only permitted when physically part of the mobile food vending units. No separate freestanding signs are permitted;

(H) Vendors are prohibited from locating, placing, or putting personal property outside of the food truck, including but not limited to dining furniture, fixtures, and equipment;

(I) No vendor shall utilize any electricity, power, or other utility without the prior written authorization of the customer. No power cable or similar device shall be extended at or across any street or sidewalk except in a safe manner;

(J) Vendors shall comply with all applicable city laws, regulations, and ordinances, including those regulating noise, signage, and loitering;

(K) Vendors shall not represent the granting of a permit under this chapter as an endorsement of the city;

(L) Vendors may only operate during hours established by City Council resolution or, if no resolution, as designated by the Clerk on the vendor's permit;

(M) Vendors shall comply with all applicable federal, state, and county regulations;

(N) A food truck or mobile food vending unit may not be left unattended, unless it is secured to prevent unauthorized access;

(O) A food truck or mobile food vending unit shall not be operated at a location that interferes with traffic, ingress or egress into property, or any such other location as deemed to be unsafe or pose a safety risk by the Chief of Police; and

(P) A food truck shall not be operated on property without the express permission of the owner of the property.

(Ord. 213, passed 7-6-2021)

### § 119.07 PERMIT REVOCATION; DENIALS.

(A) The Clerk shall revoke the permit of any vendor engaged in mobile food vending who ceases to meet any requirement of this chapter or violates any other federal, state, or local law, ordinance or regulation; makes a false statement on his/her application; or conducts activity in a manner that is adverse to the protection of the public health, safety, and welfare. The Clerk shall deny a permit application if the application is not properly submitted, including all required documents.

(B) Immediately upon revocation, the Clerk shall provide written notice to the permit holder by certified mail to the address indicated on the application. The permit to operate shall become immediately null and void upon revocation.

(C) If a permit is denied or revoked by the Clerk, the applicant or holder of the permit may appeal to City Council. Such appeal shall be in writing. The City Council (or designee) shall make a written determination, after reviewing evidence related to the appeal, as to whether the denial or revocation is supported by competent and material evidence. If so, the action of the Clerk shall be sustained. The applicant may appeal the decision of the City Council to a court of competent jurisdiction.

(Ord. 213, passed 7-6-2021)

### § 119.99 VIOLATION.

Any person or entity that violates any provision of this chapter shall be responsible for a civil infraction and may be fined up to $500 per day. Each day a person or entity is in violation shall be considered a separate offense. The foregoing sanctions are in addition to the city's right to seek other appropriate and proper remedies, including actions in law or equity, including injunctive relief to compel compliance with this chapter.

(Ord. 213, passed 7-6-2021)

# TITLE XIII: GENERAL OFFENSES

Chapter



## CHAPTER 130: DISORDERLY CONDUCT

Section

### § 130.01 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***PUBLIC PLACE.*** Any street, alley, park, public building, any place of business or assembly open to, or frequented by, the public in any other place which is open to the public view or to which the public has access.

(1979 Code, § 9.91) (Ord. 48, passed 12-5-1972)

### § 130.02 ACTS PROHIBITED.

No person shall:

(A) Commit an assault or an assault and battery on any person;

(B) Be intoxicated in a public place and either endangering directly the safety of another person or of property or acting in a manner which causes a public disturbance;

(C) Be present in any public place with his or her ability to walk, talk or see significantly impaired by the use of any controlled substance as defined by Public Act 196 of 1971, as amended, provided, however, that this division (C) shall not be construed to apply to a person whose faculties have been impaired by medication prescribed by a physician and taken as directed;

(D) Engage in any indecent, insulting, immoral or obscene conduct in any public place;

(E) Discharge any firearm, air rifle, air pistol or slingshot 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 City Council;

(F) Utter vile, profane or obscene language in any public place;

(G) Make any immoral exhibition or indecent exposure of his or her person;

(H) Willfully destroy, remove, damage, alter or in any manner deface any property not his or her own or any public school building or any public building, bridge, fire hydrant, alarm box, street sign, street light, traffic control device, railroad sign or signal, parking meter or shade tree belonging to the city, or located in the public places of the city, or mark or post handbills on, or in any manner mar the walls of, any public building or 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;

(I) Insult, accost, molest or otherwise annoy, either by word of mouth, sign or motion, any person in any public place;

(J) Engage in any disturbance, fight or quarrel in a public place;

(K) Collect or stand in crowds, or arrange, encourage or abet the collections of persons in crowds, for illegal or mischievous purposes in any public place;

(L) Loiter on any street or sidewalk or in any park or public building or conduct himself or herself in any public place so as to obstruct the free and uninterrupted passage of the public;

(M) Engage in any act of prostitution;

(N) Attend, frequent, operate or be an occupant or inmate of any place where prostitution, gambling, the illegal sale of intoxicating liquor or where any other illegal or immoral business or occupation is permitted or conducted;

(O) Engage in prostitution, gambling, the illegal sale of intoxicating liquor or any other illegal or immoral business or occupation. Proof of recent reputation for engaging in prostitution, gambling, illegal sale of intoxicating liquor or other illegal or immoral occupation or business shall be prima facie evidence of being engaged or occupied therein;

(P) Solicit or accost any person for the purpose of inducing the commission of any illegal or immoral act;

(Q) Disturb the public peace and quiet by loud, boisterous or vulgar conduct;

(R) Permit or suffer any place occupied or controlled by him or her to be a resort of noisy, boisterous or disorderly persons;

(S) Obstruct, resist, hinder or oppose any member of the police force or any peace officer in the discharge of his or her duties as such; and/or

(T) Prowl about any alley or the private premises of any other person in the nighttime without authority or the permission of the person in possession of such premises.

(1979 Code, § 9.92) (Ord. 48, passed 12-5-1972; Ord. 194, passed 9-18-2012) Penalty, see § 10.99

## CHAPTER 131: CURFEW

Section



## § 131.01 MINORS UNDER THE AGE OF 14.

(A) No minor under the age of 14 years shall loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots or other unsupervised places or pleasure ride or park in automobiles between the hours of 10:00 p.m. and 6:00 a.m. the following day.

(B) This section does not apply to a minor under the age of 14 in the following circumstances:

(1) Accompanied by the minor's parent or guardian or any other person 21 years of age or older authorized by a parent to the caretaker for the minor;

(2) On an errand at the direction of the minor's parent, guardian or caretaker without any detour or stop;

(3) In a vehicle involved in interstate travel;

(4) Engaged in 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, without any detour or stop, such an activity supervised by adults; or

(8) Exercising First Amendment rights, including free exercise of religion, freedom of speech and the right of assembly.

(C) Any employer falsifying evidence of the time of day a minor in its employ was relief from work shall be guilty of a violation of this section.

(1979 Code, § 9.121) (Ord. 56, passed 10-5-1976) Penalty, see § 10.99

## § 131.02 MINORS UNDER THE AGE OF 17.

(A) No minor under the age of 17 years, but over the age of 14 years, shall loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots or other unsupervised places or pleasure ride or park in automobiles between the hours of 11:00 p.m. and 6:00 a.m. the following day.

(B) This section does not apply to a minor under the age of 14 in the following circumstances:

(1) Accompanied by the minor's parent or guardian or any other person 21 years of age or older authorized by a parent to the caretaker for the minor;

(2) On an errand at the direction of the minor's parent, guardian, or caretaker without any detour or stop;

(3) In a vehicle involved in interstate travel;

(4) Engaged in 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, without any detour or slop, such an activity supervised by adults; or

(8) Exercising First Amendment rights, including free exercise of religion, freedom of speech and the right of assembly.

(C) Any employer falsifying evidence of the time of day a minor in its employ was relief from work shall be guilty of a violation of this section.

(1979 Code, § 9.122) (Ord. 56, passed 10-5-1976) Penalty, see § 10.99

## § 131.03 PARENTAL RESPONSIBILITY.

(A) It shall be unlawful for the parent, guardian or other person having the legal care and custody of a minor child under the age of 17 years to knowingly permit such minor to violate the provisions of this chapter.

(B) A parent, guardian or other person having the legal care and custody of a minor under the age of 17 years shall be deemed to have knowingly permitted a violation of this chapter when he or she willfully or negligently fails to exercise reasonable precautions, including responsible oversight, to prevent any such child from violating the provisions of this chapter.

(1979 Code, § 9.123) (Ord. 56, passed 10-5-1976) Penalty, see § 10.99

### § 131.04 VIOLATIONS BY JUVENILES.

It shall be the duty of the Chief of Police, or some other designated police officer, upon the arrest of any child or minor for the violation of the provisions of this chapter, to inquire into the facts of such arrest and the conditions and circumstances of such child and, if it appears that such minor is in violation of the provisions of this chapter, to cause the proper proceedings to be had and taken as authorized by the laws and statutes of the state if, in the opinion of such arresting officer, this action is warranted.

(1979 Code, § 9.124) (Ord. 56, passed 10-5-1976) Penalty, see § 10.99

# CHAPTER 132: DRUG PARAPHERNALIA, POSSESSION AND USE OF MARIJUANA

Section



***Cross-reference:***

*Marihuana Establishments, Ch. 117*

### § 132.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***CONTROLLED SUBSTANCE.*** Any drug, substance, or immediate precursor defined by state law as a controlled substance, or defined as a controlled substance by the laws of the United States, including § 102, paragraph (6) of the Controlled Substances Act, 21 U.S.C. § 802(6).

***DRUG PARAPHERNALIA.*** All equipment, products and materials of any kind which are used, or intended for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance. It includes, but is not limited to, the following:

(1) Kits used, or intended for use, in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, or intended for use, in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(3) Isomerization devices used, or intended for use, in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, or intended for use, in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(5) Scales and balances used, or intended for use, in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use, in cutting controlled substances;

(7) Separation gins and sifters used, or intended for use, in removing twigs and weeds from or in and otherwise

cleaning or refining marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used, or intended for use, in compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers used, or intended for use, in packaging small quantities of controlled substances;

(10) Containers and other objects used, or intended for use, in storing or concealing controlled substances;

(11) Hypodermic syringes, needles and other objects used, or intended for use, in injecting controlled substances into the human body; and

(12) Objects used, or intended for use, in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Cocaine vials;

(f) Chamber pipes;

(g) Carburetor pipes;

(h) Electric pipes;

(i) Air-driven pipes;

(j) Chillums;

(k) Bongs; and

(l) Ice pipes or chillers.

***INTENT*** or ***INTENDED***. The intent of the person charged with a violation of this chapter.

(1979 Code, § 9.191) (Ord. 90, passed 7-2-1985)

### § 132.02 RELEVANT FACTORS.

In determining whether an object is drug paraphernalia, in addition to all other relevant factors, the following factors shall be considered:

(A) Statements by an owner, or by anyone in control of the object, concerning its use;

(B) The proximity of the object to controlled substances;

(C) The existence of any residue of controlled substances on the object;

(D) 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 intend to use the object to violate any provisions of this chapter;

(E) Instructions, oral or written, provided with the object concerning its use;

(F) Descriptive materials accompanying the object which explain or depict its use;

(G) National and local advertising concerning its use known to the defendant;

(H) The manner in which the object is displayed for sale;

(I) The existence and scope of legitimate uses for the object in the community; and

(J) Expert testimony concerning its use.

(1979 Code, § 9.191) (Ord. 90, passed 7-2-1985)

### § 132.03 POSSESSION; MANUFACTURE OR SALE.

(A) It is unlawful for any person to use, or to 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 this chapter.

(B) It is unlawful for any person to deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, drug paraphernalia knowing, or having reason to believe, that it will be used to plant, propagate, cultivate, grow,

harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter.

(C) No person 18 years of age or over shall deliver drug paraphernalia to a person under 18 years of age.

(D) This section does not apply to manufacturers, practitioners, pharmacists, owners or pharmacies and other persons whose conduct is in accordance with the state law. This section shall not be construed to prohibit any possession, manufacture or use of hypodermics made unlawful by city ordinances.

(E) Any drug paraphernalia used in violation of this chapter shall be seized and forfeited to the municipality.

(1979 Code, § 9.191) (Ord. 90, passed 7-2-1985) Penalty, see § 132.99

### § 132.04 USE AND/OR POSSESSION OF MARIJUANA.

No person shall use or have in his or her possession or under his or her control marijuana or cannabis, as defined in M.C.L.A. § 333.7106, except as otherwise provided by Article 7 of the Public Health Code, Public Act No. 368 of 1978 (M.C.L.A. §§ 333.7101 et seq.). This section shall not apply to any person using or possessing marijuana or cannabis consistent and compliant with any right granted to such pursuant to the laws of the State of Michigan.

(Ord. 200, passed 12-19-2017)

### § 132.99 PENALTY.

Any person, firm or corporation violating any provision of this chapter shall be fined not less than $5 nor more than $500 and/or be imprisoned for not more than 90 days for each offense and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues, provided, that any person violating § 132.03(C) shall be fined not less than $200 nor more than $500 for each offense and/or be imprisoned for not more than 90 days.

(1979 Code, § 9.191) (Ord. 90, passed 7-2-1985)

## CHAPTER 133: USE AND POSSESSION OF TOBACCO OR NICOTINE PRODUCTS ON SCHOOL PROPERTY

Section



### § 133.01 PURPOSE.

The city recognizes the importance of the general health, safety, and welfare of its citizens and believes it is in the best interest of the citizens of the city to restrict the ability to possess and/or use tobacco or nicotine products on school property, and such is the purpose of this chapter.

(Ord. 204, passed 1-2-2019)

### § 133.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***NICOTINE PRODUCT.*** The toxin found in tobacco, presented in tobacco, or in some other form for ingestion, including, but not limited to, water soluble nicotine containing substances, and devices which deliver nicotine through vapor or other means for ingestion, such as electronic cigarettes, hookah pens, or other similar devices.

***SCHOOL PROPERTY.*** A building facility, structure, or other real estate owned, leased, occupied, or controlled by a public or private school.

***SMOKING*** or ***SMOKE.*** The possession of, or use of, a tobacco product, nicotine product, cigar, cigarette, pipe, or other lighted smoking device, or device which delivers nicotine through vapor or other means, or ingestion electronically, including electronic cigarettes, hookah pens, or other similar devices.

***TOBACCO PRODUCTS.*** Preparation of tobacco to be ingested by any means, including, but not limited to, smoked, vaporized, chewed, or inhaled.

(Ord. 204, passed 1-2-2019)

### § 133.03 USE OR POSSESSION OF TOBACCO AND NICOTINE PRODUCTS ON SCHOOL PROPERTY.

(A) Except as provided under division (B), a person shall not smoke, use, or possess a tobacco product or nicotine product on school property.

(B) Division (A) does not apply to that part of school property consisting of outdoor areas including, but not limited to, an open air stadium during either of the following time periods:

(1) Saturdays, Sundays, and other days in which there are no regularly scheduled school hours; and

(2) After 6:00 p.m. on days during which there are regularly scheduled school hours.

(Ord. 204, passed 1-2-2019)

### § 133.99 PENALTY.

A person who violates a provision of this chapter and is under the age of 18 years is responsible for a civil infraction punishable by a fine of not more than $50 for each offense. A person who violates a provision of this chapter who is 18 years of age or older is guilty of a misdemeanor punishable by a fine of not more than $50.

(Ord. 204, passed 1-2-2019)

# TITLE XV: LAND USAGE

Chapter



## CHAPTER 150: ZONING

Section

***Zoning Districts, Maps and Requirements***



***Fencing Requirements***



***Parking Requirements***



***Condominium Projects; Regulations***

# GENERAL PROVISIONS

## § 150.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ACCESSORY USE OF BUILDING.*** A use or building on the same lot with, and of a nature customarily incident and subordinate, to those of the main use of building.

***ALLEY.*** Any dedicated public way affording a secondary means of access to abutting property and not intended for general traffic circulation.

***ALTERATIONS.*** Any change, addition or modification in construction or type of occupancy; any changes in the structural members of a building, such as wall or partitions, columns, beams or girders; the consummated act of which may be referred to herein as “altered” or “reconstructed”.

***APARTMENTS.*** The dwelling units in a multiple-family dwelling, as defined herein.

***AUTOMOBILE MAINTENANCE FACILITY.*** A use that provides the basic vehicle maintenance services for passenger vehicles, sport utility vehicles and light pick-up trucks. Such activities shall include providing tires (but not recapping), batteries, mufflers, undercoating, auto glass, reuphoistering, wheel balancing, shock absorbers, wheel alignments and minor motor tune-ups only such as oil changes. Included is vehicle washing activities that are incidental to the maintenance service but not so called high speed automotive washing. The sale of gasoline and other fuels, collision service and engine rebuilds is not included in this use.

***AUTO REPAIR STATION.*** A place where, along with the sale of engine fuels, the following automobile services may be carried out:

(1) General repair;

(2) Engine rebuilding, rebuilding or reconditioning of motor vehicles;

(3) Collision service, such as body, frame or fender straightening and repair;

(4) Overall painting: and

(5) Undercoating.

***AUTO SERVICE STATION.*** A building or premises or portions thereof arranged or designed to be used for the retail sale of oil, gasoline or other fuel for the propulsion or lubrication of motor vehicles and which may include facilities for changing of tires, tube repairing, polishing, greasing, washing or servicing such motor vehicles but excluding so-called high speed automotive washing, steam-cleaning, body repairing, bumping or painting.

***BASEMENT.*** The portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A ***BASEMENT*** shall not be counted as a story.

***BED AND BREAKFAST.*** A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit in which transient guests are provided a sleeping room and breakfast in return for payment.

***BOARDING, ROOMING OR LODGING HOUSE.*** A building containing a single dwelling unit and guest rooms, providing lodging, with or without meals, for compensation on a weekly, daily or monthly basis.

***BUILDING.***

(1) Includes the word “structure”.

(2) Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattel or property of any kind. This shall include tents, awnings or vehicles situated on private property and used for such purposes.

***BUILDING HEIGHT.*** 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. Where a building is located on sloping terrain, the height may be measured from the average ground-level of the grade at the building wall.

***BUILDING LINE.*** A line formed by the face of the building and, for the purposes of this chapter, a ***BUILDING LINE*** is the same as a front setback line.

***CANOPY.*** A permanent unenclosed roof structure erected for the purpose of sheltering motor vehicle fuel pumps and dispenser islands from the weather.

***CARRY-OUT RESTAURANT.*** Any establishment whose principal business is the sale of foods, desserts or beverages to the customer in a ready-to-consume state and whose design or method of operation includes all of the following characteristics:

(1) Foods, desserts or beverages are usually served in edible containers or in paper, plastic or other disposable containers;

(2) The consumption of foods, desserts or beverages within the restaurant building or within a motor vehicle parked upon the premises is prohibited. Food is intended primarily to be consumed off the premises; and

(3) Customers may order food from a walk-up window or from inside the establishment. No drive-through windows for vehicle customers are permitted.

***CLUB.*** An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics or the like, but not operated for profit.

***COURT.*** An open, unoccupied space, other than a yard, and bounded on at least two sides by a building. A court extending to the front yard or front lot line or to the rear lot line is an ***OUTER COURT***. Any other court is an ***INNER COURT***.

***DISTRICT.*** A portion of the incorporated area of the city within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this chapter.

***DRIVE-IN.*** A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, regardless of whether self-service is involved, rather than within a building or structure.

***DRIVE-IN RESTAURANT.*** Any establishment whose principal business is the sale of foods, desserts or beverages to the customer in a ready-to-consume state and whose design or method of operation, includes one or both of the following characteristics:

(1) Foods, desserts or beverages are served directly to the customer in a motor vehicle either by a carhop or by other means that eliminate the need for the customer to exit the motor vehicle; and

(2) Foods, desserts or beverages may be consumed within a motor vehicle parked upon the premises or at tables on

the premises but outside the restaurant building.

***DWELLING.*** Includes the word “residence”.

***DWELLING, ONE-FAMILY.*** A building designated exclusively for, and occupied exclusively by, one family.

***DWELLING, TWO-FAMILY.*** A building designed exclusively for occupancy by two families living independently of each other.

***DWELLING, MULTIPLE-FAMILY.*** A building, or a portion thereof, designed exclusively for occupancy by three or more families living independently of each other.

***DWELLING UNIT.*** A building or portion thereof, designated for occupancy by one family for residential purposes and having cooking facilities.

***ERECTED.*** Includes built, constructed, altered, reconstructed, moved upon or any physical operation on the premises which are required for the construction. Excavation, fill, drainage and the like, shall be considered a part of erection.

***ESSENTIAL SERVICES***. The erection, construction, alternation or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, drains, sewers, pipes, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

***EXCAVATION.*** Any breaking of ground, except common household gardening and ground care.

***EXCEPTION.*** An exception is a use permitted only after review of an application by the Board of Appeals or Commission other than the Administrative Official (Building Inspector), such review being necessary because the provisions of this chapter covering conditions, precedent or subsequent are not precise enough to all applications without interpretation and such review is required by the chapter.

***FAMILY.*** One or two persons or parents, with their direct lineal descendants and adopted children (and including the domestic employees thereof) together with not more than two persons not so related, living together in the whole part of a dwelling comprising a single housekeeping unit. Every additional group of two or more persons living in such housekeeping unit shall be considered a separate family for the purpose of this chapter.

***FARM.*** All of the contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner-operator, manager or tenant farmer, by his or her own labor or with the assistance of members of his or her household or hired employees, provided, however, that land to be considered a farm hereunder shall include a continuous parcel of five acres or more in area; provided further, ***FARMS*** may be considered as including establishments operated as bona fide greenhouses, nurseries orchards, chicken hatcheries, poultry farms and apiaries, but establishments keeping or operating fur-bearing animals, riding or boarding stables, commercial dog kennels, stone quarries or gravel or sand pits shall not be considered ***FARMS*** hereunder unless combined with bona fide operations on the same continuous tract of land of not less than 20 acres. No ***FARMS*** shall be operated as piggeries or for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one year immediately prior thereto and for the use and consumption by persons residing on the premises.

***FAST-FOOD RESTAURANT.*** Any establishment whose principal business is the sale of foods, desserts or beverages to the customer in a ready-to-consume state for consumption within the restaurant building or for carry-out with consumption off the premises (including service through a drive-through window) and whose design or principal method of operation includes both of the following characteristics:

(1) Foods, desserts or beverages are usually served in edible containers or in paper, plastic or other disposable containers; and

(2) The consumption of foods, desserts or beverages within a motor vehicle parked upon the premises is posted as being prohibited.

***FILLING.*** The depositing or dumping of any matter onto or into the ground, except common household gardening and ground care.

***FLOOR AREA.*** For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the interior faces of the exterior walls. The ***FLOOR AREA*** measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways and enclosed and unenclosed porches.

***FRONT LOT LINE.*** The line separating said lot from the street. In the case of a corner lot or double frontage lot, is that line separating said lot from that street which is designated as the front street in the plat and in the application for a certificate of occupancy.

***FRONT YARD.*** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the main building.

***GRADE.*** 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 the average elevation of the ground for each face of the building.

***GREENBELT.*** A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this chapter.

***GROSS FLOOR AREA.*** The total number of square feet of floor space within the exterior walls of a building, not including space in cellars or basements.

***GUEST ROOM.*** A sleeping room offered for compensation for permanent or transient occupancy containing no less than 100 square feet, measured from the interior faces of the walls of such room.

***HOTEL.*** A building, or part thereof, occupied as the more or less temporary abiding place of persons, in which rooms are occupied for hire and in which rooms no provisions are made for cooking, except that of a general kitchen and public dining room for the accommodation of its occupants.

***JUNK YARDS.*** An open area where waste and used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A ***JUNK YARD*** includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping or abandonment of junk but does not include uses established entirely within enclosed buildings.

***KENNEL, COMMERCIAL.*** Any lot or premises on which three or more dogs are either permanently or temporarily boarded.

***LOADING SPACE.*** An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

***LOT.***

(1) A parcel of land occupied, or 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 open spaces as are required under the provisions of this chapter. A ***LOT*** may or may not be specifically designated as such on public records.

(2) ***LOT*** includes the words “plot” or “parcel”.

***LOT OF RECORD.*** A parcel of land, the dimensions of which are shown on a recorded plat on file with the County Register of Deeds at the time of adoption of this chapter or in common use by city or county officials and which actually exists as so shown or any part of such parcel held in a record ownership separate from that of the remainder thereof.

***LOT AREA.*** The total horizontal area within the lot lines of the lot.

***LOT, CORNER.*** A lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street 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 from an interior angle of less than 135 degrees.

***LOT COVERAGE.*** The percent of the total lot area occupied by buildings, including accessory buildings.

***LOT DEPTH.*** The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

***LOT, DOUBLE FRONTAGE.*** Any interior lot having frontage on two more or less parallel streets, as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered ***FRONTAGE*** and front yards shall be provided as required.

***LOT, INTERIOR.*** Any lot other than a corner lot.

***LOT LINES.*** The lines bounding a lot as defined herein.

***LOT WIDTH.*** The horizontal distance between the side lot lines, measured at the two points where the building line or setback intersects the side lot lines.

***MAIN BUILDING.*** A building in which is conducted the principal use of the lot upon which it is situated.

***MAIN USE.*** The principal use to which the premises are devoted and the principal purpose for which the premises exist.

***MAJOR THOROUGHFARE.*** An arterial street which is intended to serve as a large volume trafficway for both the immediate city area and the region beyond and designated as a major thoroughfare or collector on the major thoroughfare plan.

***MASTER PLAN.*** The comprehensive plan, including graphic and written proposals indicating the general location for streets, parks, schools, public hearings and all physical development of the city, and includes any unit or part of such plan and any amendment to such plan or parts thereof. Such plan may or may not be adopted by the Planning Commission and/or Council.

***MAY.*** The act referred to is permissive.

***MEZZANINE.*** An intermediate floor in any story occupying not to exceed one-third of the floor area of such story.

***MOTEL.*** A series of attached, semi-detached or detached rental units containing bedroom, bathroom and closet space. Units shall provide overnight lodging and are offered to the public for compensation and catering primarily to the public traveling by motor vehicles.

***MOTOR VEHICLE REPAIR FACILITY.*** A place where the following services on cars and light trucks may be done inside an enclosed building: general repairs, engine rebuilding or reconditioning of cars and light trucks. The sale of motor fuels of all types, collision services, frame straightening and repair, overall painting and undercoating is not included in this use.

***MUNICIPALITY.*** The City of Memphis.

***NONCONFORMING BUILDING.*** A building, or portion thereof, existing at the effective date of this chapter or amendments thereto, and that does not conform to the provisions of this chapter in the district in which it is located relative to the height, bulk, area or yards.

***NONCONFORMING USE.*** A use which lawfully occupied a building or land at the effective date of this chapter, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

***NURSERY, PLANT MATERIAL.*** A space, building or structure or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of ***NURSERY*** within the meaning of this chapter does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

***NURSING OR CONVALESCENT HOME.*** A structure with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

***OFF-STREET PARKING LOT.*** A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering so as to provide access for entrance and exit for the parking of more than two vehicles.

***OPEN FRONT STORE.*** A business establishment, other than a drive-in bank, restaurant or gasoline service station, so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure.

***PARKING SPACE.*** An area of definite length and width, exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the storage or parking of permitted vehicles.

***PERSON.*** A firm, association organization, partnership, trust, company or corporation as well as an individual. The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.

***PUBLIC UTILITY.*** Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under state or municipal regulations to the public, gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

***REAR LOT LINE.*** The lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot.

***REAR YARD.*** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the main building.

***SETBACK.*** The distance required to obtain front, side or rear yard open space provisions of this chapter.

***SHALL.*** The act referred to is mandatory.

***SHIELDED LIGHTING.*** Any lighting proposed to illuminate the exterior of buildings and off-street parking areas that is designed, located and arranged such that all direct rays of light are directed upon the building facade or parking area only and not upon any adjoining properties.

***SIDE LOT LINE.*** Any lot line other than the front lot line. A side lot line separating a lot from a street is a ***SIDE STREET LOT LINE***. A side lot line separating a lot from another lot or lots is an ***INTERIOR SIDE LOT LINE***.

***SIDE YARD.*** An open space between a main building and the side lot line extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.

***SIGN.*** The use of any words, numerals, figures, devices, designs or trademarks by which anything is made known, such as are used to show an individual firm, profession or business and are visible to the general public.

***SIGN-ACCESSORY.*** A sign which is accessory to the principal use of the premises.

***SIGN-NON-ACCESSORY.*** A sign which is not accessory to the principal use of the premises.

***STANDARD RESTAURANT.*** Any establishment whose principal business is the sale of foods, desserts or beverages to the customer in a ready-to-consume state and whose design or principal method of operation includes one or both of the following characteristics:

(1) Customers, normally provided with an individual menu, are served their foods, desserts or beverages by a restaurant employee at the same table or counter at which said items are consumed; or

(2) A cafeteria type of operation where foods, desserts or beverages generally are consumed within the restaurant building. Carry-out and/or delivery service may be provided as an accessory use.

***STORY.*** The part of a building, except a mezzanine as defined above, included between the surface of one floor and the surface of the next floor or, if there is not floor above, then the ceiling next above. A story thus defined shall not be counted as a ***STORY*** when more than 50%, by cubic content, is below the height level of the adjoining ground.

***STORY, HALF.*** An uppermost story lying under a sloping roof, the usable floor area of which, at a height of four feet above the floor does not exceed two-thirds of the floor area in the story directly below and the height above for at least 200 square feet of floor space is seven feet six inches.

***STREET.*** A right-of-way dedicated to public use which provides vehicular and pedestrian access to adjacent properties whether designated as a street, highway, thoroughfare, parkway, road, avenue, lane or however otherwise designated.

***STRUCTURE.*** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, except fences, walls or pavement.

***TEMPORARY USE OR BUILDING.*** A use or building permitted by the Board of Appeals to exist during periods of construction of the main building or use or for special events or as otherwise permitted in this chapter.

***TOURIST HOME.*** A building containing a single dwelling unit and guest rooms offered to the public for compensation and catering primarily to the public traveling by motor vehicles.

***TRAILER COACH (MOBILE HOME).*** Any vehicle designed, used or so constructed as to permit its being used, as a conveyance upon the public streets or highways, and duly licensable as such, and constructed in such manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons.

***TRAILER COURT (MOBILE HOME PARK).*** Any site or tract of land upon which two or more authorized trailer coaches are parked either free of charge or for revenue purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as a part of the equipment of such trailer coach.

***USABLE FLOOR AREA.*** The area used for, or intended to be used for, the sale of merchandise or services or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise or for utilities shall be excluded from this computation of ***USABLE FLOOR AREA***. Measurement of floor area shall be the sum of the gross horizontal areas of the several floors of the building, measured from interior faces of the exterior walls.

***USE.*** The purpose for which land or a building is arranged, designed or intended or for which land or a building is, or may be, occupied.

***USED OR OCCUPIED.*** Include the words “intended”, “designed” or arranged to be used or occupied.

***VARIANCE.***

(1) A modification of the literal provisions of this chapter granted when strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are undue hardship, unique circumstances and applying to property. A ***VARIANCE*** is not justified unless all three elements are present in the case.

(2) ***EXCEPTION*** differs from the ***VARIANCE*** in several respects. An exception does not require “undue hardship” in order to be allowable. The exceptions that are found in this chapter appear as “special approval” or review by Planning Commission, legislative body or Board of Appeals. These land uses could not be conveniently allocated to one zone or another or the effects of such uses could not be definitely foreseen as of a given time. The general characteristics of these uses include one or more of the following:

(a) They require large areas;

(b) They are infrequent;

(c) They sometimes create an unusual amount of traffic;

(d) They are sometimes obnoxious or hazardous; and

(e) They are required for public safety and convenience.

***VEHICLE WASH ESTABLISHMENT.*** Any establishment whose principal use is the manual, automatic or semi-automatic washing of motor vehicles, including accessory vacuum or detailing services.

***VETERINARIAN OFFICE*** or ***CLINIC/ANIMAL HOSPITAL.*** An establishment where one or more licensed veterinarians, and any associated staff, provide medical, surgical, grooming or similar services solely for household pets. Use as a kennel shall be limited to short-term boarding and shall only be incidental to such hospital use. The long-term boarding of animals shall not be permitted.

***WALL (FENCE).*** A completely obscuring structure of definite height and location to serve as an obscuring screen in

carrying out the requirements of this chapter.

***YARDS.*** The open spaces of 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.

(1979 Code, §§ 5.2-5.10) (Ord. 62, passed 5-16-1978; Ord. 142, passed 3-7-2000; Ord. 154, passed 1-21-2003; Ord. 176, passed 2-3-2009) Penalty, see § 150.999

## § 150.002 SCOPE.

No building or structure or part thereof, shall hereafter be erected, constructed or altered and maintained and no new use or change shall be made or maintained on any building, structure or land, or part thereof, except in conformity with the provisions of this chapter.

(1979 Code, § 5.92) (Ord. 62, passed 5-16-1978) Penalty, see § 150.999

## § 150.003 NONCONFORMANCE.

(A) *Intent.*

(1) It is the intent of this section to permit nonconformities to continue until they are removed, but not to encourage their survival. Within the districts established by this chapter, or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment. Such uses are declared by this chapter to be incompatible with permitted uses in the district involved.

(2) It is further the intent of this section that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. A nonconforming use of a structure, a nonconforming use of land or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this chapter by attachment 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 be prohibited generally in the district involved.

(3) 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 adoption or amendment of the provisions of this chapter and upon which actual building construction has been diligently carried on. ***ACTUAL CONSTRUCTION*** is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing 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.

(B) *Nonconforming lots.*

(1) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. A variance to yard requirements shall be obtained through approval of the Board of Appeals.

(2) If two or more lots, or combinations of lots and portions of lots, with continuous frontage in single-ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter and no portion of said parcel shall be used or occupied which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

(C) *Nonconforming uses of land.* Where at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, it shall be subject to the following provisions.

(1) No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

(2) No such nonconforming use shall be moved, in whole or in part, to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

(3) If such nonconforming use of land ceases, for any reason, for a period of more than six months, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(D) *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 provisions.

(1) No such structure may be enlarged or altered in a way which increases its nonconformity.

(2) Should such structure be destroyed by any means to an extent of more than 60% of its reasonable value, exclusive of the foundation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

(3) Should such structure be moved for any reason, for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(E) *Nonconforming uses of structures and land.* If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use and which existed at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

(3) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another conforming use provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.

(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed.

(5) When a nonconforming use of a structure, or a structure and premises in combination, is discontinued or ceases to exist for six consecutive months or for 18 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures, or structures and premises in combination, occupied by seasonal uses which are discontinued or cease to exist for 12 consecutive months shall not thereafter be used except in conformance with the regulations of the district in which it is located.

(6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(F) *Repairs and maintenance.* 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 non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding 50% of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building, or part thereof, declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(G) *Uses under exception provisions not nonconforming uses.* Any use for which a general exception or special approval is permitted, as provided in this chapter, shall not be deemed a nonconforming use but shall, without further action, be deemed a conforming use in such district.

(H) *Change of tenancy or ownership.* There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises, provided that there is no change in the nature or character of such nonconforming uses except in conformity with the provisions of this chapter.

(1979 Code, § 5.101) (Ord. 62, passed 5-16-1978) Penalty, see § 150.999

### § 150.004 ACCESSORY BUILDINGS AND USES.

Accessory buildings and uses, except as otherwise permitted in this chapter, shall be subject to the following regulations.

(A) Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all yard regulations of this chapter applicable to a main building.

(B) In residential districts, accessory buildings shall not be erected in any required yard, except a rear yard.

(C) No detached accessory building shall be located closer than ten feet to any main building nor shall it be located closer than three feet to any side or rear lot line. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall be no closer than one foot to such rear lot line. In no instance shall an accessory structure be located within a dedicated easement right-of-way.

(D) When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard line required on the lot in the rear of such corner lot. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the side lot line of the lot to its rear, said building shall not project beyond the side yard line of the lot in the rear of such corner lot.

(E) Within a residential district, one unoccupied house trailer or travel trailer, which is the property of the dwelling occupant, may be stored within a garage or in a rear yard.

(1979 Code, § 5.102) (Ord. 62, passed 5-16-1978)

### § 150.005 USES NOT OTHERWISE INCLUDED WITH SPECIAL USE.

(A) The uses hereinafter referred to possess unique characteristics making it impractical to include them in a specific use district classification. They shall only be permitted by the Planning Commission under the conditions specified and after public hearing.

(B) Reference to those uses falling specifically within the intent of this section is as follows.

(1) *Outdoor theaters.* Outdoor theaters shall be permitted in the I-1 Districts and only when the site in question is surrounded by an I-1 District. Outdoor theaters shall further comply with the following conditions.

(a) The internal design shall be approved by the Building Inspector as to drainage, lighting, screening and other technical aspects.

(b) Outdoor theaters shall abut directly upon an existing or planned major thoroughfare of not less than 120 feet of right-of-way.

(c) Ingress and egress shall be available to the theater only from a major thoroughfare of 120 feet and shall not be available from any residential street.

(d) No vehicle shall be permitted to wait or stand within a dedicated right-of-way.

(e) The area shall be laid out so as to prevent the movie screen from being viewed from residential areas or adjacent major thoroughfares.

(f) The proposed outdoor theater shall be subject further to the review and approval of the City Council.

(1979 Code, § 5.107)

(2) *Commercial television and radio towers.* Commercial television and radio towers and public utility microwaves and public utility TV transmitting towers, and their attendant facilities, shall be permitted in I-1 Districts subject to the following conditions.

(a) The proposed improvements shall be centrally located on the property and set back a minimum distance equal to the highest point of the tower with attachments from the adjoining property lines, overhead utility lines and public or private road rights-of-way.

(b) The proposed use shall require submission to, and approval by, the city of detailed engineering and technical plans for the construction and proposed use as well as detailed site plans showing all proposed improvements to the site and demonstrating adequacy of drainage, lighting, general safety, area for on-site maintenance, parking and driveways and other required details for the proposed use.

(c) The owner and operator of the facility shall preserve and maintain as much of the existing on-site grass, trees and other vegetation as possible and shall maintain appropriate grades, driveways and parking areas so as to avoid ground water run-off onto adjoining properties, mud and dust.

(d) All towers shall be installed to prevent unauthorized access. Towers shall not have steps or similar climbing devices for a minimum of eight feet above the ground.

(e) All towers must comply with all applicable federal, state and local laws, rules and regulations, including all applicable FAA and FCC regulations, the State Airport Zoning Act and the State Tall Structure Act.

(f) The use of guy wires is strictly prohibited.

(g) Commercial wind energy conversion systems are prohibited.

(Ord. 62, passed 5-16-1978; Ord. 181, passed 10-20-2009) Penalty, see § 150.999

### § 150.006 SIGNS.

The following conditions shall apply to all signs erected or located in any use district.

(A) All signs shall conform to all codes and ordinances of the city and, where required, shall be approved by the Building Inspector and a permit issued.

(B) No sign, except those established and maintained by the city, county, state or federal governments, shall be located in, project into or overhang a public right-of-way or dedicated public easement.

(C) All directional signs required for the purpose of orientation, when established by the city, county, state or federal governments, shall be permitted in all use districts.

(D) No sign otherwise permitted shall project above or beyond the maximum height limitation of the use district in which located. This regulation may be modified by the Board of Appeals, which Board in so granting such modifications shall

respect all yards and setbacks.

(E) Accessory signs shall be permitted in any use district.

(F) Non-accessory signs shall be permitted only in the I-1 District.

(G) Signs used for advertising land or buildings for rent, lease and/or for sale shall be permitted when located on the land or building intended to be rented, leased and/or sold.

(H) Accessory ground signs may be located in the front yard except as otherwise provided herein.

(1979 Code, § 5.108) (Ord. 62, passed 5-16-1978)

### § 150.007 EXTERIOR LIGHTING.

All lighting for parking areas or for the external illumination of buildings or grounds or for the illumination of signs shall be directed away from, and shall be shielded from, adjacent residential districts and shall also be so arranged as to not adversely affect driver visibility on adjacent thoroughfares.

(1979 Code, § 5.109) (Ord. 62, passed 5-16-1978)

### § 150.008 CORNER CLEARANCE.

No fence, wall, shrubbery, sign or other obstruction to vision above a height of two feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of 25 feet from their point of intersection.

(1979 Code, § 5.110) (Ord. 62, passed 5-16-1978)

### § 150.009 AREA, HEIGHT AND USE EXCEPTIONS.

The regulations in this chapter shall be subject to the following interpretations and exceptions.

(A) *Essential services.* Essential services shall be permitted as authorized and regulated by law and other ordinances of the city; it being the intention hereof to exempt such essential services from the application of this chapter.

(B) *Voting place.* The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

(C) *Height limit.* The height limitations of this chapter shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments or wireless transmission towers; provided, however, that the Board of Appeals may specify a height limit for any such structure when such structure requires authorization as a use permitted subject to special conditions or under § 150.005.

(D) *Lot area.* Any lot existing and of record at the time this chapter became effective may be used for any principal use (other than uses permitted subject to special conditions for which special lot area requirements are specified in this chapter) permitted in the district in which such lot is located whether or not such lot complies with the lot area requirements of this chapter; provided that all requirements, other than lot area requirements prescribed in this chapter, are complied with and provided that not more than one dwelling unit shall occupy any lot except in conformance with provisions of this chapter for required lot area for each dwelling unit.

(E) *Lots adjoining alleys.* In calculating the area of a lot that adjoins an alley or lane, for the purpose of applying lot area requirements of this chapter, one-half the width of such alley abutting the lot shall be considered as part of such lot.

(F) *Yard regulations.* When yard regulations cannot be reasonably be complied with, as in the case of a planned development in the multiple-family district or where their application cannot be determined on lots existing and of record at the time this chapter became effective and on lots of peculiar shape or topography or due to architectural or site arrangement, such regulations may be modified or determined by the Board of Appeals.

(G) *Multiple dwelling side yard.* For the purpose of side yard regulations, a two-family, a terrace, a row house or any multiple dwelling shall be considered as one building occupying one lot.

(H) *Porches and terraces.* An unenclosed and uncovered porch (i. e., one which is not roofed over) or paved terrace may project into a required front or rear yard for a distance not exceeding eight feet.

(I) *Projections into yards.* Architectural features such as, but not limited to, window sills, cornices, eaves and bay windows, not including vertical projections, may extend or project into a required side yard not more than two inches for each one foot of width of such side yard and may extend or project into a required front yard or rear yard not more than three feet. Architectural features shall not include those details which are normally demountable.

(J) *Residential yard fences.* Fences or walls in residential districts may be constructed within a required rear or side yard (i.e., along the property line).

(1979 Code, § 5.121) (Ord. 62, passed 5-16-1978)

### § 150.010 NUISANCE.

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 time of passage of this chapter, and 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.

(1979 Code, § 5.162) (Ord. 62, passed 5-16-1978) Penalty, see § 150.999

### § 150.011 OWNERS'S RESPONSIBILITY.

The owner of any building, structure or premises, or part thereof, where any condition in violation of this chapter shall exist or shall be created and 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.

(1979 Code, § 5.163) (Ord. 62, passed 5-16-1978) Penalty, § 150.999

### § 150.012 REGULATION OF MARIHUANA ESTABLISHMENTS.

(A) Marihuana establishments must comply with the following regulations. All terms defined in §117.02 of the City of Memphis Code have the same meaning when used in this section:

(1) Establishments must comply with the MRTMA, MMMFLA and the MRTMA rules, as applicable.

(2) Co-located marihuana establishments and stacked grower licenses may be permitted, subject to the regulations of this section and any applicable rules promulgated by LARA.

(3) Establishments shall be sufficiently setback from property lines or screened or buffered with a fence, wall, or landscape screen to minimize light spillage, odor, and noise (including noise associated with truck traffic or other machinery), affecting adjacent properties.

(4) Applicants must provide a plan for the storage and disposal of marihuana or chemicals associated with marihuana cultivation, so as to minimize the risk of theft or harm resulting from chemical exposure.

(5) No marihuana may be stored overnight outside of an enclosed building. By way of example and without limitation, it is unlawful to store marihuana overnight in an outdoor waste bin or a secure transport vehicle parked outdoors.

(6) Signage for marihuana establishments must be consistent with any applicable signage requirements in this chapter the additional restriction that establishment signage may not depict marihuana, marihuana-infused products, or marihuana-related paraphernalia.

(7) Marihuana growers may only be located in property zoned Industrial. All other establishments must be located in property zoned Central Business District or Performance Based Commercial.

(8) Prior to operating, an establishment must request and be granted a zoning compliance certificate from the City of Memphis Building Inspector.

(B) Marihuana establishments must control and eliminate odor as follows:

(1) The building must be equipped with an activated air scrubbing and carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter and air scrubbing system.

(2) The filtration system must consist of one or more fans, activated carbon filters and be capable of scrubbing the air prior to leaving any building. At a minimum, the fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.

(3) The air scrubbing and filtration system must be maintained in working order and must be in use at all times. The filters must be changed per manufacturers' recommendation to ensure optimal performance.

(4) Negative air pressure must be maintained inside the building.

(5) Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.

(6) An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Michigan sufficiently demonstrating that the alternative system will eliminate odor as well or better than the air scrubbing and carbon filtration system otherwise required.

(C) A marihuana establishment may not be located within 500 feet of a public or private K-12 school. The distances described in this section shall be computed by measuring a straight line from the nearest property line of land used for the purposes stated in this section to the nearest property line of the parcel used as a marihuana establishment.

(D) The number of establishments allowed in the city is as provided for in §117.03.

(E) A retail establishment shall comply with the following:

(1) Retailers may not be open to customers between the hours of 8:00 p.m. and 9:00 a.m.

(2) Retailers may not receive deliveries between the hours of 8:00 p.m. and 8:00 a.m.

(3) Retailers are allowed in Industrial districts only if the establishment is co-located with a grower or processor.

(4) The exterior appearance of a retailer's premises must be compatible with surrounding businesses with respect to facade type, ground floor opacity, size and placement of signage, site layout, etc.

(5) The interior of a retail establishment must be arranged in a way such that neither marihuana nor marihuana-infused products are visible from the exterior of the establishment.

(6) Consumption of marihuana shall be prohibited in the retail establishment, and a sign shall be posted on the premises of each retail establishment indicating that consumption is prohibited on the premises.

(7) Retailers shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of 14 days. Memphis Police Chief will have access to all recordings during regular business hours.

(8) The public or common areas of the retail establishment must be separated from restricted or non-public areas of the marihuana establishment.

(9) No drive-through window on the portion of the premises occupied by a retail establishment shall be permitted.

(10) Retailers shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.

(F) All growers shall comply with the following:

(1) Cultivation must occur within an enclosed building with exterior facades consisting of opaque materials typical of an industrial or commercial building. The roof of the building may be constructed of a rigid transparent or translucent material designed to let in light, such as glass or rigid polycarbonate or fiberglass panels. Films or other non-rigid materials cannot be used to construct any component of the building's exterior structure.

(2) Cultivation must be conducted in a manner to minimize adverse impacts on the city's sanitary sewer. The city's Public Works Department shall review all pertinent information relating to sewer discharges and shall provide any pertinent comments on to the Planning Commission. No chemicals can be discharged into the sewer system without written prior approval from the DPW Supervisor, or designate.

(3) For each zoning lot, no more than three stacked grower licenses may be in operation.

(4) Growers shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of 14 days. Memphis Police Chief will have access to all recordings during regular business hours.

(5) The City of Memphis has a Lagoon Waste Water system, to control algae; there shall not be any discharge of phosphates or any other type of fertilizer into the waste water system. The operator assumes all responsibility to get rid of this byproduct.

(G) All processors shall comply with the following:

(1) Cultivation must be conducted in a manner to minimize adverse impacts on the city's sanitary sewer. The city's Public Works Department shall review all pertinent information relating to sewer discharges and shall provide any pertinent comments on to the Planning Commission. No chemicals can be discharged into the sewer system without written prior approval from the DPW Supervisor, or designate.

(2) Processors shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of 14 days. Memphis Police Chief will have access to all recordings during regular business hours.

(H) Safety compliance facilities shall comply with the following:

(1) Cultivation must be conducted in a manner to minimize adverse impacts on the city's sanitary sewer. The city's Public Works Department shall review all pertinent information relating to sewer discharges and shall provide any pertinent comments on to the Planning Commission. No chemicals can be discharged into the sewer system without written prior approval from the DPW Supervisor, or designate.

(2) Cultivation must occur within an enclosed building with exterior facades consisting of opaque materials typical of an industrial or commercial building. The roof of the building may be constructed of a rigid transparent or translucent material designed to let in light, such as glass or rigid polycarbonate or fiberglass panels. Films or other non-rigid materials cannot be used to construct any component of the building's exterior structure.

(3) Cultivation must be conducted in a manner to minimize adverse impacts on the city's sanitary sewer. The city's Public Works Department shall be informed about any sewer discharges, prior to actual discharge. The DPW Supervisor shall make the final decision on what is allowed.

(I) Notwithstanding any other provision to the contrary, penalties for violations of this section shall be as follows:

(1) If at any time an authorized establishment violates this section or any other applicable city ordinance, the City Council may request that LARA revoke or refrain from renewing the establishment's state operating license.

(2) It is unlawful to disobey, neglect, or refuse to comply with any provision of this section or any provision of the city's

zoning ordinance or any other city ordinance. A violation is a civil infraction. Each day the violation continues shall be a separate offense subject to a fine of up to $500.

(3) The foregoing sanctions are in addition to the city's right to seek other appropriate and proper remedies, including actions in law or equity and including injunctive relief to compel compliance or prohibit.

(Ord. 209, passed 10-7-2020)

## ADMINISTRATION

### § 150.025 ADMINISTRATIVE OFFICIAL.

(A) Except where herein otherwise stated, the provisions of this chapter shall be administered by the Building Inspector or such other official or officials as may be designated by the City Council.

(B) The Building Inspector shall have the power to:

(1) Issue building permits;

(2) Grant certificates of occupancy permits;

(3) Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this chapter; and

(4) Perform such other further functions necessary and proper to enforce and administer the provisions of this chapter.

(1979 Code, § 5.131) (Ord. 62, passed 5-16-1978)

### § 150.026 BUILDING PERMIT APPLICATION.

(A) No building or structure within the city shall hereafter be erected, moved, repaired, altered or razed, nor shall any change be made in the use of any building or land without a building permit having been obtained from the Building Inspector.

(B) Satisfactory evidence of ownership of the entire lot shall accompany all applications for permits under the provisions of this chapter. No such building permit shall be issued to erect a building or structure or make any change of use of a building or land unless it is in conformity with the provisions of this subchapter and all amendments hereto. Unless construction is started within six months after the date of issuance of a building permit, the building permit shall automatically become void and fees forfeited.

(C) The Building Inspector may reinstate a building permit which has become void for failure to commence construction without payment of further fees in his or her discretion. Fees for inspection and the issuance of permits or certificates, or copies thereof, required or issued under the provisions of this chapter shall be collected by the Building Inspector in advance of issuance. The amount of such fees shall be established by resolution of the City Council.

(D) The Building Inspector shall record all nonconforming uses existing at the effective date of this subchapter for the purpose of carrying out the provisions of § 150.003.

(E) The Building Inspector shall require that all applications for building permits be accompanied by plans and specifications including a plat plan, in duplicate, drawn to scale, showing the following:

(1) The actual shape, location and dimensions of the lot drawn to scale;

(2) The shape, size and location of all buildings or other structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate; and

(3) Such other information concerning the lot or adjoining land as may be essential for determining whether the provisions of this chapter are being observed. One copy of the plans shall be returned to the applicant by the Building Inspector after he or she shall have marked such copy either as approved or disapproved. The second copy shall be retained in the office of the Building Inspector.

(F) Upon completion of the work authorized by a building permit, the holder thereof shall seek final inspection thereof by notifying the Building Inspector.

(1979 Code, § 5.132) (Ord. 62, passed 5-16-1978) Penalty, see § 150.999

### § 150.027 CERTIFICATE OF OCCUPANCY.

(A) No land, building, structure, or part thereof, shall be occupied by or for any use for which a building permit is required by this subchapter unless and until a certificate of occupancy shall have been issued for such new use. No land or building shall be occupied or reoccupied, used or changed in use until a certificate of occupancy and compliance shall have been issued by the Building Inspector stating that the land or building, or proposed use of a building or land, complies with all the building or health laws and ordinances and the provisions of this chapter.

(B) A copy of such certificate of occupancy and compliance shall be conspicuously posted and displayed on the premises used for any purposes other than residential. The following shall apply in the issuance of any certificate.

(1) *Certificates not to be issued.* No certificates of occupancy pursuant to Ch. 154 shall be issued for any building, structure, or part thereof, or for use of any land which is not in accordance with all the provisions of this chapter.

(2) *Certificates required.* No building or structure, or parts thereof, which is hereafter erected or altered shall be occupied or used, or the same caused to be done, unless and until a certificate of occupancy shall have been issued for each building or structure.

(3) *Certificates including zoning.* Certificates of occupancy, as required by Ch. 154, for new buildings or structures, or parts thereof, or for alterations to, or changes of use of, existing buildings or structures shall also constitute certificates of occupancy, as required by this chapter.

(4) *Certificate for existing buildings.* Certificates of occupancy will be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures, or parts thereof, or such use of land are in conformity with the provisions of this chapter. It shall hereafter be unlawful for any person to occupy any existing commercial and/or industrial buildings or premises located within the city which have been vacated by a tenant, lessee or owner, unless such persons desiring to re-occupy such building or premises shall first make application for and obtain a certificate of occupancy from the Building Inspector.

(5) *Certificates for nonconforming buildings.*

(a) A certificate of occupancy shall be required for each nonconforming use of building existing prior to the time of passage of §§ 150.001 through 150.011, 150.025 through 150.035, 150.050 through 150.054, 150.057 and 150.070 through 150.078. Application for such certificate of occupancy for nonconforming uses shall be filed with the Building Inspector by the owner or lessee of the building occupied by such nonconforming use within six months from the effective date of §§ 150.001 through 150.011, 150.025 through 150.035, 150.050 through 150.054, 150.057 and 150.070 through 150.078. It shall be the duty of the Building Inspector to notify such owner or lessees in writing and to issue a certificate of occupancy for such nonconforming use upon application.

(b) The failure of the owner or lessee of the building occupied by such nonconforming use to obtain such certificate of occupancy for the same within six months from the effective date of §§ 150.001 through 150.011, 150.025 through 150.035, 150.050 through 150.054, 150.057 and 150.070 through 150.078, shall create a conclusive presumption that such nonconforming use did not exist prior to the effective date of §§ 150.001 through 150.011, 150.025 through 150.035, 150.050 through 150.054, 150.057 and 150.070 through 150.078 and such use shall be discontinued within one year from the effective date of §§ 150.001 through 150.011, 150.025 through 150.035, 150.050 through 150.054, 150.057 and 150.070 through 150.078.

(6) *Temporary certificates.* Nothing in this chapter shall prevent the Building Inspector from the issuing of a temporary certificate of occupancy for a portion of a building or structure in process of erection or alteration, provided that such temporary certificate shall not be effective for a period of time in excess of six months or more than five days after the completion of the building ready for occupancy and provided further that such portion of the building, structure or premises is in conformity with the provisions of this chapter.

(7) *Records of certificate.* A record of all certificates issued shall be kept in the office of the Building Inspector and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

(8) *Certificates for dwelling accessory buildings.* Buildings accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plat plan and when completed at the same time as such dwellings.

(9) *Application for certificates.* Application for certificates of occupancy shall be made in writing to the Building Inspector on forms furnished by the Department and such certificates shall be issued if, after final inspection, it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this chapter. If such certificate is refused for cause, the applicant therefor shall be notified in writing of such refusal and cause thereof.

(1979 Code, § 5.133) (Ord. 62, passed 5-16-1978) Penalty, see § 150.999

### § 150.028 BOARD OF APPEALS.

(A) *Creation and membership.*

(1) There shall be established and appointed by the City Council, in accordance with Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq., as amended, a Zoning Board of Appeals. Such Board shall consist of seven members, one of whom shall be a member of the City Council, one a citizen member of the Planning Commission with appointment by the Council coinciding with his or her Planning Commission term, and five members who shall be appointed by the Council. In the latter instance, one of said members shall be appointed for a one-year term, two of said members shall be appointed for a two-year term and two of said members shall be appointed for a three-year term.

(2) Thereafter, each member shall be appointed to hold office for a full three-year term. All of the members of the Board of Appeals shall be citizens of the United States and residents of the city for a two-year period prior to appointment. No elected officer, other than the Council member or employee of the city, shall be a member of the Board. Any vacancy in the Board shall be filled by the Council for the remainder of the unexpired term. Compensation of members of the Board of Appeals shall be fixed by the City Council.

(1979 Code, § 5.141)

(B) *Power of Zoning Board of Appeals.* The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this chapter, but does have power to act on those matters where this chapter provides for an administrative review, interpretation, exception or special approval permit and to authorize a variance as defined in this section and laws of the state. Said power includes the following.

(1) The Zoning Board of Appeals may hear and decide where it is alleged by the applicant that there is an error in any order, requirement, permit, decision or refusal made by the Building Inspector or any other administrative official in carrying out or enforcing any provision of this chapter.

(2) The Zoning Board of Appeals may hear and decide in accordance with the provisions of this chapter, requests for exceptions, for interpretations of the Zoning Map and for decisions on special approval situations on which this chapter specifically authorizes the Board to pass. Any exception or special approval permit shall be subject to such conditions as the Board may require to preserve and promote the character of the zoning district in question and otherwise promote the purpose of this chapter.

(3) The Zoning Board of Appeals may approve an application, upon appeal, for a variance from the strict application of the provisions of this chapter, in accordance with the following provisions.

(a) A nonuse variance may be granted upon the applicant demonstrating that a practical difficulty exists due to unique circumstances or physical conditions of the property.

(b) A use variance may be granted upon the applicant demonstrating that an necessary hardship exists due to unique circumstances peculiar to the property and not general to the neighborhood conditions.

(c) The need for the variance must not be due to the applicant's personal or economic hardship or the result of actions must not cause an adverse impact on the surrounding property or alter the essential character of the neighborhood.

(d) In granting a variance, the Board shall state the grounds upon which it justifies the granting of the variance and may attach conditions to the variance as it may deem reasonable in furtherance of the purpose of this chapter.

(4) The Zoning Board of Appeals may grant a permit for temporary buildings or uses for periods not to exceed two years. The granting of temporary permits shall be done under the following conditions.

(a) The granting of a temporary permit shall in no way constitute a change in the basic zoning district and principal uses permitted herein.

(b) The granting of the temporary permit shall be granted in writing stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.

(c) All setbacks, land coverage, off-street parking, lighting and other necessary requirements to be considered in protecting the public health, safety and general welfare of the people of the city shall be made at the discretion of the Zoning Board of Appeals or as otherwise provided in this chapter.

(5) The Zoning Board of Appeals may permit the erection and use of a building or use of premises for public utility purposes and make exceptions therefor to the height and bulk requirements herein established which said Board considers necessary for the public safety and welfare.

(1979 Code, § 5.144)

(Ord. 62, passed 5-15-1978; Ord. 175, passed 2-3-2009)

### § 150.029 ZONING BOARD PROCEDURE.

(A) (1) The Board shall annually elect its own Chairperson and Secretary.

(2) Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine by rule. All meetings of the Board shall be open to the public.

(3) The Board shall adopt its own rules or procedures and shall maintain records of its proceedings which shall be filed in the office of the City Clerk and shall be a public record.

(4) The fees to be charged for appeals shall be set by resolution of the City Council.

(5) In those instances wherein lot area and yard requirements in lots existing of record cannot be complied with and must therefore be reviewed by the Board, the required fees for appeal, in whole or in part, may be refunded to the petitioner at the discretion of the Board of Appeals.

(1979 Code, § 5.142)

(B) (1) An appeal to the Zoning Board of Appeals based, in whole or in part, on the provisions of this chapter may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, board or bureau affected by the decision of the Building Inspector. Such appeal shall be taken by filing a notice of appeal with the Board of Zoning Appeals in appropriate form provided by the Building Inspector, payment of the required fee and shall specify the grounds for such appeal.

(2) The Building Inspector shall transmit all papers constituting the records of such surveys, plans or other information, as may be reasonably required, to said Board for the proper consideration of the matter.

(3) Upon a hearing before the Board, any person or party may appear in person or by agent or by attorney.

(C) (1) The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof in accordance with § 150.035 of this chapter. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises and, to that end, shall have all the powers of the officer from whom the appeal is taken.

(2) The concurring vote of two-thirds of the Zoning Board of Appeals shall be necessary to reverse any order, requirement decision or determination of the Building Inspector or to decide in favor of the applicant any matter upon which they are required to under this chapter or to effect any variation in this chapter.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Inspector certified to the Zoning Board of Appeals, after notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would cause imminent peril to life and property, in which case the proceedings shall not be stayed otherwise than by a restraining order which shall be granted by the Zoning Board of Appeals or by a court of competent jurisdiction, on notice of the Building Inspector and on due cause shown.

(1979 Code, § 5.143)

(Ord. 62, passed 5-16-1978; Ord. 173, passed 2-3-2009)

### § 150.030 STANDARDS.

(A) Each case before the Zoning Board of Appeals shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such case. All uses as listed in any district requiring Board approval for a permit shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts.

(B) The Board shall give consideration to the following:

(1) The location and size of the use;

(2) The nature and intensity of the operations involved in or conducted in connection with it;

(3) Its size, layout and its relation to pedestrian and vehicular traffic to and from the use;

(4) The assembly of persons in connection with it will not be hazardous to the neighborhood or be incongruous therewith or conflict with normal traffic of the neighborhood;

(5) Taking into account, among other things, convenient routes of pedestrian traffic, particularly of children;

(6) Vehicular turning movements in relation to routes of traffic flow, relation to street intersections, site distance and the general character and intensity of development of the neighborhood;

(7) The location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping of the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof;

(8) The nature, location, size and site layout of the uses shall be such that will be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and related characteristics; and

(9) The location, size, intensity and site layout of the use shall be such that its operations will not be objectionable to nearby dwellings by reason of noise, fumes or flash of lights to a greater degree than is normal with respect to the proximity of commercial to residential uses, nor interfere with an adequate supply of light and air, nor increase the danger of fire or otherwise endanger the public safety.

(1979 Code, § 5.145) (Ord. 62, passed 5-16-1978)

### § 150.031 ZONING BOARD OF APPEALS; ORDER PERIODS.

(A) No order of the Zoning Board of Appeals permitting the erection or alteration of buildings shall be valid for a period longer than one year, unless a building permit for such erection or alteration is commenced and proceeds to completion in accordance with the terms of such permit.

(B) No order of the Zoning Board of Appeals permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, however, that the use of such permit is dependent upon the erection or alteration of a building, such order shall continue in full force and effect if a building permit for such use, erection or alteration is obtained within such period and such erections or alterations are commenced and proceed to completion in accordance with the terms of such permit.

(1979 Code, § 5.146) (Ord. 62, passed 5-16-1978)

### § 150.032 CHANGES IN AMENDMENTS.

The City Council may from time to time, on recommendation from the Planning Commission, on its own motion or on petition, amend, supplement, modify or change this chapter in accordance with the following procedural outline.

(A) Upon presentation to the City Council of a petition for amendment of this chapter by an owner of real estate to be affected, such petition shall be accompanied by a fee. The amount of such fee shall be set by resolution of the City Council and shall be used to defray the expense of publishing required notices and related expenditures. Should no public hearing be held thereon, the fee shall be refunded to the petitioner.

(B) All amendment proposals not originating with the Planning Commission shall be referred by the City Council to the Planning Commission for a recommendation before any action is taken by the City Council.

(C) The Planning Commission shall study the proposed amendment and make written recommendation to the City Council for approval, conditional approval or disapproval.

(D) Upon receipt of the Planning Commission's recommendation, the City Council shall approve, conditionally approve or disapprove the recommendation.

(E) In case a protest against a proposed amendment, supplement or change be presented, duly signed by the owners of 20% or more of the frontage proposed to be altered or by the owners of 20% or more of the frontage immediately in the rear thereof or by the owners of 20%of the frontages directly opposite the frontage proposed to be altered, such amendment shall not be passed except by a three-quarters vote of the City Council.

(1979 Code, § 5.148) (Ord. 164, passed 12-20-2005)

### § 150.033 INTERPRETATION.

In the interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this chapter imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this chapter shall control.

(1979 Code, § 5.149) (Ord. 62, passed 5-16-1978)

### § 150.034 VESTED RIGHTS.

Nothing in the chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

(1979 Code, § 5.150) (Ord. 62, passed 5-16-1978)

### § 150.035 PUBLIC HEARING; NOTIFICATION.

(A) Unless otherwise provided by law, if the city is required to provide notice and hearing under this chapter, notice shall be provided in accordance with the following provisions.

(1) One notice of the public hearing shall be published in a newspaper of general circulation in the city.

(2) The notice shall be given not less than 15 days before the date of the hearing.

(B) In the case of a hearing on an application relating to the zoning or use of property, the notice shall also comply with the following provisions.

(1) The notice shall be sent by mail or personal delivery to the owners of the property, to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning district. If the name of the occupant is not known, the term "occupant" may be used in making notification under this division (B).

(2) The notice shall do all of the following:

(a) Describe the nature of the request;

(b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. If there are no street addresses, other means of identification may be used;

(c) State when and where the request will be considered; and

(d) Indicate when and where written comments will be received concerning the request.

(Ord. 172, passed 2-3-2009)

## ZONING DISTRICTS, MAPS AND REQUIREMENTS

### § 150.050 CITY AREAS.

For the purpose of convenience, the city is hereby divided into areas which are placed on maps as hereinafter provided.

(1979 Code, § 5.15) (Ord. 62, passed 5-16-1978)

### § 150.051 ZONING DISTRICTS.

For the purposes of this chapter, the city is hereby divided into the following zoning districts.

(A) *Residential districts.*

(1) R-1A: One-Family Residential Districts;

(2) R-1B: One-Family Residential Districts;

(3) RM: Multiple-Family Residential Districts; and

(4) MH: Mobile Home Park Districts.

(B) *Non-residential districts.*

(1) C-I: General Commercial Districts; and

(2) I-1: Light Industrial Districts.

(1979 Code, § 5.16) (Ord. 62, passed 5-16-1978)

### § 150.052 ONE-FAMILY RESIDENTIAL DISTRICTS.

(A) *R-1A and R-1B; One-Family Residential Districts.* The One-Family Residential Districts are designed to provide for one-family dwelling sites and residentially related uses in keeping with the residential development in the city. In addition, the preservation of natural terrain and wooded areas is reflected in the controls set forth in this section.

(1979 Code, § 5.31)

(B) *Principal uses permitted.* In the R1-A and R1-B 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 section:

(1) One-family detached dwelling;

(2) Farms;

(3) Publicly owned and operated libraries, parks, parkways and recreational facilities; and

(4) Accessory buildings and uses, customarily incidental to any of the above permitted uses.

(1979 Code, § 5.32)

(C) *Uses subject to special conditions.* The following uses shall be permitted after the Planning Commission, upon review of the plans, finds that the plans meet the conditions herein required, together with such other conditions as may be imposed to carry out the purposes of this section, subject to the conditions hereinafter imposed for each use:

(1) Utility and public service buildings and uses (without storage yards) where operating requirements necessitate the locating of said facilities within the district in order to serve the immediate vicinity. Further, no building and/or structure shall be located in any required front or side yard;

(2) Public, parochial and private elementary, intermediate and/or secondary schools offering courses in general education, not operated for profit;

(3) Churches and other facilities normally incidental thereto, subject to the following conditions.

(a) The site shall be so located as to provide for ingress and egress from said site directly onto an existing or planned collector street or major thoroughfare in the city.

(b) The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than 20 feet.

(c) Buildings greater than the maximum height allowed in §150.059 may be allowed, provided front, side and rear yards are increased above the minimum requirements by one foot for each foot of building which exceeds the maximum height allowed.

(4) Municipal office buildings, when in character with the neighborhood;

(5) Private recreation areas and institutional recreation centers when not operated for profit, all subject to the following conditions.

(a) The site shall be so located as to provide for ingress and egress from said site directly onto a collector street or major thoroughfare in the city.

(b) Front, side and rear yards shall be at least 50 feet wide, except on those sides adjacent to nonresidential districts,

and shall be landscaped in trees, shrubs, grass and terrace areas. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in required front, side and rear yards, except for required entrance drives and those walls and/or fences used to obscure the use from abutting residential districts.

(c) Buildings erected on the premises shall not exceed one story or 14 feet in height.

(d) Off-street parking shall be provided so as to accommodate at least one-fourth of the member families and/or individual members. Bylaws of the organization shall be provided to the Planning Commission in order to establish the membership involved in computing parking requirements.

(e) All storm and sanitary sewer plans shall be provided and shall be reviewed and approved by the City Engineer prior to the issuance of a building permit.

(f) The off-street parking and general site layout and its relationship to all adjacent lot lines shall be reviewed by the Planning Commission, which may impose any reasonable restrictions or requirements so as to ensure that adjacent residential areas will be adequately protected.

(6) Nursery schools, day nurseries and child care centers (not including dormitories); provided that, for each child so cared for, there is provided and maintained a minimum of 150 square feet of outdoor play area. Such play space shall have a total minimum area of at least 1,500 square feet; and

(7) Accessory buildings and uses customarily incidental to any of the above permitted uses.

(1979 Code, § 5.33)

(D) *Area and bulk requirements.* See § 150.059 limiting the height and bulk of buildings, the minimum size of lots permitted by land use and the maximum density permitted.

(1979 Code, § 5.34)

(Ord. 62, passed 6-15-1978)

## § 150.053 MULTIPLE-FAMILY RESIDENTIAL DISTRICTS.

(A) *RM; Multiple-Family Residential Districts.* The Multiple-Family Residential Districts are designed to provide sites for multiple-family dwellings and related uses, which will generally serve as zones of transition between the nonresidential districts and the lower density one-family residential districts. The multiple-family districts are further provided to serve the limited needs for the apartment type of unit in an otherwise low density, single-family community.

(1979 Code, § 5.41)

(B) *Principal uses permitted.*

(1) Approval shall be contingent upon finding that the site plan shows that a proper relationship exists between local streets and any proposed service roads, driveways and parking areas to encourage pedestrian and vehicular traffic safety and all the development features, including the principal building or buildings and any accessory buildings or uses, open spaces and any service roads, driveways and parking areas, are so located to minimize the possibility of any adverse effects upon adjacent property such as, but not limited to, channeling excessive traffic onto local residential streets, lack of adequate screening or buffering of parking and/or service areas or building groups and circulation routes located as to interfere with police or fire equipment access;

(2) All principal and special condition uses permitted in the R-1A and R-1B One-Family Residential Districts, unless other-wise provided in this section;

(3) Multiple-family dwellings;

(4) Two-family dwellings;

(5) Boarding, rooming or lodging house;

(6) Non-profit clubs, providing that no residential facilities of any kind be a part of the premises;

(7) Professional offices such as, but not limited to, medical and dental offices (including clinics), architects and engineers offices, except veterinarians;

(8) Municipal buildings and uses and public utility buildings and uses (not including storage yards); and

(9) Accessory buildings and uses customarily incidental to any of the above permitted uses.

(1979 Code, § 5.42)

(C) *Uses subject to specific conditions.* The following uses shall be permitted subject to the conditions hereinafter imposed for each use:

(1) General hospitals, except those for criminals and those solely for the treatment of persons who are mentally ill, not to exceed four stories when the following conditions are met.

(a) All such hospitals shall be developed only on sites consisting of at least five acres in area.

(b) The proposed site shall have at least one property line abutting a major thoroughfare.

(c) Front, side and rear yards shall be at least 100 feet wide for two-story structures. Such required yards shall be increased by 20 feet for each story over two.

(d) Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence six feet in height. Ingress and egress to the site shall be directly from a major thoroughfare.

(e) There shall be no off-street parking in the required front or side yards.

(2) Convalescent homes, not to exceed a height of two stories when the following conditions are met.

(a) The site shall be so developed as to create a land to building ratio on the lot or parcel whereby for each one bed in the convalescent home there shall be provided not less than 1,500 square feet of open space. The landscaping, yard requirements, employee facilities, off-street parking service drives, loading space and any more space required for accessory uses. The 1,500 square feet requirement is over and above the building coverage area.

(b) No building shall be closer than 40 feet from any property line.

(3) Home occupations, provided they are conducted entirely within the dwelling and carried on by the inhabitants thereof, such use being clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof. Provided further, that one non-illuminated name plate, not more than one square foot in area may be attached to the dwelling which shall contain only the name and occupation of the resident of the premises. Home occupations shall further comply with all necessary city, county and state regulations. Off-street parking shall be provided for home occupations in accordance with §§ 150.090 through 150.093.

(4) Funeral homes, provided that service entrances and parking areas shall be completely screened from abutting residential zoned properties.

(5) Accessory buildings and uses customarily incidental to any of the above permitted uses.

(1979 Code, § 5.43)

(D) *Area and bulk requirements.* See § 150.059, limiting height and bulk of buildings, the minimum size of lots permitted by land use and the maximum density permitted.

(1979 Code, § 5.44)

(Ord. 62, passed 5-16-1978)

### § 150.054 MOBILE HOME PARK DISTRICTS.

(A) *MH; Mobile Home Park Districts preamble.* The Mobile Home Park Districts are designed to permit the development of planned mobile home parks compatible with surrounding areas and general community development and needs.

(1979, § 5.51)

(B) *Principal uses permitted.* In a mobile home park district, no building or land shall be used and no building shall be erected except for one or more of the following uses, unless otherwise provided in this section:

(1) Mobile home parks are subject to the following requirements and conditions.

(a) All mobile home parks shall be subject to the requirements as established and regulated by Public Act 243 of 1959 as amended.

(b) All site plans and building plans for mobile home parks, or extensions of existing mobile home parks, shall be submitted in duplicate to the Planning Commission for review and recommendation.

(c) The land parcel being proposed for mobile home parks shall be of such land area as to provide for a minimum of 50 mobile coach (trailer coach) stands.

(d) No mobile home (trailer coach) shall be located closer than 50 feet to the right-of-way line of a collector street or major thoroughfare or 20 feet to the mobile home park property lines.

(e) All ingress and egress to the mobile home park shall be directly onto a collector street or major thoroughfare.

(f) The parking of a mobile home (trailer coach) for periods exceeding 24 hours on lands not zoned for mobile home parks shall be expressly prohibited, except that the Building Inspector may extend temporary permits allowing the parking of a mobile home (trailer coach) in a rear yard, on private property, not to exceed a period of two weeks.

(g) All mobile homes (trailer coaches) owned by residents of the city and stored on their own individual lots shall be stored in the rear yard and shall be subject to all yard requirements, setbacks and lot coverage requirements of the district in which the property is located.

(h) All mobile homes (trailer coaches) parked or stored shall not be connected to sanitary facilities and shall not be occupied.

(2) Utility and public service buildings and uses (not including storage yards) when operating requirements necessitate

the locating of said facilities within the district in order to serve the immediate vicinity; and

(3) Accessory buildings and uses customarily incidental to any of the above permitted uses.

(1979 Code, § 5.52)

(Ord. 62, passed 5-15-1978) Penalty, see § 150.999

### § 150.055 COMMERCIAL OVERLAY DISTRICTS.

(A) *C-1; Commercial Overlay District.* The C-1, Commercial Overlay District, as herein established, is designed to encourage the development of a commercial uses within a mixed-use corridor environment which meet the convenience shopping and service needs of local residents as well as the needs of "passer-by" vehicular traffic. Such commercial uses shall be developed in a manner which maintains the traditional character of the M-19 corridor while ensuring compatibility with established residential uses and surrounding residential areas.

(B) *Applicability.* As an overlay district, the C-1, Commercial Overlay District does not replace or restrict the range of uses allowed in the underlying use district classification for the property, but provides additional development options and standards which must be met for any commercial uses on the property. All commercial development within this overlay district shall comply with the regulations of this § 150.055.

(C) *Boundaries.* The C-1, Commercial Overlay District boundaries shall be as established on the Official Zoning Map. C-1, Commercial Overlay District boundaries may be established or amended according to the amendment procedures of § 150.032.

(D) *Principal uses permitted.* In the C-1, Commercial Overlay District, 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 section:

(1) Generally recognized retail businesses which supply commodities on the premises, such as but not limited to, groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing and notions or hardware;

(2) Personal service establishments which perform services on the premises, such as, but not limited to, repair shops (watches, radio, television, shoe and the like), tailor shops, beauty parlors or barber shops and self-service laundries and dry cleaners;

(3) Office-type business related to executive, administrative or professional occupations including medical, veterinary and dental facilities, financial institutions, public utility buildings (not including storage yards) and government buildings;

(4) Private clubs, lodge halls, rental halls with or without catering facilities;

(5) Funeral homes;

(6) Commercial recreation facilities such as a health club, bowling alley, billiard hall, indoor archery range, indoor tennis court, indoor skating rink and the like;

(7) Plant material nurseries and other open-air business uses other than motor vehicle and heavy equipment dealers;

(8) Office-workshop for a general contractor, electrician, plumber, decorator, upholster, printer or home appliance repair;

(9) Business schools or private schools operated for profit. Examples of private schools permitted herein include, but are not limited to, the following:

(a) Dance schools;

(b) Music and voice schools; and

(c) Art studios;

(10) Bed and breakfasts in accordance with the requirements of §150.057(C)(3);

(11) Other uses similar to the above uses; and

(12) Accessory structures and uses customarily incidental to the above permitted uses.

(E) *Principal uses permitted subject to special conditions.* The following uses shall be permitted by the Planning Commission, subject to the conditions herein imposed for each use.

(1) Automobile maintenance facilities providing tires (but not recapping), batteries, mufflers, undercoating, auto glass, reupholstering, wheel balancing, shock absorbers, wheel alignments, and minor motor tune-ups only such as oil changes, subject to the following provisions.

(a) One hundred and forty feet of street frontage on the lot proposed for the automobile maintenance facility shall be provided on the principal street serving the facility. The lot shall contain not less than 20,000 square feet of lot area.

(b) All buildings shall be set back not less than 40 feet from all street right-of-way lines.

(c) Access drives shall be no less than 25 feet from a street intersection (measured from the road right-of-way) or

from an adjacent residential zoning district or residential use.

(d) Tow trucks (wreckers) and vehicles under repair shall not be stored in the front yard.

(e) The parking of vehicles on site shall be limited to those to be serviced within a 72-hour period.

(2) Automobile service stations shall be subject to the following provisions.

(a) One hundred and forty feet of street frontage on the lot proposed for the auto service station shall be provided on the principal street serving the station. The lot shall contain not less than 20,000 square feet of lot area.

(b) All buildings shall be set back not less than 40 feet from all street right-of-way lines.

(c) Gasoline pumps, air and water hose stands and other appurtenances (with the exception of canopies in division (d) below) shall be set back not less than 25 feet from all street right-of-way lines.

(d) Canopies, for the sheltering of customers while filling their vehicles, shall be set back no less than 15 feet from the street right-of-way lines.

(e) Access drives shall be no less than 25 feet from a street intersection (measured from the road right-of-way) or from an adjacent residential zoning district or residential use.

(f) All rest rooms shall be accessible from the interior of the gasoline service station.

(g) Tow trucks (wreckers) and vehicles under repair shall not be stored in the front yard.

(h) The parking of vehicles on site shall be limited to those to be serviced within a 72-hour period.

(3) Standard, fast food or drive-in restaurants shall be subject to the following provisions.

(a) Vehicular access points shall be located at least 60 feet from the intersection of any two streets.

(b) A minimum of ten automobile stacking spaces shall be provided for any drive-through service window.

(4) Mini-warehouses (self-storage facilities) shall be subject to the following provisions.

(a) The minimum lot size shall not be less than one acre.

(b) Internal driveway aisles shall be a minimum of 24 feet in width.

(c) Separation between self-storage buildings on the same site shall be 15 feet, as measured from side-to-side or front to rear, or equal to the building height, whichever is greater.

(d) No single storage building shall exceed 5,000 square feet.

(e) Onsite resident manager dwelling unit shall be permitted.

(5) Hotels and motels shall be subject to the following provisions.

(a) One hundred and forty feet of street frontage on the lot proposed for the hotel or motel shall be provided on the principal street serving the facility. The lot shall contain not less than 20,000 square feet of lot area.

(b) All buildings shall be set back not less than 40 feet from all street right-of-way lines.

(6) Motor vehicle or heavy equipment dealers with outdoor sales space and/or repair facilities for the sale of new or secondhand automobiles, travel trailers, recreational vehicles, including off-road vehicles or rental trailers shall be subject to the following provisions.

(a) The surface of the display area shall be provided with a permanent, durable and dustless surface and shall be graded and drained as to dispose of all storm water accumulated within the area.

(b) Any servicing of vehicles including major motor repair and refinishing shall be subject to the following.

1. Any such activities shall be clearly incidental to the sale of said vehicles and shall occur within a completely enclosed building.

2. Partially dismantled and/or damaged vehicles shall be stored within an enclosed building.

3. New, used and/or discarded parts and supplies shall he stored within a completely enclosed building.

4. Any such activity shall be located not less than 50 feet from any property line.

(7) Vehicle wash establishments shall be subject to the following provisions:

(a) Minimum of four stacking spaces shall be provided for individual wash stations at self-service facilities. At automatic facilities, a minimum of ten stacking spaces for the wash entrance;

(b) All water run-off from vehicles exiting the facility shall be collected and contained on site; and

(8) Accessory buildings and uses customarily incidental to any of the above permitted uses.

(F) *Required conditions.* The following conditions shall apply to all uses established in the C-1, Commercial Overlay District.

(1) Maximum gross floor area of any individual business shall not exceed 5,000 square feet and the maximum gross floor area of a planned shopping center shall not exceed 10,000 square feet;

(2) Except in the case of a bed and breakfast, business hours shall be restricted to 6:30 a.m. to 11:00 p.m. A use requesting to conduct business outside of this time period may be approved by the City Council, upon recommendation from the Planning Commission, based upon a determination that the use will be compatible with established residential uses and surrounding residential areas.

(3) Merchandise may be displayed or stored only within enclosed buildings. The Planning Commission may modify this requirement to permit, during business hours, limited displays immediately adjacent to the building, upon finding the display is customarily found in connection with the nature of the operation or use. The Planning Commission should further find that pedestrian circulation is not impeded along the sidewalk. In no case shall such an outdoor display area occupy more than 40% of the sidewalk measured from the building's face to the curbline of the street;

(4) When the use abuts a residential use or district, a six-foot high screening wall shall be provided or a chain fink type fence with a greenbelt so as to obscure all view from the abutting residential property. The Planning Commission shall have discretion to approve the design, materials and appearance of the screening wall;

(5) The warehousing or indoor storage of goods and materials, beyond that normally incidental to the above permitted uses, shall be prohibited; and

(6) All exterior lighting shall be shielded lighting.

(G) *Area and bulk requirements.* See § 150.059, limiting the height and bulk of buildings, the minimum size of the lots by permitted land use and providing minimum yard setback requirements.

(Ord. 143, passed 3-7-2000; Ord. 180, passed 4-21-2009; Ord. 197, passed 12-15-2015) Penalty, see § 150.999

## § 150.056 RESERVED.

## § 150.057 CENTRAL BUSINESS DISTRICT.

(A) *CBD; Business District.* The Central Business District is intended to permit those uses which provide for a variety of retail stores and related activities, for office buildings and service establishments which occupy the traditional core commercial area of the city and which serve the consumer population beyond the corporate boundaries of the city. The District regulations are designed to promote convenient pedestrian shopping and the stability of retail development by encouraging a continuous retail frontage and by discouraging automobile-oriented and non-retail uses that tend to breakup such continuity. The District regulations are also intended to recognize the architectural scale and context of existing central business district buildings.

(B) *Principal uses permitted.* In the Central Business District, 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) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as but not limited to, foods, drugs, liquor, furniture, clothing, dry goods, notions or hardware and including discount or variety stores;

(2) Any personal service establishment which performs services on the premises within a completely enclosed building, such as but not limited to, the following:

(a) Repair shops (watches, radio, television shoe and the like);

(b) Tailor shops;

(c) Beauty parlors;

(d) Barber shops;

(e) Interior decorators;

(f) Photographers;

(g) Dry cleaners; and

(h) Tattoo parlor.

(3) Standard restaurants and taverns not including any drive-in or drive-through service;

(4) Office-type business related to executive, administrative or professional occupations including medical, veterinary and dental facilities, financial institutions, public utility buildings (not including storage yards) and government buildings;

(5) Private clubs, lodges and rental halls with or without catering facilities;

(6) Theaters, assembly halls and concert halls;

(7) Hotels and motels;

(8) Bus passenger stations;

(9) Other uses which are similar to the above and that are retail or service establishments dealing directly with consumers. The majority of goods produced on the premises shall be sold at retail from premises where produced; and

(10) Accessory structures and uses customarily incidental to the above permitted uses.

(C) *Principal uses permitted subject to special conditions.* The following uses shall be permitted subject to the conditions herein imposed for each use.

(1) *Residential dwelling units.* Residential dwelling units within an existing commercial building subject to the following.

(a) Dwelling units shall not be located below the second floor.

(b) Such two-story buildings shall be located on Main Street between Bordman Road and Potter Street and on Bordman Road.

(c) Such residences shall conform to all Ch. 154 requirements in existence on January 1, 1989 and as said code is amended thereafter.

(2) *Automobile service stations.* Automobile service stations are subject to the following provisions.

(a) One hundred and forty feet of street frontage on the lot proposed for the auto service station shall be provided on the principal street servicing the station. The lot shall contain not less than 20,000 square feet of lot area.

(b) All building shall be set back no less than 40 feet from all street right-of-way lines.

(c) Gasoline pumps, air and water hose stands and other appurtenances (with the exception of canopies in division (D) below) shall be set back not less than 25 feet from all street right-of-way lines.

(d) Canopies, for the sheltering of customers while filling their vehicles, shall be set back no less than 15 feet from the street right-of-way lines.

(e) Access drives shall be no less than 25 feet from a street intersection (measured from the road right-of-way) or from an adjacent residential zoning district.

(f) All rest rooms shall be accessible from the interior of the gasoline service station.

(g) Tow trucks (wreckers) and vehicles under repair shall not be stored in the front yard.

(h) The parking of vehicles on site shall be limited to those to be serviced within a 72-hour period.

(3) *Bed and breakfast.*

(a) *Licensing and fees.* It shall be unlawful for any person to operate a bed and breakfast facility, without first having obtained a business license. The license shall be issued for one year with subsequent license renewal required each year thereafter. The annual fees for such license shall be set by the City Council by resolution from time to time and shall be published in the office of the City Clerk, who, upon receipt of approval by the Planning Commission in the first instance and by the building Inspector thereafter, shall issue a business license at the time of renewal. This division (C)(3)(a) shall not apply to hotels, motels or motor lodges doing business in the city.

(b) *Dwelling unit and operator requirements.* Bed and breakfast facilities shall be confined to the single-family dwelling unit which is the principal dwelling unit on the property. The dwelling unit in which the bed and breakfast facility is to be located shall be the principal residence of the operator, and said operator shall live within said principal residence when bed and breakfast operations are active.

(c) *Guest register.* Each operator shall keep a list of the names of all persons staying at the Bed-and Breakfast operation. The principal guest shall produce proper identification at the time of registration. Such list shall be available for inspection by the Chief of Police, the on-duty officer or the City Clerk at any time.

(d) *Length of stay.* The maximum stay for any occupant of a bed and breakfast operation shall be 14 consecutive days and not more than 60 days in one year.

(e) *Parking.* A bed and breakfast operation shall have one parking space available on site for each room occupied at any time.

(f) *Public nuisance violations.* Bed and breakfast facilities shall not be permitted whenever the operation thereof endangers, offends or interferes with the safety and rights of others so as to constitute a bona fide public nuisance.

(g) *Fire safety.* The operator of a bed and breakfast shall have a fire safety plan including a map on the back of each door clearly showing the closest exit and the location of fire extinguishers. Each sleeping room to be occupied, shall have a working smoke detector alarm installed in accordance with applicable building codes, also in each sleeping room one operations fire extinguisher shall be available for emergency use. These plans and maps shall be submitted to the Fire Chief and he or she must approve said plan before operation begin.

(h) *Zoning.* Bed and breakfast facilities shall only be operated in the proper areas of the city as described in this

chapter.

(i) *Signs and lighting.* All signs and lighting shall comply with the this code.

(j) *Screening.* Screening shall be designed, constructed, operated and maintained so as to be compatible with, and properly screened from, adjacent residential uses.

(k) *Cooking facilities*. No separate cooking facilities shall be provided for bed and breakfast guests.

(l) *Other requirements.* All bed and breakfast facilities shall meet all applicable federal and state requirements.

(D) *Required conditions.* The following conditions shall apply to all uses established in the Central Business District.

(1) All business, servicing or processing shall be conducted within completely enclosed buildings, with the exception that limited outdoor (sidewalk) displays may be permitted between the hours of 6:30 a.m. and 10:00 p.m., subject to Planning Commission approval providing that such displays are located adjacent to the business (building) and further providing that pedestrian circulation is not impeded along the sidewalk. In no case shall such an outdoor display area occupy more than 40% of the sidewalk measured from the building's face to the curb line of the street.

(2) When the use abuts a residential use or district, a six-foot high screening wall shall be provided or a chain link type fence with a greenbelt so as to obscure all view from the abutting residential property. The Planning Commission shall have discretion to approve the design, materials and appearance of the screening wall.

(3) The warehousing or indoor storage of goods and materials, beyond that normally incidental to the above permitted uses, shall be prohibited.

(4) Any exterior lighting shall be shielded lighting.

(E) *Area and bulk requirements.* See § 150.059 limiting the height and bulk of buildings and the minimum size of lots by permitted land use.

(Ord. 143, passed 3-7-2000; Ord. 171, passed 10-7-2008; Ord. 179, passed 4-29-2009; Ord. 210, passed 10-6-2020) Penalty, see § 150.999

## § 150.058 LIGHT INDUSTRIAL DISTRICT.

(A) *Light Industrial Districts preamble.* The Light Industrial Districts are designed to primarily accommodate those uses which require large areas, enclosed and open storage and warehousing, wholesale activities, and industrial uses whose external physical effects are to a great extent restricted to the area of the districts.

(1979 Code, § 5.71)

(B) *Principal permitted uses.* In a Light Industrial District, no land or building shall be erected except for one or more of the following specified uses, unless otherwise provided in this section:

(1) The manufacture, compounding, processing, packaging or treatment of such products as, but not limited to:

(a) Bakery goods;

(b) Candy;

(c) Cosmetics;

(d) Pharmaceuticals;

(e) Toiletries;

(f) Food products;

(g) Hardware; and

(h) Cutlery.

(2) Tool, die, gauge and machine shops;

(3) The manufacture, compounding, assembling or treatment from previously prepared materials such as but not limited to:

(a) Canvas;

(b) Cloth;

(c) Fiber;

(d) Glass;

(e) Leather;

(f) Paper;

(g) Plastics;

(h) Sheet metal;

(i) Wire;

(j) Wood; and

(k) Textiles.

(4) Warehousing and wholesale establishments and trucking facilities;

(5) All public utilities, including buildings, necessary structures, storage yards and other related uses;

(6) Manufacture, assembly or repair of electrical appliances, signs and light sheet metal products;

(7) Lumber and building materials sales and storage;

(8) Auto repair stations, including undercoating, bumping and painting conducted within an enclosed building;

(9) Junk yards (including used auto storage) provided the area is completely enclosed with either a well-maintained solid fence at least six feet high and 15 feet wide. Not more than two openings 20 feet wide shall be provided in either the fence or greenstrip;

(10) Accessory buildings and uses customarily incidental to any of the above permitted uses;

(11) Other uses which, in the determination of the Board of Appeals, are of a similar character to the above uses; and

(12) Those uses permitted by § 150.055 unless otherwise prohibited by this section.

(1979 Code, § 5.72)

(C) *Area and bulk requirements.* See § 150.059, limiting the height and bulk of buildings and the minimum size of lots by permitted land uses.

(1979 Code, § 5.73)

(Ord. 62, passed 5-16-1978; Ord. 106, passed 11-6-1990)

## § 150.059 LIMITING HEIGHT, BULK, DENSITY AND AREA BY LAND USE.

(A) *Schedule of regulations.*

| *Zoning Districts* | *Minimum Lot Size Per Unit* | | *Maximum Percent of Lot Area Covered by All Buildings* | *Maximum Height of Structures* | | *Minimum Yard Setback Per Lot in Feet* | | | | *Minimum Floor Area per Square Foot* |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | *Sides* | | | | |
| | *Area in Feet* | *Width in Feet* | | *In Stories* | *In Feet* | *Front* | *Least* | *Total of Two* | *Rear* | |
| *Zoning Districts* | *Minimum Lot Size Per Unit* | | *Maximum Percent of Lot Area Covered by All Buildings* | *Maximum Height of Structures* | | *Minimum Yard Setback Per Lot in Feet* | | | | *Minimum Floor Area per Square Foot* |
| | | | | | | *Sides* | | | | |
| | *Area in Feet* | *Width in Feet* | | *In Stories* | *In Feet* | *Front* | *Least* | *Total of Two* | *Rear* | |
| C-1: Commercial Overlay | 20,000 sq. ft. | 60 | 50% | 2(11) | 35 (11) | 25 | 10 (12) | (12) | 30 | None |
| CBD: Central Business District Commercial | — | 20 | 100% | 3(11) | 60 (11) | 0 | (12) | (12) | (13) | None |
| L-1: Light Industrial | — | — | (10) | 2 | 30 (11) | 30 | (15) | (14) (15) | (15), (16) | None |
| MH: Mobile Home | (7) | (8) | 30% | 2 | 25 | (9) | (9) | (9) | (9) | 480 |
| R-1A: One-Family Residential | 9,000 (1) | 75 | 30% | 2 | 25 | 25 | 5(2) | 15 | 35 | 900(3) |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| R-1B: One-Family Residential | 7,200 (1) | 60 | 30% | 2 | 25 | 25 | 4(2) | 12 | 35 | 720(3) |
| RM: Multiple-Family Residential | (4) | — | (4) | 2 | 25 | 25(5) | 10(5) | 20(5) | 30(5) | (6) |
| NOTE TO TABLE: See division (B) for notes | | | | | | | | | | |

(1979 Code, § 5.81)

(B) *Additional regulations.*

(1) In those instances where public sewers are not provided, all lot areas per dwelling unit shall equal at least 12,000 square feet.

(2) The side yard abutting upon a street shall not be less than ten feet where there is a common rear yard relationship in said block and a common side yard relationship with the block directly across the common separating street. In the case of a rear yard abutting a side yard of an adjacent lot, or when said side yard abuts on frontages across a common street, the side yard abutting a street shall not be less than the required front yard of the district.

(3) The minimum floor area per dwelling unit shall not include area of basements, unfinished attics, attached garages, breezeways and enclosed or unenclosed porches.

(4) The total number of rooms in a multiple-dwelling structure of two stories or less shall not be more than the area of the parcel, in square feet, divided by 700. No multiple-dwelling structure shall be erected on a lot or parcel of land which has an area of less than 9,600 square feet or has a width of less than 80 feet. The total number of rooms in a multiple-dwelling structure of over two stories shall not be more than the area of the parcel in square feet, divided by 400. For the purpose of computing rooms, the following shall control.

| ***Unit*** | ***Rooms; Measurements*** |
|---|---|
| Efficiency apartment unity | Two rooms and a minimum of 300 sq. ft. of floor area per unit |
| One-bedroom unit | Three rooms and a minimum of 450 sq. ft. of floor area per unit |
| Two-bedroom unit | Four rooms and a minimum of 600 sq. ft. of floor area per unit |
| Over two-bedroom unit | Four rooms and a minimum floor area of 600 sq. ft. plus 150 sq. ft. for each room in excess of 4 rooms permitted in a 2 bedroom unit |

(5) (a) Every lot on which a multiple-dwelling structure of two stories or less is erected shall be provided with a side yard on each side of such lot. Each side yard shall be increased by one foot for each ten feet or part thereof 40 feet in overall dimension along the adjoining lot line. In order to preserve the open character of the district, structures shall be limited in length to 125 feet. Any court shall have a width equal to not less than 50 feet for the front yard and 70 feet for the rear yard. The depth of any court shall not be greater than three times the width. For the purpose of said yard regulations, multiple dwellings shall be considered as one building occupying one lot.

(b) For the purpose of yard regulations, multiple-family dwellings shall be considered as one building occupying one lot. Front, side and rear yards relating to spacing between buildings within multiple-family developments shall have the following minimum overall dimensions.

| ***Building Relationship*** | ***Overall Distance Between Buildings (Exclusive of Parking Areas)*** |
|---|---|
| Front to front | 50 ft. |
| Front to rear | 55 ft. |
| Rear to rear | 50 ft. |
| Rear to side | 60 ft. |
| Side to side | 20 ft. |

(c) Parking may be permitted in 50% of the required rear yard provided that there shall be 15 feet of yard space

between said parking area and the multiple-family building. The front and rear of the multiple-family building shall be considered to be the faces along the longest dimension of said building. The front on the multiple-family building shall be considered to be the direction faced by the living rooms of the dwelling units in said building. The rear of the multiple-family building shall be considered to be the direction faced by the kitchen and/or service entrance of the dwelling units in said building. The side of the multiple-family building shall be considered to be the face along the narrowest dimension of said building.

(6) See the definition for apartment under § 150.001. All row houses, terraces and other such multiple type structures shall comply with the floor area requirements in division (B)(1) above.

(7) Each mobile home (trailer coach) site or lot shall have a minimum area of 4,000 square feet.

(8) Each mobile home (trailer coach) site or lot shall have a minimum width of 40 feet.

(9) The sum of the side yards at the entry side and non-entry side of the mobile home (trailer coach) stand shall not be less than 20 feet; provided, however, there shall be a side yard of not less than 15 feet at the entry side of the mobile home (trailer coach) stand and a side yard of not less than five feet at the non-entry side. There shall be a rear yard of not less than five feet and a front yard of not less than ten feet.

(10) The maximum percentage of coverage shall be determined by the use and the provisions of required off-street parking, loading and unloading and required yards.

(11) The Board of Appeals, after public hearing, may modify height regulations. In approving an increase in structure height, the Board of Appeals shall require that all yards shall at least be equal in depth to the height of the structure.

(12) No side yards are required along the interior side lot lines, except as otherwise specified in Ch. 154. On the exterior side yard which borders on a residential district there shall be provided a setback of not less than ten feet on the side or residential street. If walls or structures facing such interior side lot lines contain windows or other openings, a side yard of not less than ten feet shall be provided.

(13) Loading space shall be provided in the rear yard in the ratio of at least ten square feet per front foot of building and shall be computed separately from the off-street parking requirements. Where an alley exists or is provided at the rear of the buildings, the rear building setback and loading requirements may be computed from the centerline of said alley.

(14) Side yards abutting upon a street and across from other I-1 Districts shall be provided with a setback of at least 20 feet.

(15) No building shall be closer than 50 feet to the perimeter (property line) of such district when said property line abuts any residential district.

(16) All storage shall be in the rear yard and shall be completely screened with an obscuring wall or fence, not less than six feet high or with a chain link type fence and a greenbelt planting so as to obscure all view from any adjacent residential district or public street.

(17) These sections are applicable to condominium projects. The definitions relating to condominiums found in §§ 150.105 through 150.114, shall be employed in providing reasonable application of these regulations to condominium projects.

(1979 Code, § 5.82)

(Ord. 146, passed 11-8-2000; Ord. 157, passed 3-18-2003; Ord. 197, passed 12-15-2015)

### § 150.060 PRIVATE WIND ENERGY SYSTEMS.

(A) Private wind energy conversion systems, or WECSs, consisting of a wind turbine, tower and/or associated control or conversation electronics, are only permitted within a residential zone in the city and subject to the following conditions.

(1) WECSs require a city building permit and must comply with all applicable construction and electrical codes and manufacturer specifications. A building permit requires the payment of the applicable permit fee, the submission of detailed engineered plans for the installation and operation of the WECS and approval by the City Building Official. A permit will expire and require renewal if the WECS is not installed within 12 months after the date the permit is issued.

(2) WECSs are only permitted as an accessory structure to a primary building.

(3) All WECSs must have a rated capacity of less than 60kws of rated nameplate capacity.

(4) WECSs which include a tower require a minimum lot size of one acre and shall be limited to one WECS per occupied residential lot. The city may issue a permit for the installation of more than one WECS per lot and/or for the installation of a WECS on a smaller lot in the case of a WECS that does not require a tower.

(5) The wind turbine for a WECS which requires a tower shall be set back a minimum distance equal to the height of the WECS plus 10% of the wind turbine from all adjoining property lines, overhead utility lines and public or private road rights-of-way.

(6) The use of guy wires is strictly prohibited.

(7) The total height of a WECS (measured from the ground to the tip of the turbine blade at its highest point) shall not

exceed 90 feet.

(8) WECSs must maintain a minimum ground clearance as specified by the manufacturer and approved by the City Building Official.

(9) WECSs shall not generate more than 55 decibels of noise at the property line nor more than five decibels of noise above the ambient noise level at the exterior of the neighboring dwelling. These noise levels may only be exceeded during unanticipated and short term events such as utility outages or severe wind storms.

(10) WECSs shall be constructed or permanently treated with non-reflective and corrosion resistant materials, shall be comprised of only neutral/non-obtrusive colors such as matte, white or grey, and shall be maintained in good condition at all times.

(11) WECSs shall not be illuminated and no light(s) shall be mounted or installed on any portion thereof.

(12) WECSs shall be installed to prevent unauthorized access. WECS towers shall not have steps or similar climbing devices for a minimum of eight feet above the ground.

(13) The engineered plans for the installation of a WECS shall include the electrical details showing compliance with the National Electrical Code, grounding requirements for any related tower structures and the requirements for connecting to electric or secondary power sources.

(14) WECSs must comply with all applicable federal, state and local laws, rules and regulations, including all applicable FAA and FCC regulations, the State Airport Zoning Act and the State Tall Structure Act.

(15) WECSs to be connected to a public utility power source require the written agreement of the utility company prior to being connected and must comply with any applicable federal and state regulatory and interconnection requirements.

(16) A WECS which is abandoned as a result of extended non-use and/or a failure to maintain in good condition shall be repaired or dismantled and removed by the property owner upon written notification by the city. In the event the owner fails to immediately repair an unsafe condition or fails to repair or dismantle and remove an otherwise abandoned WECS within 30 days after written notice, the city may cause the repair or dismantle and removal of the WECS and the expense thereof to be charged against the premises and the owner thereof and collected as a special assessment against said premises or by an action at law.

(B) As a condition of approval for the installation of a WECS, a property agrees to allow the city and its employees and agents to enter his or her property for the purpose of inspecting the WECS and to enforce the terms of this section.

(Ord. 182, passed 10-20-2009) Penalty, see § 150.999

### § 150.061 OPEN-AIR MARKETS.

(A) *Permits.*

(1) A special permit may be issued at the city's discretion for a seasonal open-air market of produce and arts and crafts, with a minimum of 50% retail sales of locally grown fruits, vegetables, plants, flowers, locally raised meats and cheeses, honey, maple syrup, baked goods and state made crafts, sales of lawn furniture and garden supplies in which space may be rented, provided that the operation of such market shall be subject to the license fee as determined by Council.

(2) The operation of such a market is limited to the Central Business District and the adjacent Industrial District, no more than three days in a week, and must be held in an orderly manner to protect adjoining property and provide for the safety of the community.

(3) No more than two such permits may be issued in the district within a calendar year and will be issued on a first come, first serve basis, effective January 1 of each year.

(B) *License fee.* An application for a permit for the maintenance and operation of an open-air market shall be made to the Planning Commission stating the proposed location of said market and, upon approval a payment of an annual license fee, shall be made to the City Clerk for the issuance of a permit therefore.

(C) *Hours.* Market will not open prior to 7:00 a.m. or stay open after 10:00 p.m.

(D) *Market organizer responsibilities.* The market organizer's responsibilities include the following.

(1) Market organizers and managers must provide a designated vendor parking area that does not impede or absorb public parking.

(2) Market organizers and managers will ensure each vendor is responsible for keeping the market space clean, attractive and contained within designated area. Upon closing of the market, trash is to be removed from the market site and any adjoining properties it has impacted.

(3) Market organizers must ensure the market is held in an orderly manner to protect public right-of-way, adjoining property and provide for the safety of the community.

(E) *City responsibilities.* If the decision is made to change market rules, current participating market operators will be given a seven-day notice prior to the new rules taking effect.

(F) *Termination of open-air market permit.* The following may be grounds for termination of the open-air market permit without refund of fees:

(1) Violation of federal, state and/or local laws;

(2) The selling of prohibited items; and

(3) Failure to maintain space upkeep and cleanliness.

(Ord. 193, passed 8-1-2012)

### § 150.062 NON-RESIDENTIAL HISTORICAL BUILDING DESIGNATION REQUIREMENTS.

(A) The requirements are as follows for non-residential buildings.

(1) A building within the city may be considered to be historical by the city if:

(a) The building was constructed/occupied by a person of exceptional historical significance;

(b) The building was used 60 or more years ago for a purpose that had exceptional historical significance; or

(c) All of the exterior architecture has existed for 80 or more years without noticeable change from its appearance 80 years ago. Exterior architecture involves the placement and size of openings (doors, windows, and the like) in the exterior walls of the building. It also involves the materials with which the outside surfaces of the building are constructed, and the shape and size of the building.

(2) To qualify under division (A)(1)(a), the following requirement must be met: the person must be responsible for a recognized achievement within the area of residency (local) or, outside the area of residency (state, national, or world).

(3) To qualify under division (A)(1)(b), the following requirement must be met: within the building something was conceived, constructed, or invented that contributed to society, industry, or science.

(4) To qualify under division (A)(1)(c), following requirements must be met:

(a) Windows and doors must appear to be in the same location and size as existed in the original construction 80 or more years ago. An exception is allowed if a variance is required to comply with present building codes.

(b) The exterior architecture of the building must be constructed of the original type material, or in the case of maintenance, the exterior architectural material used must be the same as material that existed 80 years earlier, and be in keeping with the original appearance of 80 or more years ago. An exception is made for the windows, doors, and roofing material. Windows and doors must be of the same general appearance as the windows and doors that existed on the building 80 years ago but may be of different materials and construction. Roofing materials may be of a newer design but should complement the exterior wall architectural appearance if the roof is visible from the street elevation.

(c) The size and shape of the exterior of the structure must be essentially the same as existed 80 or more years ago.

(d) Changes to the exterior of the building required to support essential interior components shall be allowed; for example, a chimney to support a modern interior furnace, exterior features to support interior air conditioning, and the like.

(e) Addition of a handicap feature on the exterior of the building required by the building code shall be permitted.

(f) If a building has had several exterior construction actions (additions or framing revisions) over the years, each construction must have happened 80 years ago or more.

(B) *Future actions by the city.* The above requirements may be modified and/or added to by the city at a future time. Buildings which have been granted a historical designation by the city may not lose their designation because of revisions to the requirements. If a building, having previously received a historical designation under division (A)(1)(c) above, is modified in its outward appearance in the judgement of the city, the city may withdraw the previously awarded historical designation.

(Ord. 203, passed 7-3-2018)

### § 150.063 SWIMMING POOLS AND HOT TUBS.

Private swimming pools, hot tubs, and similar facilities constructed in, on, or above the ground shall be permitted as an accessory in all zoning districts subject to the following.

(A) *Exemption.* The standards of this section shall not apply to permanent above or below ground swimming pools, wading pools, and portable pools with a diameter of less than 12 feet, a water surface area of less than 100 square feet, and a maximum water depth of less than two feet.

(B) All pools above ground or below ground and all hot tubs and spas are required to be protected with appropriate electrical devices such as GFCI's.

(C) Any pools connected directly to or having access from the home directly to the pool shall have an audible alarm on the doors that exit to the pool area.

(D) Private outdoor swimming pools, hot tubs, and similar facilities shall have the following.

(1) *Yard limitations.* The pool, hot tub, or similar facility shall be located in the rear yard.

(2) *Setback requirements.*

(a) Ten feet horizontally from the water's edge to all side and rear lot boundaries, and to the exterior wall of any adjacent principal building;

(b) Ten feet horizontally from the water's edge to any overhead electrical, cable, or telephone wires; and five feet horizontally to any underground utility leads or conduits, except for parts of the swimming pool system;

(c) Twenty-five feet horizontally from the water's edge to any water well, and ten feet horizontally to any septic tank, tile field, or other treatment facility, unless the County Health Department approves a shorter distance; and

(d) Three feet horizontally from the water's edge to any dedicated easement or right-of-way.

(3) *Secured enclosure.* To prevent unauthorized access and protect the general public, the pool, hot tub, or similar facility shall be secured and completely enclosed by a minimum four-foot and maximum six-foot high fence with a self closing and latching gate, subject to the following:

(a) Above-ground swimming pools with an overall height above grade of less than four feet shall be enclosed with an integral fence securely attached to the top rail of the swimming pool, provided that any ladder or steps shall be retractable or removable;

(b) Hot tubs and similar facilities may be secured with a lockable cover as an alternative to the fencing requirement; and

(c) The Building Official may waive the requirement for an enclosure around the pool area upon determining that the entire yard area is adequately fenced and secured against unauthorized access.

(4) *Other requirements.* Construction or alterations shall be subject to approval of a zoning permit and shall comply with all applicable provisions of the State Construction Code enforced by the city.

(Ord. 201, passed 5-15-2018)

## FENCING REQUIREMENTS

### § 150.075 FENCES.

(A) Regulations governing the installation and replacement of fences in the city shall be established to protect and promote the public health, welfare and safety and the installation, erection and/or maintenance of a fence is hereby prohibited except in strict compliance with the requirements, herein.

(B) A permit to be issued by the Building Department shall be obtained prior to installation or erection of any fence within the corporate limits of the city. The application for a permit shall be accompanied by a general plan showing the location of the proposed fence and a written statement setting forth the type and manner of construction contemplated and materials to be used, along with such permit fee as may be prescribed by resolution of the City Council. If the work authorized under a fence permit has not been completed within six months of the date of issuance, said permit shall become null and void. The filing fee(s) for a fence permit shall be as presently established or as hereafter amended by resolution of the City Council.

(Ord. 163, passed 2-15-2005) Penalty, see § 150.999

### § 150.076 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***FENCE.*** Any wall, barrier, screen or other structure installed for the purpose of separating, screening, obscuring or protecting property, with an appearance that is esthetically compatible with the type of fence it represents. For example only, a so called rustic or stockade type fence shall be treated and/or maintained in a manner to represent the best appearance of that type of fence.

(Ord. 163, passed 2-15-2005)

### § 150.077 APPLICABILITY.

(A) *General standards.* The standards for fences contained herein shall apply to all fences installed or replaced in the city before or after the effective date of the ordinance from which this subchapter derives, as amended, subject only to those exceptions set forth below.

(B) *Exceptions.* This subchapter shall not apply to fences installed or replaced as follows:

(1) In accordance with a site plan approved under this subchapter; or

(2) As a swimming pool safety device.

(Ord. 163, passed 2-15-2005)

## § 150.078 STANDARDS FOR FENCES.

Only those fences which meet all of the following standards shall be allowed.

(A) *Location.* All fences must be located entirely on the private property of the person constructing the fence, except that if the adjoining property owner(s) consent in writing to the construction of a fence on the property line, it may be so constructed. Such written consent shall be filed with the application for a permit. In the case of adjoining properties, only one fence between the two properties may be erected.

(B) *Height.* Fences on all lots of records, in all residential districts which enclose property, and/or are within a required side or rear yard, shall not exceed five feet in height, measured from normal grade, however, privacy fences not exceeding a height of six feet shall also be allowed. Fences on all lots of records in all residential districts shall not extend beyond the front of the house. Decorative fences shall be permitted in a front yard where they do not exceed 42 inches above grade.

(C) *Materials.*

(1) Fences on lots of record shall not contain barbed wire, spikes, nails or other sharp point instruments of any kind, electric current or charge of electricity, except that barbed wire may be place on top of fences in nonresidential districts to enclose open storage areas or utility buildings or stations and shall consist of no more than three strands of wire and shall overhang into the property which it is to protect.

(2) All fences in areas zoned or used for business, office or commercial purposes shall be of an ornamental type and shall not be more than six feet in height above the normal grade. Fences shall not obstruct vision to an extent greater than 25% of their total area.

(3) All fences in areas zoned or used for industrial purposes shall not exceed eight feet in height above normal grade. Fences shall not obstruct vision to an extent greater than 25% of their total area.

(4) Fences shall consist only of naturally durable or No. 1 grade pressure treated wood, chain link, woven or welded wire (galvanized or protective coating), wrought iron, picket type, brick, masonry, stone or plastic composite.

(D) *Chain link slats.* Chain link fences may be supplemented with woven metal (e.g., aluminum, galvanized or other metal with protective coating) insertable slats, excluding plastic interwoven weave designs.

(E) *Used materials.* No used materials (not including rock and brick) shall be used as fence material.

(F) *Proper installation and maintenance.*

(1) All fences shall be constructed of a minimum of the following:

(a) Two-inch iron pipe;

(b) Two-inch angle iron;

(c) Four-inch wooden posts;

(d) Four-inch reinforced concrete posts; or

(e) Any other member having equal stability.

(2) All posts shall be sunk in the soil to a depth of at least three feet.

(G) *Defects.*

(1) Fences shall be installed and maintained free from defects, safety hazards, and collapse, and shall be kept in good repair. No sights, words, letters, images or illustrations, except for those signs required for businesses or precautionary measure may be painted or otherwise affixed to fences.

(2) Any fence which, through lack of repair, type of construction or otherwise, endangers life or property is hereby deemed a nuisance. The Building Department shall notify the owner, agent or person in control of the property on which such fence is located of the existence of such nuisance and specify the required repairs or modifications to be made to render the fence safe or require that the unsafe fence, or any portion thereof, to be moved and shall provide a time limiting such repairs, modifications or removal.

(3) All fences shall be constructed in such a manner that all structural members, including braces, posts, poles and other projections, shall be on the interior side of the fence.

(H) *Responsibility.* The city shall not be responsible for the enforcement of any agreements relative to the mutual or separate payments of the cost of installation, maintenance or repair of fences. The city shall not be responsible for the determination of the location of any fence to be erected on a lot line.

(I) *Obstruction of view.* No fences, walls, hedges, bushes, shrubs, trees or plantings shall be erected, planted, maintained or permitted near any street intersection or at the entrance to any public or private driveway so as to obstruct the view of operator of vehicles and pedestrians approaching such intersection or entrance, to the impairment of the safe operation of such vehicles and the safety of the general public.

(J) *Distance of sidewalk.* No fences, walls, retaining walls, hedges, bushes shrubs, tree or planting shall be erected,

planted, maintained or permitted within one foot of the inner edge of any existing sidewalk.

(K) *Corner clearance.* The corner clearance requirements of this subchapter shall be observed.

(Ord. 163, passed 2-15-2005) Penalty, see § 150.999

### § 150.079 VARIANCES, HARDSHIP CASES AND APPEAL.

(A) In cases where the requirements of this subchapter would be a hardship on the property owner, or where the particular circumstances and condition so the property involved, or where the type offence contemplated by the general provisions of this subchapter would not adequately and reasonably fit the purpose intended by a fence in the location contemplated, the Building Department may issue a special permit designed to accommodate all reasonable circumstances; provided, however, no permit in variance of the express terms of this subchapter shall be issued where the fence would create a hazard to the public health, safety and welfare of the inhabitants of the city. In any such case, the Building Department may refer the matter to the Zoning Board of Appeals for its determination.

(B) If the property owner is aggrieved by the decision of the Building Department, such person may appeal to the Zoning Board of Appeals for a waiver of such requirements as the owner deems necessary for his or her property and the Board of Appeals shall review the matter and make such decision as it finds necessary and appropriate consistent with the public health, safety and welfare of the city.

(Ord. 163, passed 2-15-2005)

## PARKING REQUIREMENTS

### § 150.090 GENERAL PARKING REQUIREMENTS.

(A) There shall be provided in all districts at the time of the erection, enlargement or alteration of any main building or structure or any change in use (including new businesses) of any main building or structure automobile off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses shall be provided, prior to the issuance of a certificate of occupancy, as hereinafter prescribed, except that the off-street parking requirements of this section shall not be applicable to property located on Main Street between Bordman Road and Potter Street, to any commercially zoned property located on Bordman Road, to any property on the north side of West Potter Street east of, and including, 34857 Potter Street, nor any property on the south side of West Bordman east of, and including, 34860 Bordman Road.

(B) Off-street parking for other than residential use shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant.

(C) Residential off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage, or combination thereof, and shall be located on the premises they are intended to serve, and subject to the provisions of § 150.004.

(D) Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere.

(E) Off-street parking existing at the effective date of this subchapter 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 use.

(F) Two or more buildings or uses may collectively provide the required off-street parking 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.

(G) In the instance of dual function of off-street parking spaces where operation hours of buildings do not overlap, the Planning Commission may grant an exception.

(H) The storage of merchandise, motor vehicles for sale, trucks or the repair of vehicles is prohibited.

(I) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which is similar in type.

(J) When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall require one parking space.

(K) For the purpose of computing the number of parking spaces required, the definition of useable floor area in § 150.001 shall govern.

(1979 Code, § 5.103) Penalty, see § 150.999

### § 150.091 SCHEDULE.

(A) *Residential.*

| ***Use*** | ***Number of Minimum Parking Spaces per Unit of Measure*** |
|---|---|
| Housing for the elderly | 1 space for each 2 units; should units revert to general occupancy, then 2 spaces per unit |
| Residential; one-family and two-family | 2 for each dwelling unit |
| Residential; multiple-family | 2 for each dwelling unit |
| Trailer court | 1-1/4 for each trailer site |

(B) *Institutional.*

| ***Use*** | ***Number of Minimum Parking Spaces per Unit of Measure*** |
|---|---|
| ***Use*** | ***Number of Minimum Parking Spaces per Unit of Measure*** |
| Churches or temples | 1 for each 3 seats or 6 ft. of pews in the main unit of worship |
| Elementary and junior high schools | 1 for each 1 teacher, employee or administrator in addition to the requirements of the auditorium |
| Fraternity or sorority | 1 for each 5 permitted active members |
| High schools | 1 for each 1 teacher, employee or administrator and 1 for each 10 students in addition to the requirements of the auditorium |
| Homes for the aged and convalescent homes | 1 for each 2 beds |
| Hospitals | 1 for each 1 bed |
| Private clubs or lodges | 1 for each 3 persons allowed within the maximum occupancy load as established by the Fire Marshal |
| Stadium and sports arena or similar outdoor place of assembly | 1 for each 3 seats or 6 ft. of benches |
| Theaters and auditoriums | 1 for each 3 seats plus 1 for each 2 employees |

(C) *Commercial.*

| ***Use*** | ***Number of Minimum Parking Spaces per Unit of Measure*** |
|---|---|
| ***Use*** | ***Number of Minimum Parking Spaces per Unit of Measure*** |
| Auto wash | 1 for each 1 employee in addition to adequate waiting space for autos shall be provided on the premises |
| Automobile service stations | 2 for each lubrication stall, rack or pit and 1 for each gasoline pump |
| Beauty parlor or barber shop | 3 spaces for each of the first 2 chairs and 1-1/2 spaces for each addition chair |
| Bowling alleys | 5 for each 1 bowling lane |
| Dance halls, roller rinks, exhibition halls and assembly halls without fixed seats | 1 for each 3 persons allowed within the maximum occupancy load as established by the Fire Marshal |
| Establishments for the sale and consumption, on the premises of beverages, food or refreshments | 1 for each 100 sq. ft. of usable floor area |
| Furniture and appliance, household equipment repair shops, showroom of a plumber, electrician or similar trade, shoe repair and other similar uses | 1 for each 800 sq. ft. of usable floor area used in processing, 1 additional space shall be provided for each 2 persons employed therein |
| Laundromats and coin-operated dry cleaners | 1 for each 2 machines |

| | |
|---|---|
| Miniature golf course | 1 space per hole plus 3 spaces for employees |
| Mortuary establishments | 1 for each 50 sq. ft. of assembly room usable floor space, parlors and slumber rooms |
| Motel, hotel or other commercial lodging | 1 for each rental unit plus 3 additional spaces for management and/or service personnel |
| Motor vehicle sales and service establishments | 1 for each 200 sq. ft. of usable floor area sales room and 1 for each auto service stall in the service room |
| Pool hall or club | 1 for each 3 persons allowed within the minimum occupancy load as established by the Fire Marshal |
| Retail stores except as otherwise specified herein | 1 for each 150 sq. ft. of usable floor area |

(D) *Offices.*

| ***Use*** | ***Number of Minimum Parking Spaces per Unit of Measure*** |
|---|---|
| Banks | 1 for each 100 sq. ft. of usable floor area |
| Business office or professional offices except as indicated below | 1 for 300 sq. ft. of usable floor area |
| Professional offices of doctor, dentists or similar professional | 1 for each 100 sq. ft. of usable floor area in waiting room and 1 for each examining room, dental chair or similar use area |

(E) *Industrial.*

| ***Use*** | ***Number of Minimum Parking Spaces per Unit of Measure*** |
|---|---|
| Industrial or research establishments | 5 plus 1 for every 1-1/2 employees in the largest working shift or 1 for every 1,700 sq. ft. of usable floor space, whichever is greater |

(1979 Code, § 5.105)

**§ 150.092 OFF-STREET PARKING.**

(A) Wherever the off-street parking requirements in this section or §150.091 require the building of an off-street parking facility, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations.

(1) No parking lot shall be constructed unless and until a permit therefore is issued by the Building Inspector. Applications for a permit shall be submitted to the Building Inspector in such form as may be determined by the Building Inspector and shall be accompanied with two sets of plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with.

(2) Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements.

| ***Parking Pattern*** | ***Maneuvering Lane Width*** | ***Parking Space Width*** | ***Parking Space Length*** |
|---|---|---|---|
| 0-degree (parallel parking) | 12 ft. | 8 ft. | 23 ft. |
| 30-degree to 53-degree | 12 ft. | 8 ft. 6 in. | 20 ft. |
| 54-degree to 74-degree | 15 ft. | 8 ft 6 in. | 20 ft. |
| 75-degree to 90-degree | 25 ft. | 9 ft. | 20 ft. |

| *Parking Pattern* | *Total Width of One Tier of Spaces Plus Maneuvering Lane* | *Total Width of Two Tiers of Spaces Plus Maneuvering Lane* |
|---|---|---|
| 0-degree (parallel parking) | 20 ft. | 28 ft. |
| 30-degree to 53 degree | 32 ft. | 52 ft. |
| 54-degree to 74 degree | 36 ft. 6 in. | 58 ft. |
| 75-degree to 90 degree | 40 ft. | 60 ft. |

(3) All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly into a street shall be prohibited.

(4) (a) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.

(b) Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.

(5) All maneuvering lane widths shall permit one-way traffic movement, except that the 90 degrees pattern may permit two-way movement.

(6) Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least 25 feet in distance from any adjacent property located in any single-family residential district.

(7) The off-street parking area shall be provided with a continuous and obscuring masonry or brick wall or a wall of other acceptable opaque material approved by the Planning Commission, not less than four feet six inches in height measured from the surface of the parking area. When a front yard setback is required, all land between said wall and the property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped and maintained in a healthy, neat condition and orderly in appearance.

(8) All such parking areas including lanes and spaces shall be hard-surfaced with a pavement having an asphalt or concrete binder and shall be graded and drained so as to dispose of surface water. No surface water shall be permitted to drain into adjoining property.

(9) All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.

(10) In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.

(B) The Board of Appeals, upon application by the property owner of the off-street parking area, may modify the yard or wall requirements where, in unusual circumstances, no good purpose would be served by compliance with the requirements of this section.

(1979 Code, § 5.105) Penalty, see § 150.999

### § 150.093 OFF-STREET LOADING AND UNLOADING.

(A) On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated streets or alleys. Such space shall be provided as follows.

(B) (1) All spaces in the C-1, Commercial Overlay District shall be provided in the ratio required in the table within division (2) below. Such off-street loading and unloading space shall be provided within the rear yard.

(2) All spaces in the I districts shall be laid out in the dimension of at least ten by 50 feet, or 500 square feet in area, with a clearance of at least 14 feet in height. Loading dock approaches shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent durable and dustless surface. All spaces in I Districts shall be provided in the following ratio of spaces to usable floor area.

| *Gross Floor Area in Square Feet* | *Loading an Unloading Spaces Required in Terms of Square Feet of Usable Floor Area* |
|---|---|
| 0 - 1,400 | None |
| 1,400 - 20,000 | 1 space |
| 20,000 - 100,000 | 1 space plus 1 space for each 20,000 sq. ft. in excess of 20,001 sq. ft. |

| | |
|---|---|
| 100,001 - 500,000 | 5 spaces plus 1 space for each 40,000 sq. ft. in excess of 100,001 sq. ft. |

(1979 Code, § 5.106)

(Ord. 62, passed 5-16-1978; Ord. 125, passed 6-4-1996; Ord. 197, passed 12-15-2015)

## CONDOMINIUM PROJECTS; REGULATIONS

### § 150.105 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***AS-BUILT SURVEY.*** A drawing reflecting the results of a survey of the completed project, as approved, showing all improvements and structures.

***BUILDING ENVELOPE.*** The ground area occupied or which may be occupied by the principal structure, together with any attached accessory structures, (e.g., house and attached garage), which is, or is intended to be, placed on a building site.

***BUILDING FOOTPRINT.*** An outline of the size and shape of the structure as it meets the land.

***BUILDING SITE.*** The condominium unit location.

***CITY*** or ***CITY COUNCIL.*** The City of Memphis or Memphis City Council.

***CONDOMINIUM.*** A system of separate ownership of individual units in multi-unit projects created according to Public Act 59 of 1978,being M.C.L.A. §§ 559.101 through 559.276, as amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners.

***CONDOMINIUM ACT.*** The Public Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.276, as amended.

***CONDOMINIUM PROJECT*** or ***PROJECT.*** A plan or project consisting of not less than two condominium units established in conformance with the Condominium Act. A ***CONDOMINIUM PROJECT*** may consist of multiple-family structures (traditional) or single-family homes (site condominium) or nonresidential structures (non-residential site condominiums).

***CONDOMINIUM SUBDIVISION.*** A subdivision where there is no division of land, no platting of the land under the State Subdivision Control Act of 1967, Public Act 288 of 1967 being §§ 560.101 through 560.293, as amended, and where the land is owned by the association of co-owners.

***CONDOMINIUM SUBDIVISION PLAN.*** The drawings and information prepared pursuant to § 66 of the Condominium Act.

***CONDOMINIUM UNIT.*** The portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, used as a time-share unit or any other type of use.

***CONSOLIDATING MASTER DEED.*** The final amended master deed for a contractible condominium project, an expandable condominium project or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

***CONTRACTIBLE CONDOMINIUM.*** A condominium project from which any portion of the submitted land or buildings may be withdrawn in accordance with Public Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.276, as amended.

***CONVERSION CONDOMINIUM.*** A condominium project containing condominium units some or all of which were occupied before the filing of a notice of taking reservations under § 71 of the Condominium Act.

***CONVERTIBLE AREA.*** 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 in accordance with the Condominium Act.

***CONVEY.*** To transfer ownership of or title to such structures to the city as public structures.

***DEDICATE.*** To set apart for a special use by the public of such structures, facilities or conveniences and the like.

***DIAMETER AT BREAST HEIGHT*** or ***D.B.H.*** The diameter in inches of an existing tree measured at four and one-half feet above the existing grade.

***EASEMENT.*** A right of a person, government agency or utility company to use public or private land owned by another for a specific purpose. A grant of one or more of the property rights by the owner(s) to or for the use by, the public, a corporation or another person or entity.

***EQUIVALENT WORD, TERM.*** Those words and terms and phrases in this chapter which correspond to that word, term or phrase set forth in this definition section.

***EXPANDABLE CONDOMINIUM.*** A condominium project to which additional land may be added in accordance with the

Condominium Act.

***FRONT SURROGATE LOT LINE.*** An imaginary line or real front lot line which is superimposed on the front right-of-way line and extends the full distance between the surrogate side lot lines.

***FRONT YARD.*** The open space between the front surrogate lot line and the front yard line extending the full width between the surrogate side lot lines.

***FRONT YARD LINE.*** A location line on the principal structure parallel to, and against the wall surface nearest, the front surrogate lot line and which faces the front yard. The ***FRONT YARD LINE*** extends the full distance between surrogate side lot lines.

***FRONT YARD SETBACK.*** The minimum horizontal distance between the front surrogate lot line and the front yard line.

***GENERAL COMMON OR COMMON ELEMENTS.*** The common elements other than the limited common elements and the condominium unit.

***GREENBELT.*** A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees and ground cover to serve as an obscuring screen and buffer for noise or visual enhancement, in accordance with the requirements of this subchapter.

***GROUND COVER.*** A planting of low-growing plants or sod that, in time, forms a dense mat covering the area, preventing soil from being blown or washed away and the growth of unwanted plants.

***LIMITED COMMON ELEMENTS.*** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

***LOT.*** A surrogate lot.

***MASTER DEED.*** The condominium document recording the condominium project as approved by the City Council to which is attached as exhibits and incorporated by reference, the approved condominium subdivision plans for the project.

***MOBILE HOME CONDOMINIUM PROJECT.*** A condominium project in which the mobile homes are intended to be located upon separate condominium sites which constitute individual condominium units.

***PARCEL.*** A surrogate lot.

***PHASE.*** A portion of the whole which has been separated from the whole with regard to improvement and development activity.

***PRIVATE.*** The area of land has not been dedicated or transferred to the city for future control, maintenance, modification and the like.

***REAR YARD.*** An open space between the rear surrogate lot line and the rear yard line extending the full width between the surrogate side lot lines.

***REAR YARD LINE.*** A location line on the principal structure parallel to and against the wall surface nearest the rear surrogate lot line and which faces the rear yard. The ***REAR YARD LINE*** extends the full distance between the surrogate side lot lines.

***REAR SURROGATE LOT LINE.*** An imaginary line opposite the front surrogate lot line or lot line and which joins the rear most ends of the side surrogate lot lines.

***REAR YARD SETBACK.*** The minimum horizontal distance between the rear surrogate lot line and the rear yard line.

***RIGHT-OF-WAY.*** A strip of land reserved and dedicated for a street, alley, walkway or other purpose and which may be occupied by utilities, such as electric transmission lines, gas pipelines, cable television lines, fiber optics lines, water mains, sanitary sewers, storm sewer mains, street trees or other utility uses. ***RIGHTS-OF-WAY*** established and shown on the final plan are to be distinct and separate from the yards or building sites adjoining such rights-of-way and are not to be included in the dimensions or areas of such yards or building sites.

***SETBACK.*** The minimum horizontal distance from the principal structure to a surrogate lot line.

***SIDE YARD.*** The open space between the front yard line and the rear yard line on each side of the principal structure considered separately.

***SIDE YARD LINE.*** A location line on the principal structure parallel to, and against the wall surface nearest, the side surrogate lot line and which faces the side yard.

***SIDE YARD SETBACK.*** The minimum horizontal distance between the side surrogate lot line and the side yard line.

***SIDE SURROGATE LOT LINE.*** An imaginary lot line opposite the side yard line and which joins the nearest ends of the front surrogate lot line and the rear surrogate lot line.

***SITE CONDOMINIUM.*** The resulting development of land created under the Condominium Act, Public Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.2762.

***SITE PLAN.*** A plan showing all salient features of a proposed development, so that it may be evaluated in order to

determine whether it meets the provisions of this subchapter.

***STAGE.*** The same as ***PHASE***.

***STREET, PRIVATE.*** A special form of easement use providing for a right-of-way which complies fully with the minimum requirements of §§ 151.35 and 151.58 is for the purpose of containing a means for vehicular and pedestrian transportation, parking areas if allowed, above and beneath ground utility services, sidewalks, lawn extensions, other accommodations which are allowed by city code and standards, and contains the area reserved therefor where the same are not yet constructed. Land within a designated street may be improved or unimproved at a point in time.

***SUBDIVISION ORDINANCE or CHAPTER 151.*** Chapter 151 of this code of ordinances.

***SURROGATE LOT.*** A building site which is not plated and is not fully bound by recorded adjacent lot lines.

***SURROGATE LOT AREA.*** The total horizontal area within the surrogate lot lines.

***SURROGATE LOT DEPTH.*** The depth determined by the horizontal distance between the front and rear surrogate lot lines measured along a median line between the two side surrogate lot lines.

***SURROGATE LOT WIDTH.*** The width determined by the horizontal straight distance between the side surrogate lot lines measured at the minimum distance of the front setback building line for the district.

***YARD.*** An area of land whose boundary consists of the front surrogate lot line, rear surrogate lot line and both side surrogate lot lines.

***YARD AREA.*** The area contained within the yard boundary lines.

***ZONING ORDINANCE or CHAPTER 150.*** The Memphis Zoning Ordinance, as amended or this Chapter 150.

(Ord. 155, passed 3-18-2003)

### § 150.106 INTERPRETATION BY CITY LEGAL COUNCIL.

Where there is no equivalent term or phrase defined in this subchapter, the City Attorney shall interpret the appropriate equivalent term in Ch. 150 or Ch. 151 for the purpose of applying the standards and requirements of those ordinances to the proposed condominium project so as to carry out the purpose of this subchapter.

(Ord. 155, passed 3-18-2003)

### § 150.107 COMPLIANCE.

(A) *Purpose.* To ensure that condominiums are developed in compliance with an accepted design layout and improvement standards applicable to similar forms of municipal development.

(B) *Zoning compliance.* All condominium developments, whether intended for residential, commercial or industrial use shall be subject to all of the requirements and standards of the applicable zoning district in which the development is located. If a building footprint has not been selected at the time of plan review, a building envelope shall be used in measuring compliance with zoning requirements.

(C) *Subdivision regulations compliance.* A condominium subdivision development shall comply with applicable standards referenced below, also found in Ch. 151. However, the application of these standards shall not be construed as requiring a condominium subdivision to obtain plat approval under the State Subdivision Control Act, Public Act of 288, being M.C.L.A. §§ 560.101 through 560.293, as amended.

(D) *City review and approval.* Pursuant to authority conferred by § 141 of the Condominium Act, Public Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.2762, as amended, condominium plans shall require review and recommendation by the Planning Commission and approval by the City Council before site improvements are initiated.

(E) *Review process.* The review process shall consist of a conceptual plan review, a preliminary plan review, a final plan review and a construction review. Each review is performed by the City Planning Commission with the support of the City Clerk, Building Inspector, City Planner, City Attorney, City Engineers, City Departments, counties and other professionals as required to determine the degree with which the plan is adequate and complies with the city, state and county regulations.

(F) *Completion of the final plan.* Completion of the final plan requires the following:

(1) Recommendation from the City Planning Commission to the City Council that the condominium project be approved; and

(2) Approval by the City Council.

(Ord. 155, passed 3-18-2003)

### § 150.108 CONCEPTUAL PLAN.

(A) Prior to the filing of an application for preliminary plan review of a condominium development project the intended applicant shall submit to the Planning Commission a conceptual plan for the project and provide an overview in generalized terms of material addressing each of the items found in the preliminary review requirements.

(B) Upon receipt of the materials and a request for a meeting by the intended applicant, the Planning Commission shall call a meeting to include the Commissioners and representatives of other city departments and professional persons as the Commission deems necessary, with the approval of the City Council, to review the conceptual plan with the intended applicant. The applicant to be shall be given verbal comments and suggestions in regard to the concept plan and direction regarding future submittals. No approvals shall be implied or expressed at this meeting.

(Ord. 155, passed 3-18-2003)

### § 150.109 PRELIMINARY PLAN; REQUIREMENTS.

(A) *Preliminary plan.* A preliminary plan shall be filed by the applicant with the City Clerk at the city office. The applicant shall submit to the Clerk, in support of the preliminary review, a serviceable check for the sum total of all applicable processing fees, including review fees, planning fees, engineering fees, attorney fees and other applicable charges, as specified and approved by City Council.

(B) *Preliminary plan application.* The application shall contain all of the required material for a preliminary plan review. The Building Inspector or other official(s) designated by City Council, shall verify that all types of required material have been submitted prior to the scheduling of a plan review. Where county drains are involved, an approved preliminary plan with noted approval of the plan or a letter from the County Drain Commission stating reasons for rejection shall be submitted by the proprietor.

(C) *Variances.* Any variances (zoning and non-zoning) that will be requested in the future are to be identified during preliminary plan review. The Planning Commission may require the applicant to obtain a ruling on zoning variances from the Zoning Board of Appeals and non-zoning variances from the Council prior to preliminary plan review.

(D) *Preliminary plan review.*

(1) The time frame for preliminary plan review shall be approximately 60 days.

(2) In the preliminary plan review phase, the Planning Commission shall review the overall plan for the site, including basic road and unit configuration and the consistency of the plan with regard to all applicable provisions of city ordinances and the Master Plan.

(3) It shall be the duty of the City Clerk to send a written notice to all owners of adjoining land as to the time and place of a preliminary plan review meeting and where plan documents can be viewed.

(4) By the end of the preliminary plan review period, the Planning Commission shall submit to the applicant in writing either notice that preliminary review has been completed or a list of items remaining to be addressed or denial.

(5) The City Council is not required to review the preliminary plan. Upon completion of the preliminary plan review by the Planning Commission, the applicant has 12 months to submit the final plan for review. Should the final plan, in whole or in part, not be submitted within this time limit, a preliminary plan must again be submitted to the Commission for review. The review will be conducted using the requirements in place at the time of the new submittal.

(Ord. 155, passed 3-18-2003)

### § 150.110 FINAL PLAN; REQUIREMENTS.

Concurrent with the notice required to be given to the city pursuant to § 71 of the Condominium Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.2762, as amended, a person, association, partnership or corporation intending to develop a condominium project shall provide the following information and submissions (three copies of requirements 1 through 5 shall be submitted):

(A) The name, address and telephone number of the following:

(1) All persons, firms or corporations with an ownership interest in the land on which the condominium project shall be located and developed together with a description of the nature of each entity's interest (i.e., fee owner, optionee or land vendee);

(2) All engineers, attorneys, architects, planners or registered land surveyors associated with the project; and

(3) The developer or proprietor of the condominium project.

(B) The legal description of the land on which the condominium project will be developed together with the appropriate tax identification number(s);

(C) The acreage content of the land on which the condominium project will be developed;

(D) The purpose of the project (i.e., residential, commercial, industrial and the like);

(E) Number of condominium units to be developed on the subject parcel (may be shown as stage one, two ...);

(F) If a proprietor wishes to develop the area in stages, the preliminary plan shall include the proposed general layout for the entire area. The part which is proposed to be developed first shall be clearly superimposed upon the overall plan in order to clearly illustrated the method of development which the developer intends to follow. Each stage must have final plan approval by the City Council prior to condominium sales or improvements commencing for that stage;

(G) In addition to the requirements of § 66 of the Condominium Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.276 as amended, all plans for condominium projects presented for approval shall include the following (ten copies of requirement (7) below shall be submitted):

(1) Survey of the condominium project site. Including views showing the relationship of adjacent properties, major and minor streets and easements which exist or are being proposed outside of the site plan;

(2) Topographical survey maps at a minimum scale of one inch equals 100 feet showing existing grades of the land on a two-foot contour interval prior to any land changes and the proposed finished final grades. (This requirement may be waived by the Planning Commission based on existing land grades and the development plan);

(3) A survey or drawing delineating all natural features on the site including, but not limited to: ponds, streams, lakes, drains, floodplains, wetlands (as recognized by the State DEQ) and wooded areas;

(4) A site plan showing the number, location, size, shape, spacing between adjacent units, yard widths, yard depths, setbacks, and yard ratios, for all condominium units, rights-of-way, location and size of common elements, limited common elements and the location of all proposed streets (public and private) including widths and right-of-ways (scale of plan; one inch equals 100 feet as minimum acceptable scale);

(5) A generalized primary utility plan showing all sanitary sewer, water and storm sewer lines and supporting components (swales, drains, basins and the like) and easements granted to the city, when applicable, for installation, repair and maintenance of all utilities. All proposed installations of wells and/or septic must be accompanied by the approval of the county and/or state at the time of preliminary review. The plan must also include the location of existing or newly proposed primary utilities located within or adjacent to the proposed project;

(6) A generalized public service utility plan (including telephone, electric power, television, gas and the like) showing the location of, and easements for, all lines and cables;

(7) A copy of the proposed master deed and restrictive covenants to be applied to the project;

(8) A soil and sedimentation permit from the county (Macomb or St. Clair County Road Commission Permits Department or other appropriate agency administering the State Soil Erosion and Sedimentation Act, Public Act 451 of 1994, M.C.L.A. §§ 324.9101 through 324.9123a), must be obtained if any earth is to be disturbed within 500 feet of a river, drain or natural watercourse;

(9) Building sections showing the existing and proposed structures and improvements including their location on the land. Any proposed structure or improvement shown shall be labeled either “must build” or “need not be built”; and

(10) Other information and exhibits requested by the Planning Commission or City Council needed to conduct their review.

(Ord. 155, passed 3-18-2003)

### § 150.111 FINAL PLAN REVIEW.

(A) *Notification.* Upon receipt of notification from the Planning Commission that the preliminary review stage is completed, the applicant may proceed with preparing final plans.

(B) *Review.*

(1) The time frame for final plan review shall be approximately 60 days.

(2) During the final plan review phase, the Planning Commission shall review, with the support of the City Planner, Attorney, City Engineer and other professionals as necessary, the detailed materials developed in support of each of the items presented at the preliminary plan review phase and the following additional information and exhibits. Further, such plans shall be submitted by the applicant for review and comment to all applicable local, county and state agencies, as may be appropriate, and as determined by the Planning Commission.

(3) Before the expiration of the final plan review period, the Planning Commission shall either make a recommendation to the City Council to approve or provide the applicant with a list of outstanding items that need to be addressed or recommend denial.

(4) The final plan shall conform substantially to the preliminary plan as it existed at the conclusion of the preliminary plan review process. The Building Inspector, or other official(s) designated by City Council, shall check the proposed final plan for completeness. Should any of the data required be omitted, the Building Inspector shall inform the applicant of the data required.

(5) The application will be delayed until the required data is received.

(C) *Variance.* Zoning variance issues shall be resolved by the Zoning Board of Appeals before City Council acts on the final plan. Similarly, any request for a non-zoning variance shall be addressed by the Council before City Council acts on the final plan.

(D) *Cancellation of plan approval and building permit(s).*

(1) Approval by the City Council of a final plan shall confer upon the applicant the right to a building permit for a period

of 12 months from and after approval.

(2) Upon receipt of a building permit, reasonable construction shall be commenced within 12 months and be reasonably continued or the project plan and the building permit shall be declared invalid unless the applicant requests and obtains a new approval (renewal) from the City Council and Building Inspector.

(3) Prior to the City Council and Building Inspector allowing a renewal, the Planning Commission shall apply, as its standards in determining whether to recommend a renewal, the city's currently existing standards and requirements.

(E) *Fees.* The applicant shall submit to the Clerk, in support of the final plan review, a serviceable check for the sum total of all applicable processing fees, including review fees, engineering fees, attorney fees and other applicable charges, as specified in the fee schedule and approved by City Council.

(Ord. 155, passed 3-18-2003)

## § 150.112 FINAL PLAN; ELEMENTS REQUIRED.

(A) *Elements required.* In support of the final plan review, a person, association, partnership or corporation intending to develop a condominium project shall provide the following information and submissions (three copies of (1) through (5) listed in the preliminary review; ten copies of the following items (1) through (9)):

(1) Final detailed information addressing each of the items submitted for the preliminary plan review;

(2) Final detailed utility plan showing all sanitary sewer, water and storm sewer lines and supporting components (swales, drains, basins and the like), and easements granted to the city, when applicable, for installation, repair and maintenance of all utilities;

(3) Final detailed public service utility plan (including telephone, electric power, television, gas and the like) showing the location of, and easements for, all lines and cables;

(4) Copies of necessary approvals from county and state agencies;

(5) Final detailed street and sidewalk construction, design and locations for all streets, sidewalks and walkways in the condominium subdivision, both public and private, showing the streets and walkways to be in compliance with the applicable city ordinances;

(6) Final detailed plans for the development and landscaping of all common areas (general and limited);

(7) Final copy of the proposed master deed, restrictive covenants and bylaws;

(8) Detailed maintenance plan for the following:

(a) Private streets, sidewalks and walkways, including snow removal and icing precautions;

(b) Common elements, both general and limited; and

(c) Storm drains and associated components. A mechanism shall be installed within the master deed and/or bylaws providing for the continuing maintenance of all common elements, including private streets, walkways and drains.

(9) Other information and exhibits as requested by the Planning Commission or City Council.

(B) *Survey monuments required.*

(1) All condominium projects shall be marked with monuments meeting the standards of M.C.L.A. § 560.125, except for subsections (4) and (8). Additionally, monuments shall be located:

(a) In the ground at all angles in the boundary of the condominium development;

(b) At the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium development; and

(c) At all points of curvature, points of reverse curvature and angle points in the side lines of streets and alleys and at all angles of an intermediate transverse line.

(2) All limited common elements and lot lines shall have monuments in the field by iron or steel bars or iron pipes at least 18 inches long and one-half inch in diameter or other markers approved in the site plan.

(3) All condominium developments having limited commons, which consist in whole or in part of condominium units which are residential, commercial or industrial building sites, mobile home sites, or recreational sites shall have their limited common boundaries marked with monuments meeting the requirements of M.C.L.A. § 560.125(8).

(Ord. 155, passed 3-18-2003)

## § 150.113 FINAL PLAN; ADDITIONAL STANDARDS.

(A) Definitions found in Ch. 151 shall be used in the interpretation of §§150.109 and 150.110 unless otherwise provided in § 150.105. The following word substitutions shall be made when reading the required subdivision regulations:

(1) ***SUBDIVISION*** or ***SUBDIVIDED*** shall be read as condominium subdivision;

(2) ***PLAT*** or ***PLATTED*** shall be read as plan or planned;

(3) ***PUBLIC*** shall be read as public or private;

(4) ***LOT*** shall be read as lot or yard, building site or surrogate lot, as applicable;

(5) ***PROPERTY LINE*** shall be read as lot line or surrogate lot line, as applicable;

(6) ***SUBDIVISION ACT*** shall be read as Subdivision Control Act of 1967, M.C.L.A. §§ 560.101 to 560.293, as amended; and

(7) ***PARCEL*** shall be read as surrogate lot.

(B) A condominium subdivision development shall comply with the following requirements ofCh. 151, as amended:

(1) Design and layout standards: §§ 151.35 through 151.41;

(2) Improvements: §§ 151.55 through 151.58;

(3) Variances: § 151.07;

(4) City construction/engineering standard:

(a) Structure standards:

1. The 2000 State Residential Code, as amended;
2. The 1999 National Electrical Code with the state amendment, as amended;
3. The 2000 State Building Code, as amended;
4. The 2000 State Plumbing Code, as amended; and
5. The 2000 State Mechanical Code, as amended.

(b) In addition, all other structure standards adopted by the city shall also apply at the time of project initiation.

(5) Improvement standards:

(a) The St. Clair County Road Commission and the Macomb County Road Commission;

(b) The State Department of Transportation;

(c) The St. Clair County Health Department;

(d) The Macomb County Health Department;

(e) The State Department of Environmental Quality;

(f) The Macomb County Soil Erosion and Sedimentation Department standards; and

(g) The St. Clair County Drain Commission.

(6) In addition, all other improvement standards adopted by the city shall also apply at the time of project initiation.

(Ord. 155, passed 3-18-2003)

### § 150.114 STORM DRAINS.

(A) The city may require that all storm sewers be installed within the right-of-way or within the general commons and conveyed and/or dedicated to the public when, in the opinion of the city, conveyance and/or dedication of the same would be in the best interest of the public. Storm drains which have been dedicated to the public and accepted by the city shall thereafter be regulated by the city code and subject to design standards of the city and have associated assessments assigned to the appropriate property owner(s), if such assessments should be required.

(B) A detention basin is required for all condominium subdivisions, unless the property is located adjacent to an existing water body and the petitioner submits a hydraulic study prepared by a registered engineer which shows the run-off from the development will not adversely affect any of the downstream properties. Any run-off from a condominium project which enters a water body under the jurisdiction of the DEQ must be approved by the DEQ. A sedimentation basin shall be provided for all developments that do not require detention.

(C) No detention or retention pond shall be placed within a residential lot or yard. Detention and retention ponds in residential developments shall be placed in outlots (an area within a development which is restricted from use for building purposes) so dedicated with appropriated easements for drainage purposes.

(Ord. 155, passed 3-18-2003)

### § 150.115 SEWAGE DISPOSAL.

(A) When a proposed condominium is located within, adjacent to or within a distance defined in the then existing city code of the service area of an available public sanitary sewer system, then sanitary sewers and other appurtenances thereto, as approved by the City Engineer and built to standards identified and defined by the city, shall be installed by the developer in such a manner as to serve all condominium units in the initial phase of construction and designed to serve all subsequent phases if subsequent phases are contemplated.

(B) The city shall require all public sanitary sewer lines extending to the point of a tap, including the tap, to a private use to be installed within the right-of-way or within the general commons and conveyed and/or dedicated to the public when, in the opinion of the city, conveyance and/or dedication of the same would be in the best interest of the public. Sanitary sewer lines and associated appurtenances which have been dedicated to the public and accepted by the city shall thereafter be regulated by the city code and subject to design standards of the city and have associated assessments assigned to the appropriate property owner(s), if such assessments should be required.

(C) Where a public sewer system is not available, on-site sewage disposal systems may be employed providing they are approved by the county in which they are to be installed and/or the state.

(Ord. 155, passed 3-18-2003)

### § 150.116 WATER SUPPLY.

(A) When a proposed condominium is located within, adjacent to or within a distance defined in the then existing city code of the service area of an available public water supply system, the water mains, fire hydrants and required water system appurtenances thereto, as approved by the City Engineer and built to standards defined and identified by the city, shall be installed by the developer in such a manner as to adequately serve all condominium units in the initial phase of construction and designed to serve all subsequent phases if subsequent phases are contemplated as shown on the final condominium subdivision plan, both for domestic use or business use and for fire protection.

(B) (1) The city shall require all public water lines and appurtenances extending to the point of a tap, and further to include the shut off box, to a private use be built to city standards and installed within the right-of-way or within the general commons and conveyed and/or dedicated to the public when, in the opinion of the city, conveyance and/or dedication of the same would be in the best interest of the public.

(2) City water services which have been dedicated to the public and accepted by the city shall thereafter be regulated by the city code and subject to design standards of the city and have associated assessments assigned to the appropriate property owner(s), if such assessments should be required. In the event of the nonavailability of a public water supply system, a private water supply system shall be provided by the developer as regulated by the city and county in which the private water supply is to be installed and/or the state.

(Ord. 155, passed 3-18-2003)

### § 150.117 STREETS.

(A) *Standards.*

(1) All streets and their contents shall be constructed to standards identified and defined by the city and shall require the formal approval of the City Engineer at appropriate events of construction selected by the City Engineer and upon completion of the street construction and the installation of its contents.

(2) All streets and their contents shall be installed by the developer and remain the private ownership of the condominium association or its legal equivalent, except for public sewer and/or public water lines and their appurtenances which shall be conveyed and/or dedicated to the public if the city deems those action(s) to be in the best interest of the public. All streets shall be located within the appropriate Street right-of-way as set forth in § 150.113(B)(1) and have pavement widths as set forth in § 150.113(B)(2) and be so located as to provide access to all commons areas.

(3) Building envelopes for lots or yards facing a three-way intersection shall be aligned to prevent oncoming headlight glare into the living area of the dwelling.

(B) *Street names and signs.* For the purpose of ensuring proper response by emergency vehicles, road name signs and traffic control signs shall be installed within the condominium subdivision in accordance with the standards of the city. Street names shall be designated in a manner so as not to duplicate or be confused with preexisting streets within the city or postal zone. For private streets, in addition to the above requirements, a sign meeting the city standards, with the words “NOT A PUBLIC STREET” shall be installed and maintained at all points where private streets meet public streets.

(C) *Street lighting.* For the purpose of protecting public safety, street lights meeting the standards of the city and the public utility providing the lighting shall be installed by the developer and maintained within the condominium subdivision at all street intersections. The association of co-owners shall be responsible for the full cost of operation and maintenance of the street lights on private streets.

(D) *Street parking.* Street parking shall only be allowed in areas designed specifically to accommodate vehicle parking and approved by the Council during the site plan approval. All public and private streets shall be constructed to accommodate vehicle parking on at least one side, as shown in the site plan and approved by City Council.

(Ord. 155, passed 3-18-2003)

### § 150.118 PUBLIC SIDEWALKS.

Sidewalks shall be constructed by the developer in compliance with city standards and located within the public right-of-way along existing public roadways on the side or sides of the roadway abutting the condominium development. If sufficient land is unavailable within the then existing public right-of-way, then the developer shall transfer sufficient land from the project to the public right-of-way to permit sidewalks to be constructed. These sidewalks shall be dedicated to the public. Maintenance and clearing of any sidewalk associated with the condominium project which has been dedicated to the public shall be maintained and cleared under the same regulations and procedures as applies to all other public sidewalks within the city.

(Ord. 155, passed 3-18-2003)

### § 150.119 STREET MAINTENANCE.

All private streets and their contents which have not been conveyed and/or dedicated to the public shall be responsibly and timely maintained by their ownership. The streets and its contents shall be kept in good repair. Accumulations of snow, ice and standing water shall be promptly removed. Appropriate actions shall be taken by the property owners to minimize the safety hazards to vehicles and pedestrians. The master deed shall contain adequate mechanisms to ensure that streets and walkways shall be properly maintained. Such provisions within the final master deed, restricted covenants and/or bylaws shall be reviewed and approved by the City Engineer and City Attorney.

(Ord. 155, passed 3-18-2003)

### § 150.120 STREETS AND LANDSCAPING.

(A) It shall be the intent of the Planning Commission to recommend site plans which promote the presence of a natural environment along the streetscape by including suitable and appropriate plantings such as trees and the like which develop in a way which is consistent with the safety aspects of vehicles and pedestrians. This requirement may be waived by the Planning Commission in cases where the site contains substantial woodlands which are to be preserved and where, in the opinion of the Planning Commission, no useful public purpose would be served. Unless otherwise approved by the city, street trees, when required, shall be planted within the strip between the sidewalk and the pavement.

(B) Tree species should be selected for tolerance of the harsh roadside conditions, for compliance with sight distance requirements, to ensure maintenance of accessability to fire hydrants, to provide a minimum overhead clearance of 15 feet over any street and eight feet over a sidewalk or bike path and to avoid interference with overhead or underground utility lines.

(C) Plantings within 15 feet of a fire hydrant shall be no taller than six inches.

(D) The development and planting of required shade trees and landscaping shall be the responsibility of the developer/proprietor; not the individual resident.

(E) Street trees shall be at least 50 feet from the intersection of two street right-of-way lines or access easements. Street trees shall be placed to avoid future driveway locations.

(F) Street trees shall be at least five feet from the edge of any paved surface.

(G) All unimproved surface area of the commons or parcel shall be planted with grass, ground cover, shrubbery or other suitable landscape materials, except where patios, terraces, decks, driveways and similar site features are allowed.

(Ord. 155, passed 3-18-2003)

### § 150.121 GREENBELTS AND NATURAL FEATURES.

(A) Due regard shall be shown for all natural features such as large trees, natural groves and similar community assets that will add attractiveness and value to the property if preserved. Existing trees shall be preserved wherever possible and removal must be justified to the city.

(B) Greenbelts acceptable to the city may be required to be placed next to incompatible features such as highways, commercial or industrial uses in order to screen the view from residential properties. Such screens or greenbelts shall be a minimum of 15 feet wide and shall not be a part of the normal roadway right-of-way or utility easement.

(C) Top soil removal from areas to be developed shall be prohibited except in those areas to be occupied by buildings, roads or parking areas. A plan for storage or stockpiling and redistribution of all topsoil removed shall be submitted by the proprietor and requires approval by the city.

(Ord. 155, passed 3-18-2003)

### § 150.122 EASEMENTS FOR UTILITIES.

(A) The condominium subdivision plan shall include all necessary easements granted to the city for the purpose of constructing, operating, inspecting, maintaining, repairing, altering, replacing and/or moving pipelines, mains, conduits, and other installations of a similar character (hereinafter collectively called “public structures”) for the purpose of providing public utilities, including conveyances of sewage, water, and storm water run-off across, through and under the property subject to said easement, and excavating and refilling ditches and trenches necessary for the location of such public structures.

(B) Adjacent surrogate lots or condominium units shall not share the same space.

(Ord. 155, passed 3-18-2003)

### § 150.123 ISSUANCE OF BUILDING PERMITS.

(A) Upon final approval of the plan by the City Council, three prints of the plan shall be delivered by the proprietor to the city office: one to the Clerk, one to the Department of Public Works and one to the Building Department.

(B) Upon final approval of the plan by the City Council, prior to the initiation of improvements, the proprietor shall deliver to the City Clerk a copy of the recorded master deed, restrictive covenants and bylaws.

(C) Prior to issuance of a building permit for condominium units, the developer shall demonstrate to the Building Department approval by the county(s) and state entities having jurisdiction with regard to any aspect of the development.

(D) Prior to issuance of a building permit for condominium units, the City Engineer shall verify that all improvements such as, but not limited to, streets, water supply, sewage disposal, storm drainage and other utilities have been completed or are in a timely schedule, in accordance with the approved plan.

(Ord. 155, passed 3-18-2003)

### § 150.124 CERTIFICATE OF OCCUPANCY.

(A) Prior to issuing a building occupancy certificate, the developer shall provide to the Building Inspector an “as built survey” for the condominium unit, including its location, which verify that the subject unit is in compliance with all provisions of the approved zoning and planning ordinances.

(B) The Building Official may allow occupancy of the condominium development before all improvements required by this subchapter are installed, provided that a cash performance guaranty, a certified check or an irrevocable bank letter of credit is submitted sufficient in amount and type to provide for the installation of improvements, without expense to the city. The return of the funds may be phased as certain improvements are completed.

(C) All improvements shall be completed within a time period specified by the City Building Inspector but in no instance shall the time be greater than six months from the date of issuance of the temporary certificate of occupancy. If the improvements are not made within the specified time limits, the entire performance guaranty shall be forfeited in full to the city.

(Ord. 155, passed 3-18-2003)

### § 150.125 CONSTRUCTION; REVIEW AND ACCEPTANCE.

(A) The following information and exhibits shall be submitted by the proprietor:

(1) An “as built site plan survey” for the condominium project, on reproducible drawing material and approved by the City Engineer. The City Engineer shall determine that the project is complete to the approved plan and in compliance with the applicable city ordinances (two copies shall be submitted);

(2) A survey drawing showing the placement of all required monuments to the standards set by M.C.L.A. § 560.125 as defined in § 150.113(F); and

(3) Verification that inspections and/or approvals, as required, have been obtained.

(B) In return, the city shall submit a release to the developer or proprietor bond monies and other sums due.

(Ord. 155, passed 3-18-2003)

### § 150.126 ADDITIONAL REGULATIONS AND REMEDIES.

(A) *Amendments.* Any amendment of the master deed, covenants or bylaws which would involve any subject matter reviewed during the final plan review must be submitted for review by the Planning Commission and approval of the City Council prior to the authorization and recording of the amendment.

(B) *Site plans for expandable or convertible projects.* Prior to expansion or conversion of a condominium project to additional land, the new phase of the project shall undergo site plan review and approval, pursuant to this subchapter.

(C) *Encroachment prohibited.* Encroachment of one condominium unit upon another as described in § 40 of the Condominium Act, Public Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.276, as amended, shall be prohibited by the condominium bylaws and recorded as part of the master deed.

(D) *Relocation of boundaries*.

(1) The relocation of boundaries, as described in § 48 of the Condominium Act, Public Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.276, as amended, shall conform to all setback and spatial requirements of this subchapter for the district in which the project is located and shall be reviewed by the Planning Commission and considered for approval by City Council.

(2) This requirement shall be made part of the bylaws and recorded as part of the master deed.

(E) *Mobile home condominium project.* A mobile home condominium project shall conform to all of the requirements of this subchapter.

(F) *Conflicting regulations.* Where other sections of this chapter are in conflict with this subchapter, the provisions of this subchapter shall control.

(Ord. 155, passed 3-18-2003)

## LAND DIVISIONS

### § 150.140 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***APPLICANT.*** A natural person, firm association, partnership, corporation or combination of any of them that holds an ownership interest in land, whether recorded or not.

***BOUNDARY ADJUSTMENT.*** Adjusting, moving or modifying a boundary line between two or more adjacent parcels.

***CITY CLERK.*** The Clerk for the City of Memphis.

***DIVIDE*** and ***DIVISION.***

(1) The partitioning or splitting of a parcel or tract of land by the proprietor, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of §§ 108 and 109 of the State Land Division Act, being M.C.L.A. §§ 560.108, 560.109.

(2) The terms ***DIVIDE*** and ***DIVISION*** do not include a property transfer between two or more adjacent parcels if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the State Land Division Act, this subchapter and other applicable ordinances.

***EXEMPT SPLIT*** and ***EXEMPT DIVISION.*** The partitioning or splitting of a parcel or tract of land by the proprietor or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent, provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements or through areas owned by the owner of the parcel that can provide such access.

***FORTY ACRES OR THE EQUIVALENT.*** Either 40 acres, a quarter-quarter section containing not less than 30 acres or a government lot containing not less than 30 acres.

***PLANNING COMMISSION.*** The Planning Commission for the City of Memphis.

(Ord. 161, passed 11-4-2003)

### § 150.141 PRIOR APPROVAL.

Land in the city shall not be divided without the prior review and approval of the Planning Commission in accordance with this section and the State Land Division Act; provided that the following shall be exempted from this requirement: a parcel proposed for a subdivision, including but not limited to condominiums, through a recorded plat pursuant to the State Land Division Act; and an exempt split.

(Ord. 161, passed 11-4-2003)

### § 150.142 APPLICATION.

(A) An applicant shall file all of the following with the City Clerk or the Planning Commission for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year or for building development:

(B) A completed application known as “City of Memphis Parcel Division/Combination Application” and any other such form as may be provided by the city;

(1) Proof of ownership of the land proposed to be divided;

(2) A tentative parcel map drawn to scale, including an accurate legal description of each proposed division and showing the boundary lines, approximate dimension and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities;

(3) Proof that all standards of the State Land Division Act and this section have been met;

(4) The history and specifications of the land proposed to be divided sufficient to establish that the proposed division complies with § 108 of the State Land Division Act, being M.C.L.A. § 560.108; and

(5) If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of

the proposed division rights transfer.

(C) Unless a division creates a parcel which is acknowledged and declared to be not a development site, all divisions shall result in buildable parcels with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available), access to existing public utilities and public roads, and maximum allowed area coverage of buildings and structures on the site. Declared agricultural land and land for forestry use shall not be subject to the foregoing as development sites as provided in the State Land Division Act at § 102, being M.C.L.A. § 560.102.

(D) The fee, as may be established by resolution of the city for land division reviews pursuant to this subchapter, to cover the costs of review of the application and administration of this section and the State Land Division Act, including mapping, legal costs and review costs.

(Ord. 161, passed 11-4-2003)

### § 150.143 REVIEW; PROCEDURE.

(A) (1) The Planning Commission shall approve with reasonable conditions to ensure compliance with applicable ordinances and the protection of public, health, safety and general welfare or disapprove the land division applied for within 45 days after receipt of the application package, conforming to this sections requirements, and shall promptly notify in writing the applicant of the decision and the reasons for any denial.

(2) If the application package does not conform to this section's requirements and the State Land Division Act, the City Clerk shall return the package to the applicant for completion and refiling in accordance with this section and the State Land Division Act.

(B) Any person aggrieved by the decision of the Planning Commission may, within 30 days of the decision, appeal the decision to the City Council, which shall consider and resolve such appeal by a majority vote of the board at its next regular meeting or session affording sufficient time for a 20-day written notice to the applicant (and appellant where other than the applicant) of the time and date of the meeting and appellate hearing.

(C) The City Clerk shall maintain an official record of all approved and accomplished land divisions or transfers.

(Ord. 161, passed 11-4-2003)

### § 150.144 STANDARDS FOR APPROVAL.

A proposed land division shall be approved if the following criteria are met.

(A) All the parcels to be created by the proposed land division fully comply with the applicable lot (parcel), yard and area requirements of pertinent ordinances, including but not limited to minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures or have received a variance from such requirements from the appropriate Zoning Board of Appeals.

(B) The proposed land divisions comply with all requirements of the State Land Division Act and this subchapter.

(C) All parcels created and remaining have existing adequate accessibility or an area available for accessibility, to a public road for public utilities and emergency and other vehicles not less than the requirements of all applicable ordinances.

(D) The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements or nondevelopment sites. The depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement. The width of a parcel shall be measured at the abutting road or right-of-way line or as otherwise provided in any applicable ordinances.

(Ord. 161, passed 11-4-2003)

### § 150.145 BOUNDARY ADJUSTMENTS.

(A) Lots and parcels in the city shall undergo a site plan review before the Planning Commission prior to a boundary adjustment. The applicant for a boundary adjustment shall submit an application as approved by the City Council together with a before and after boundary survey with dimensions, the location of existing easements, buildings and other fixtures and the proposed amended legal descriptions for the parcels or lots to be affected by the proposed boundary adjustment.

(B) (1) The Planning Commission shall review each proposed boundary adjustment and resultant lot or parcel for conformity with all applicable zoning regulations including, but not limited to, depth to width ratios, lot area and setback requirements.

(2) The fee for review of a proposed boundary adjustment shall be the same as required for the review of a proposed land division. Approval of a boundary adjustment by the Planning Commission shall not excuse the applicant from any other approvals as may be required by state, county or other local agencies.

(Ord. 161, passed 11-4-2003)

### § 150.146 NONCOMPLIANCE.

Any parcel created in noncompliance with this subchapter shall not be eligible for any building permits or zoning approvals, such as conditional land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this subchapter shall subject the violator to the penalties and enforcement actions set forth by city or state law.

(Ord. 161, passed 11-4-2003) Penalty, § 150.999

### § 150.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) Any person, firm or corporation violating any of the provisions of §§150.001 through 150.011, 150.025 through 150.035, 150.050 through 150.054, 150.057 and 150.075 through 150.078 shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than $25 nor more than $500 for each conviction or shall be punished by imprisonment for a period not to exceed 90 days for each offense, or by both such fine and imprisonment in the discretion of the court together with the costs of such prosecution.

(1979 Code, § 5.161)

(2) A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

(1979 Code, § 5.164)

(3) The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(1979 Code, § 5.165)

(C) (1) Any person who violates any of the provisions of §§150.115 through 150.121 shall be deemed guilty of a misdemeanor and shall be punished in accordance with the general penalty provisions of city ordinance or under state law

(2) Any person who violates any of the provisions of §§150.115 through 150.121 shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

(Ord. 62, passed 5-15-1978; Ord. 161, passed 11-4-2003)

# CHAPTER 151: SUBDIVISIONS

Section

## GENERAL PROVISIONS

### § 151.01 SHORT TITLE.

This chapter shall be known and may be designated as the “City of Memphis Subdivision Regulations Ordinance”.

(1979 Code, § 5.271) (Ord. 45, passed 6-6-1972)

### § 151.02 PURPOSES.

The purposes of this chapter are as follows:

(A) To provide for the orderly growth and harmonious development of the community;

(B) To secure adequate traffic circulation through coordinated street systems with relation to major thoroughfares, adjoining subdivisions and public facilities;

(C) To achieve individual property lots of maximum utility and livability;

(D) To secure adequate provisions for water supply, drainage and sanitary sewerage and other health requirements;

(E) To secure adequate provisions for recreational areas, school sites and other public facilities; and

(F) To provide logical procedures for the achievement of these purposes.

(1979 Code, § 5.272) (Ord. 45, passed 6-6-1972)

### § 151.03 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(B) The definitions for terms defined in the Subdivision Act, M.C.L.A. §§ 560.101 to 560.293 shall control in the interpretation of this chapter unless indicated to the contrary in this section.

***ALLEY.*** A minor service street used primarily to provide secondary vehicular access to the rear or side of properties otherwise abutting upon a street.

***BLOCK.*** Property abutting one side of a street and lying between the two nearest intersecting streets or between the nearest such street and railroad right-of-way, unsubdivided acreage, river or live stream; or between any of the foregoing and any other barrier to the continuity of development.

***BOULEVARD STREET.*** A street developed to two two-lane, one-way pavements separated by a median.

***CITY PLANNER*** or ***CONSULTING PLANNER.*** The Staff Planner or Consulting Planner of the city.

***COLLECTOR STREET.*** A street intended to serve as a major means of access from minor streets to major thoroughfares which has considerable continuity within the framework of the major thoroughfare plan.

***COMMISSION.*** The Planning Commission of the City of Memphis.

***CLERK.*** The City Clerk.

***CUL-DE-SAC STREET.*** A short minor street having one end permanently terminated by a vehicular turn-around.

***EASEMENT.*** A grant by the owner of the use of a strip of land by the public, a corporation or persons, for specific uses and purposes, to be designated as a ***PUBLIC OR PRIVATE EASEMENT*** depending on the nature of the use.

***ENGINEER*** or ***CONSULTING ENGINEER.*** The City Engineer.

***FILING DATE.*** For the purpose of these regulations, the filing date shall be the initial meeting date at which the plan for preliminary plat (stage 1), preliminary plat (stage 2), tentative or final plat review appears on the Planning Commission or City Council’s regular meeting agenda.

***FINAL PLAT.*** A map of all or part of a subdivision providing substantial conformance to the preliminary plat (stage 2) of the subdivision prepared in conformance with the requirements of the Subdivision Act, M.C.L.A. §§ 560.101 to 560.293 and

this chapter and suitable for recording by the County Register of Deeds.

***IMPROVEMENTS.*** Grading, street surfacing, curb and gutter, sidewalks, crosswalks, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities and other additions to the natural state of land which increases its value, utility or habitability.

***LOT.*** A measured portion of a parcel or tract of land, which is described or fixed in a recorded plat.

***MARGINAL ACCESS STREET.*** A minor street parallel and adjacent to a major thoroughfare which provides access to abutting properties and protection from through traffic.

***MAJOR STREETS OR THOROUGHFARE PLAN.*** The part of the Master Plan which sets forth the location, alignment and dimensions of existing and proposed streets and thoroughfares.

***MAJOR THOROUGHFARE.*** An arterial street of great continuity which is intended to serve as a large volume traffic-way for both the immediate city areas and region beyond, and may be designated in the city's major thoroughfare plan as a major thoroughfare, parkway, expressway or equivalent term to identify those streets comprising the basic structure of the street plan.

***MASTER PLAN.*** The comprehensive land use plan for the city, including graphic and written proposals indicating the general locations recommended for the streets, parks, schools, public buildings, zoning districts, and all physical developments of the city, and includes any unit or part of such plan separately adopted, and any amendments to such plan or parts thereof duly adopted by the Planning Commission.

***MINOR STREET.*** A street of limited continuity used primarily for access to abutting residential properties.

***PARCEL*** or ***TRACT.*** A continuous area or acreage of land which can be described as provided for in the Subdivision Act, M.C.L.A. §§ 560.101 to 560.293.

***PLAT.*** A map or chart of a subdivision of land.

***PRELIMINARY PLAT (STAGE 1).*** A map indicating the proposed layout of the subdivision in sufficient detail to provide adequate basis for review and to meet the requirements and procedures set forth in this chapter.

***PRELIMINARY PLAT (STAGE 2).*** A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration prepared in conformance with the Subdivision Act, M.C.L.A. §§ 560.101 to 560.293.

***PROPRIETOR.*** A natural person, firm, association, partnership, corporation or combination of any of them which may hold any ownership interest in land, whether recorded or not.

***STREET.*** Any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing state, county or municipal roadway; or a street or way shown in a plat heretofore approved pursuant to law or approved by official action or, a ***STREET*** or way on a plat duly filed and recorded in the office of the County Register of Deeds. A street includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and lawns.

***TURN-AROUND.*** A short boulevard street permanently terminated by a vehicular turn-around.

***SUBDIVISION ACT.*** The Subdivision Control Act, Public Act 288 of 1967, being M.C.L.A. §§ 560.101 through 560.293, as amended.

***SUBDIVISION.*** The partitioning or dividing of a parcel or tract of land by the proprietor thereof, or by his or her heirs or assigns, for the purpose of sale or lease of more than one year or building development where the act of division creates five or more parcels of land, each of which is ten acres or less in area or five or more parcels of land, each of which is ten acres or less in area are created by successive divisions within a period of ten years.

***ZONING CHAPTER.*** Chapter 150 of the city code.

(1979 Code, § 5.273) (Ord. 45, passed 6-6-1972)

### § 151.04 COMPLIANCE STANDARDS.

The approvals required under the provisions of this chapter shall be obtained prior to the installation of any subdivision or project improvements within the city, in public streets, public alleys, public rights- of-way and public easements and/or under the ultimate jurisdiction of the city. All subdivision or project improvements within the city installed in public streets, public alleys, public rights-of-way or public easements and/or under the ultimate jurisdiction of the city shall comply with all of the provisions and requirements of this code.

(1979 Code, § 5.314) (Ord. 45, passed 6-6-1972)

### § 151.05 INTERPRETATION.

The provisions of this chapter shall be held to be the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of the city. This chapter is not intended to repeal, abrogate, annul or in any manner interfere with nor conflict with any statutes of the state except that these regulations shall prevail in cases where these

regulations impose a greater restriction than is provided by existing statutes, laws or regulations.

(1979 Code, § 5.315) (Ord. 45, passed 6-6-1972)

### § 151.06 FEES.

(A) (1) Preliminary plat (stage 1 and 2) and final plat review fees, planning fees, engineering fees, attorney fees, inspection fees, water and sewer connection charges and other applicable development charges shall be paid by the proprietor as may be provided for by ordinance or resolution of the City Council as a condition of final plat approval.

(2) The following shall be submitted by the developer and approved by the city prior to the release of bonds or other sums held by the city:

(a) An "as built site plan survey" for the project (two copies), on reproducible drawing material and approved by the City Engineer. The City Engineer shall determine that the project is complete to the approved plan and in compliance with applicable city ordinances.

(b) A survey drawing showing the placement of all required monuments to the standards set by M.C.L.A. § 560.125, as amended.

(c) Verification that inspections and/or approvals, as required, have been obtained.

(1979 Code, § 5.316)

(B) Fees can be charged for the review of preliminary plats (stage 1) by the planner on the basis of the following schedule. There shall be no additional planner review fee charged for the preliminary plats (stage 2) or final plats which are in substantial conformance to a previously approved plat (stage 2).

(1) Conventional subdivision plats: $25 plus $0.50 per lot;

(2) Subdivision open space plats: $100 plus $0.70 per lot; and

(3) Multiple-family residential plats: $50 per dwelling unit.

(1979 Code, § 5.317)

(Ord. 45, passed 6-6-1972; Ord. 156, passed 3-18-2003)

### § 151.07 VARIANCE.

(A) *Variance for hardship.* The City Council may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the City Council shall prescribe only conditions that it deems necessary to, or desirable for, the public interest. In making its findings, as required herein below, the City Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivisions and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the City Council finds that:

(1) There are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of this land;

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner; and/or

(3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.

(1979 Code, § 5.321)

(B) *Variance for complete neighborhood.*

(1) The City Council may authorize a variance from these regulations in the case of a plan for a complete community or neighborhood where such development is permitted by Ch. 150 and which, in the judgment of the City Council, and after a recommendation is had from the Commission, provides adequate public spaces and includes provisions for efficient circulation, light and air and other needs, in making its findings, as required herein below, the City Council shall take into account the nature of the proposed use of and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed development upon traffic conditions in the vicinity.

(2) The City Council shall find that:

(a) There is adequate acreage and population in the proposed plan so as to support at least one elementary school;

(b) The standards and requirements of Ch. 150 are met;

(c) The Planning Commission has reviewed the plan and recommends its approval as having met the standards and intent of the Master Plan of land use as it relates to facility needs;

(d) In granting the variance, it shall be valid only as long as the plan for the complete neighborhood is carried out as approved. Any departure from the plan shall immediately rescind any variance granted; and

(e) The City Council shall establish a time schedule to be met on the various aspects of the complete neighborhood.

(C) *Application.* Application for any such variance shall be submitted in writing by the proprietor at the time the preliminary plat (stage 1) is filed, stating fully and clearly all facts relied upon by the proprietor and shall be supplemented with maps, plans or other additional data which may aid in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan.

(1979 Code, § 5.322)

(Ord. 45, passed 6-6-1972)

## SUBDIVISION PROCEDURE

### § 151.20 PHASES.

The preparation of a subdivision for platting shall be carried out through three phases: pre-preliminary plat; preliminary plat; and final plat, all in accordance with the procedure as follows.

(1979 Code) (Ord. 45, passed 6-6-1972)

### § 151.21 INITIAL INVESTIGATION.

(A) Prior to the preparation of a pre-preliminary plat, it is suggested that the proprietor meet informally with the city departments concerned to investigate the procedures and standards of the city with reference to these subdivision regulations and with the proposals of the Master Plan as they affect the area in which the proposed subdivision is located. The proprietor should not submit a pre-preliminary plat at this time.

(B) The proprietor should concern himself or herself with the following factors.

(1) The proprietor shall secure a copy ofCh. 150, this chapter, engineering specifications and other similar ordinances or controls relative to the subdivision and improvement of land so as to make himself or herself aware of the requirements of the city.

(2) The area for the proposed subdivision shall be properly zoned for the intended use.

(3) An investigation of adequacy of existing schools and the adequacy of public open spaces, including parks and playgrounds to serve the proposed subdivision, shall be made by the proprietor.

(4) The relationship of the proposed subdivision with respect to major thoroughfares and plans for widening of thoroughfares shall be investigated by the proprietor.

(5) Standards for sewage disposal, water supply and drainage of the municipality shall be investigated by the proprietor.

(1979 Code, § 5.281) (Ord. 45, passed 6-6-1972)

### § 151.22 PRE-PRELIMINARY PLAT.

(A) The procedure for the preparation and review of a preliminary plat requires tentative and final approval as follows.

(1) *Filing.*

(a) Ten copies of a valid and complete preliminary plat of the proposed subdivision, together with written application in triplicate and any other information required to be submitted under the Subdivision Act, M.C.L.A. §§ 560.101 to 560.293 shall be filed with the Clerk.

(b) Submittal with the Clerk shall be at least ten days prior to the regular Commission meeting (which meeting shall be considered as the date of filing) at which the proprietor will be scheduled to appear. Should any of the data required in this section be omitted, the Clerk shall notify the proprietor of the additional data required and Commission action shall be delayed until the required data is received. The Commission shall act on the pre-preliminary plat within 60 days after the date of filing unless the proprietor agrees to an extension of time in writing.

(B) *Identification and description.* The pre-preliminary plat shall include the following:

(1) Proposed name of subdivision;

(2) Location by section, town and range or by other legal description;

(3) Names and addresses of the proprietor, owner proprietor, and the planner, designer, engineer or surveyor who designed the subdivision layout. The proprietor shall also indicate his or her interest in the land;

(4) Scale of plat: one inch equals 100 feet as minimum acceptable scale;

(5) Date; and

(6) Northpoint.

(C) *Existing conditions.*

(1) The pre-preliminary plat shall include:

(a) An overall area map at a scale of not less than one inch equals 2,000 feet showing the relationship of the subdivision to its surroundings such as section lines and/or major streets or collector streets;

(b) Boundary line of proposed subdivision, section or corporation lines within or adjacent to the tract and overall property dimensions;

(c) Property lines of adjacent tracts of subdivided and unsubdivided land shown in relation to the tract being proposed for subdivision including those of areas across abutting roads;

(d) Location, widths, and names of existing or prior platted streets and private streets and public easements within or adjacent to the tract being proposed for subdivision, including those located across abutting roads;

(e) Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the tract being proposed for subdivision; and

(f) Topography to be based on U.S.G.S. datum and topographical survey maps at a minimum scale of one inch equals 100 feet showing existing grades of the land on a two-foot contour intervals shown prior to any land changes and to include any proposed finished final grades. (This requirement may be waived only with prior consent of the Planning Commission based on existing grades and the development plan).

(2) The school board or school superintendent of the school district having jurisdiction in the area concerned shall be informed and made aware of the proposed pre-preliminary plat by the proprietor. A letter or document from the school board or school superintendent indicating awareness of the proprietor's intentions shall be submitted to the Planning Commission as part of the pre-preliminary plat.

(D) *Proposed conditions.* The pre-preliminary plat shall include the following:

(1) Layout of streets indicating proposed street names, right-of-way widths and connections with adjoining platted streets and also the widths and location of alleys, easements and public walkways;

(2) Layout, numbers and dimensions of lots, including building setback lines showing dimensions;

(3) Indication of parcels of land intended to be dedicated or set aside for public use or for the use of property owners in the subdivision;

(4) An indication of the ownership and existing and proposed use of any parcels identified as "executed" on the pre-preliminary plat. If the proprietor has an interest or owns any parcel as "excepted", the pre-preliminary plat shall indicate how this property could be developed in accordance with the requirements of the existing zoning district in which it is located and with an acceptable relationship to the layout of the proposed pre-preliminary plat;

(5) An indication of system proposed for sewage by a method approved by the City Council and the City Engineer;

(6) An indication of system proposed for water supply by a method approved by the City Council and the City Engineer;

(7) An indication of storm drainage proposed by a method approved by the City Council and the City Engineer and, if involving county drains, the proposed drainage shall be acceptable to the County Drain Commissioner; and

(8) In a case where the proprietor wishes to subdivide a given area, but wishes to begin with only a portion of the total area, but wishes to begin with only a portion of the total area, the pre-preliminary plat shall include the proposed general layout for the entire area. The part which is proposed to be subdivided shall be clearly superimposed upon the overall plan in order to illustrate clearly the method of development which the proprietor intends to follow. Each subsequent plat shall follow the same procedure until the entire area controlled by the proprietor is subdivided.

(E) *Pre-preliminary plat review by Planning Commission.*

(1) The Clerk shall receive and check for completeness the pre-preliminary plat, as required under this section, if complete and basically in conformance with applicable municipal requirements. The Clerk shall place the proposal in the agenda of the next regular Commission meeting.

(2) The Clerk shall transmit a copy of the pre-preliminary plat to the City Engineer and the City Planner for their technical review and recommendations.

(3) The Commission shall review all details of the proposed subdivision within the framework of Ch. 150, within the various elements of the Master Plan and within the standards of this subchapter.

(5) The Commission shall approve conditionally, disapprove or approve the pre-preliminary plat.

(6) Should the approval be a conditional approval and therefore tentative, the pre-preliminary plat shall not be forwarded to the City Council until said conditions have been satisfied by the proprietor.

(7) Should the Commission disapprove the pre-preliminary plat, it shall record the reasons in the minutes of the regular meeting. A copy of the minutes shall be sent to the proprietor.

(8) Should the Commission find that all conditions have been satisfactorily met, it may give approval to the pre-

preliminary plat. The Chairperson shall make a notation to that effect on each copy of the pre-preliminary plat and distribute copies of same as follows:

(a) Return one copy to the proprietor;

(b) Retain one copy which shall become a matter of permanent record in the Commission files;

(c) Forward one copy to the school board or school superintendent of the school district having jurisdiction in the area concerned; and

(d) Forward the remaining copies to the City Council via the Clerk's office with recommendation for approval.

(F) *Pre-preliminary plat review by City Council.*

(1) The City Council will not review a pre-preliminary plat until it has received the review and recommendations of the Commission. Following the receipt of such recommendations, the City Council shall consider the pre-preliminary plat at such meeting that the matter is placed on the regularly scheduled agenda. The City Council shall take action on the pre-preliminary plat within 90 days of the date of filing, as defined herein.

(2) Should the City Council approve the pre-preliminary plat, it shall be deemed to confer upon the proprietor the right to proceed with the preparation of a preliminary plat.

(3) Approval of the pre-preliminary plat shall not constitute approval of the preliminary plat. It shall be deemed as approval of the layout submitted on the pre-preliminary plat as a guide to the preparation of a preliminary plat.

(4) The approval of the City Council shall be effective for a period of 12 months. Should the preliminary plat, in whole or in part, not be submitted within this time limit, a pre-preliminary plat must again be submitted to the Commission for approval.

(5) No installation or construction of any improvements shall be made at this time.

(1979 Code, § 5.282) (Ord. 45, passed 6-6-1972; Ord. 156, passed 3-18-2003)

## § 151.23 PRELIMINARY PLAT.

(A) *Procedure.* The procedure for the preparation and review of a preliminary plat requires tentative and final approval as follows.

(1) Ten copies of a valid and complete preliminary plat of the proposed subdivision, together with written application in triplicate and any other information required to be submitted under the Subdivision Act, M.C.L.A. §§ 560.101 to 560.293 shall be filed with the Clerk.

(2) The preliminary plat shall conform substantially to the pre-preliminary plat as approved, and it may constitute only that portion of the approved pre-preliminary plat which the proprietor proposed to record and develop at the time; provided, however, that such portion conforms to this subchapter.

(3) The Clerk shall check the proposed plat for completeness. Should any of the data required in the Subdivision Act, M.C.L.A. §§ 560.101 to 560.293 or § 151.22 be omitted, the Clerk shall be directed to inform the proprietor of the data required, that the application will be delayed until the required data is received.

(4) The Clerk shall transmit a copy of the valid and complete preliminary plat to the City Engineer and City Planner for their technical review and recommendations.

(B) *Planning Commission review; tentative approval.*

(1) The Clerk shall place the preliminary plat on the agenda of the next regular Planning Commission meeting.

(2) It shall be the duty of the Clerk to send a notice by registered or certified mail to the owners of land immediately adjoining the property to be platted of the presentment of the preliminary plat and the time and place of the meeting of the Commission to consider said preliminary plat. Said notice shall be sent not less than five days before the date fixed therefor.

(3) The preliminary plat shall be reviewed by the City Engineer as to compliance with the approved pre-preliminary plat and plans for utilities and other improvements.

(4) The City Engineer shall notify the Commission of his or her recommendation for either approval or rejection of the preliminary plat.

(5) The preliminary plat documents shall be reviewed by the Commission as to compliance with the approved pre-preliminary plat.

(6) Should the Commission find that the preliminary plat is in close agreement with the pre-preliminary plat, it shall approve same and notify the City Council of this action in its official minutes and forward the same, together with all accompanying data, to the City Council for its review.

(7) Should the Commission find that the preliminary plat does not conform substantially to the previously approved pre-preliminary plat and that it is not acceptable, it shall record the reason in their official minutes and forward same together with all accompanying data to the City Council and recommend that the City Council disapprove the preliminary plat until the objections causing disapproval have been changed to meet with the approval of the Commission.

(C) *City Council; tentative approval.*

(1) The City Council will not review a preliminary plat until it has received the review and recommendations of the Commission. Following the receipt of such recommendations, the City Council shall consider the preliminary plat at such meeting that the matter is placed on the regularly scheduled agenda. The City Council shall take action on the preliminary plat within approximately 60 days of the date of initial filing of the plat with the Clerk.

(2) Should the City Council tentatively approve the preliminary plat, it shall record its approval on the plat and return one copy to the proprietor.

(3) Tentative approval shall not constitute final approval of the preliminary plat.

(4) Tentative approval of the City Council shall be effective for a period of 12 months. Should the preliminary plat in whole or in part not be submitted for final approval within this time, the preliminary plat must again be submitted to the Commission and City Council for approval unless an extension is applied for by the proprietor and such request is granted in writing by the City Council.

(D) *Preliminary plat review by City Council; final approval.*

(1) The proprietor shall file a valid preliminary plat with the Clerk together with a certified list of all authorities required for approval in the Subdivision Act, M.C.L.A. §§ 560.112 to 560.119. The proprietor shall also provide approved copies of plats from each of the required authorities.

(2) The City Council shall take action on the preliminary plat within approximately 60 days of the submission of all necessary approved plats.

(3) If the preliminary plat conforms substantially to the plat tentatively approved by the City Council and meets all conditions laid down for tentative approval, the City Council shall give final approval to the preliminary plat.

(4) The Clerk shall promptly notify the proprietor of approval or rejection in writing; if rejected, reasons shall be given.

(5) (a) Final approval shall be effective for a period of 12 months from the date of final approval.

(b) The 12-month period may be extended if applied for by the proprietor and granted by the City Council in writing. Approval by the City Council of a final plan shall confer upon the applicant the right to a building permit for a period of 12 months from and after approval.

(c) Upon receipt of a building permit, reasonable construction shall be commenced within twelve months and be reasonably continued thereafter or the project plan and the building permit shall be declared invalid unless the applicant requests and obtains a new approval (renewal) from the City Council and Building Inspector.

(d) Prior to the City Council and Building Inspector allowing a renewal, the Planning Commission shall apply as its standards in determining to recommend renewal, the city's then currently existing standards and requirements for approval.

(6) No installation or construction of any improvements shall be made before the preliminary plat has received final approval of the City Council, engineering plans have been approved by the City Engineer and any deposits required under §§ 151.55 through 151.58 have been received by the city.

(1979 Code, § 5.283) (Ord. 45, passed 6-6-1972; Ord. 156, passed 3-18-2003)

## DESIGN AND LAYOUT STANDARDS

### § 151.35 STANDARDS.

The subdivision layout standards set forth under this section are development guides for the assistance of the proprietor. All final plans must be reviewed and approved by the City Council.

(1979 Code)

### § 151.36 STREETS.

(A) *Minimum requirements.* Streets shall conform to at least all minimum requirements of the general specifications and typical cross-sections as set forth in this subchapter and other conditions set forth by the City Council. All streets and their contents shall be constructed to standards identified and defined by the city and shall require formal approval of the City Engineer at appropriate times during construction as selected by the City Engineer and also upon completion of the street construction and installation of its contents. All streets must be located within the designated street right-of-way.

(B) *Location and arrangements.*

(1) The proposed subdivision shall conform to the various elements of the Master Plan and shall be considered in relation to the existing and planned major thoroughfares and collector streets and such part shall be platted in the location and width indicated on such plan.

(2) The street layout shall provide for continuation of collector streets in the adjoining subdivisions or of the proper projection of streets when adjoining property is not subdivided.

(3) The street layout shall include minor streets so laid out that their use by through traffic shall be discouraged.

(4) Should a proposed subdivision border on or contain an existing or proposed major thoroughfare, the Commission may require marginal access streets, reverse frontage or such other treatment as may be necessary for adequate protection of residential properties and to afford separation and reduction of traffic hazzards.

(5) Should a proposed subdivision border on or contain a railroad, expressway or other limited access highway right-of-way the Commission may require the location of a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the development of an appropriate use of the intervening land such as for parks in residential districts. Such distances shall be determined with due consideration of the minimum distance required for approach grades to future grade separation.

(6) Half streets shall be prohibited, except where absolutely essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations and where the Commission finds it will be practicable to require the dedication of the other half when the adjoining property is developed. Wherever there exists, adjacent to the tract to be subdivided, a dedicated or platted and recorded half street, the other half shall be platted.

(C) *Right-of-way widths.*

(1) Street right-of-way widths shall conform to at least the following minimum requirements.

| ***Street Type*** | ***Right-of-Way Widths*** |
|---|---|
| ***Street Type*** | ***Right-of-Way Widths*** |
| Collector streets | 80 ft. |
| Cul-de-sac streets; turn-arounds; industrial | 75 ft. radius |
| Cul-de-sac streets; turn-arounds; residential and others | 60 ft. radius |
| Industrial service streets | 80 ft. |
| Major thoroughfare | 100 ft. |
| Marginal access streets | 34 ft. |
| Minor, single-family residential streets | 60 ft. |
| Multiple-family residential streets; where platted | 60 ft. |
| Turn-around loop streets | 120 ft. |

(2) Maximum length for residential cul-de-sac streets shall generally be 500 feet. Maximum length for industrial and other cul-de-sac streets may exceed 500 feet subject to the approval of the Commission.

(D) *Street grades.* For adequate drainage, the minimum street grade shall not be less than 0.5%. The maximum street grade shall be 6% except that the Commission may make an exception to this standard on the recommendation of the Engineer.

(E) *Street geometries.* Standards for maximum and minimum street grades, vertical and horizontal street curves and sight distances shall be established by ordinance or published rules of the City Council and shall in no case be less restrictive than the standards of the County Road Commission.

(F) *Street intersections.* Streets shall be laid out so as to intersect as nearly as possible to 90 degrees. Curved streets, intersecting with major thoroughfares and collector thoroughfares shall do so with a tangent section of centerline 50 feet in length, measured from the right-of-way line of the major or collector thoroughfare.

(G) *Grading and centerline gradients.* Per plans and profiles approved by the City Engineer.

(H) *Street jogs.* Street jogs with centerline offsets of less than 125 feet shall be avoided.

(I) *Street parking.* Street parking shall be allowed in areas designated specifically to accommodate vehicle parking and approved by the City Council during the site plan review and approval. All public and private streets shall be constructed to accommodate vehicle parking on at least one side, as shown on the site plan and approved by City Council.

(J) *Street maintenance.*

(1) All private streets and their contents which have not been conveyed and/or dedicated to the public shall be responsibly and timely maintained by their ownership. The streets and contents shall be kept in good repair. Accumulations of snow, ice and standing water shall be promptly removed. Appropriate actions shall be taken by the property owners to minimize safety hazards to vehicles and pedestrians.

(2) The master deed or subdivision covenants and restrictions shall contain adequate mechanisms to ensure that streets and sidewalks shall be properly maintained. Such provisions within the final master deed, restrictions and/or covenants shall be reviewed and approved by the City Engineer and City Attorney.

(1979 Code, § 5.291) (Ord. 45, passed 6-6-1972; Ord. 156, passed 3-18-2003)

**§ 151.37 BLOCKS.**

Blocks within subdivisions shall conform to the following standards.

(A) *Sizes.*

(1) Maximum length for blocks shall not exceed 1,400 feet in length, except where, in the opinion of the Commission, conditions may justify a greater distance.

(2) Widths of blocks shall be determined by the conditions of the layout and shall be suited to the intended layout.

(B) *Public walkways.*

(1) Location of public walkways or crosswalks may be required by the Commission to obtain satisfactory pedestrian access to public or private facilities such as, but not limited, to schools and parks.

(2) Widths of public walkways shall be at least 12 feet and shall be in the nature of an easement for this purpose.

(3) Sidewalks shall be constructed by the developer in compliance with city standards and located within public rights-of-way along existing public roadways on the side or sides of the roadway abutting the development. If sufficient land is unavailable within the then existing public right-of-way, the developer shall transfer sufficient land from the project to the public right-of-way to permit sidewalks to be constructed. These sidewalks shall be dedicated to public use. Maintenance and clearing of any sidewalk associated with the project which has been dedicated to public use shall be as for other public sidewalks within the city.

(C) *Easements.*

(1) Location of utility line easements shall be provided along the rear or side lot lines as necessary for utility lines. Easements shall give access to every lot, park or public grounds. Such easements shall be a total of not less than 12 feet wide, six feet from each parcel.

(2) Recommendations on the proposed layout of telephone and electric company easements should be sought from all of the utility companies serving the area. It shall be the responsibility of the proprietor to submit copies of the preliminary plat to all appropriate public utility agencies.

(3) Easements three feet in width shall be provided where needed along side lot lines so as to provide for street light dropouts. Prior to the approval of the final plat for a proposed subdivision, a statement shall be obtained from the appropriate public utility indicating that easements have been provided along specific lots. A notation shall be made on the final plat indicating: “The side lot lines between lots (indicating lot numbers) are subject to street light dropout rights granted to the (name of utility company)”.

(1979 Code, § 5.292) (Ord. 45, passed 6-6-1972; Ord. 156, passed 3-18-2003)

**§ 151.38 LOTS.**

Lots within subdivisions shall conform to the following standards.

(A) *Sizes and shapes.*

(1) The lot size, width, depth and shape in any subdivision proposed for residential uses shall be appropriate for the location and the type of development contemplated.

(2) Lot areas and widths shall conform to at least the minimum requirements of Ch. 150 for the district in which the subdivision is proposed.

(3) Building setback lines shall conform to at least the minimum requirements of Ch. 150.

(4) Corner lots in a residential subdivision shall be platted at least ten feet wider than the minimum width permitted by Ch. 150.

(5) Excessive lot depth in relation to width shall be avoided. A depth-to-width ratio of three to one shall normally be considered a maximum.

(6) Lots intended for purposes other than residential use shall be specifically designated for such purposes and shall have adequate provision for off-street parking, setbacks and other requirements in accordance with Ch. 150.

(B) *Arrangement.*

(1) Every lot shall front or abut on a street.

(2) Side lot lines shall be at right angles or radial to the street lines.

(3) Residential lots abutting major thoroughfares or collector streets, where marginal access streets are not desirable or possible to attain, shall be platted with reverse frontage lots or with side lot lines parallel to the major traffic streets or shall be platted with extra depth to permit generous distances between building and such traffic-way.

(4) Lots shall have a front-to-front relationship across all streets where possible.

(5) Where lots border upon bodies of water, the front yard may be designated as the waterfront side of such lot provided the lot has sufficient depth to provide adequate setback on the street side to maintain a setback for all structures

equal to the front setback on the street side as well as on the waterfront side.

(1979 Code, § 5.293) (Ord. 45, passed 6-6-1972; Ord. 156, passed 3-18-2003)

### § 151.39 NATURAL FEATURES AND GREENBELTS.

(A) The natural features and character of lands must be preserved wherever possible.

(B) Due regard must be shown for all natural features such as large trees, natural groves, water courses and similar community assets that will add attractiveness and value to the property, if preserved. Existing trees shall be preserved wherever possible and removal must be justified to the city.

(C) A soil and sedimentation permit from the appropriate county department which administers the State Soil Erosion and Sedimentation Act, Public Act 451 of 1994, M.C.L.A. §§ 324.9101 through 324.9223a, must be obtained if any earth is to be disturbed within 500 feet of a river, drain or natural watercourse.

(D) Greenbelts acceptable to the city may be required to be placed next to incompatible features such as highways, commercial or industrial uses in order to screen the view from residential properties. Such screens or greenbelts shall be a minimum of 15 feet wide and shall not be a part of the normal road right-of-way or utility easement.

(E) Topsoil removal from areas to be developed shall be prohibited except in those areas to be occupied by buildings, roads or parking areas. A plan for storage or stockpiling and redistribution of all topsoil removed shall be submitted by the proprietor and requires approval by the city.

(1979 Code, § 5.295) (Ord. 45, passed 6-6-1972; Ord. 156, passed 3-18-2003)

### § 151.40 FLOODPLAINS.

Any areas of land within the proposed subdivision which lie either wholly or in part within the floodplain of a river, stream, creek or lake or any other areas which are subject to flooding or inundation by storm water shall require specific compliance with the Subdivision Act, M.C.L.A. §§ 560.101 to 560.293 and its review by the Water Resources Commission of the Department of Conservation.

(1979 Code, § 5.296) (Ord. 45, passed 6-6-1972)

### § 151.41 SURVEY MONUMENTS REQUIRED.

All subdivision projects shall be marked with monuments meeting the standards of M.C.L.A. § 560.125, as amended.

(Ord. 156, passed 3-18-2003)

## IMPROVEMENTS

### § 151.55 GENERAL REQUIREMENTS.

(A) The improvements set forth under this subchapter are to be considered as the minimum acceptable standard. All those improvements for which standards are not specifically set forth shall have said standards set by ordinance or published rules of the City Council. All improvements must meet the approval of the City Council.

(B) Prior to the undertaking of any improvements, the proprietor shall deposit with the Clerk cash, a certified check or irrevocable bank letter of credit running to the city, whichever the proprietor selects, to ensure faithful completion of all improvements within the time specified. The amount of the deposit shall be set by the City Council based on an estimate by the Engineer. All improvements shall be constructed and approved by the city within a length of time agreed upon from the date of approval of the final plat by the City Council. The City Council shall release fluids for the payment of work as it is completed and approved by the city.

(C) Prior to the acceptance by the city of improvements, a two-year maintenance bond in an amount set by the City Council shall be posted by the proprietor.

(D) Improvements shall be provided by the proprietor in accordance with the standards and requirements established in this subchapter and/or any other such standards and requirements which may from time to time be established by ordinance or published rules of the City Council.

(E) The following are street pavement width standards.

| ***Street Type*** | ***Pavement Width*** <br> ***(Measured from the Face of the Curb to the Face of the Curb)*** |
|---|---|
| ***Street Type*** | ***Pavement Width*** <br> ***(Measured from the Face of the Curb to the Face of the Curb)*** |
| Alley | 20 ft. |

| | |
|---|---|
| Collector streets | 56 ft. |
| Cul-de-sac streets; turn-arounds; industrial | 65 ft. radius |
| Cul-de sac streets; turn-arounds; residential and other | 45 ft. radius |
| Industrial streets | 40 ft. |
| Major thoroughfare | In conformance with the standards and specifications established by the City Council |
| Marginal access streets | 24 ft. |
| Minor residential streets | 28 ft. |
| Multiple-family residential streets; dedicated streets | 56 ft. |
| Multiple-family residential streets; undedicated streets | 51 ft.; asphaltic or concrete pavement with concrete curbs and gutter on each side |
| Turn-around streets; loop streets | Not less than 80 ft. diameter at terminating loop |

(1979 Code, § 5.311) (Ord. 45, passed 6-6-1972)

### § 151.56 UTILITIES.

(A) *Requirements for underground wiring.*

(1) The proprietor shall make arrangements for all lines for telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely throughout a subdivided area, except for major thoroughfare right-of-way, and such conduits or cables shall be placed within private easements provided to such service companies by the developer or within dedicated public ways, provided only that overhead lines may be permitted upon written recommendation of the Engineer, planner, Commission and the approval of the City Council at the time of final plat approval where it is determined that overhead lines will not constitute a detriment to the health, safety, general welfare, plat design and character of the subdivision.

(2) All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the State Public Service Commission. All drainage and underground utility installations which traverse privately owned property shall be protected by easements granted by the proprietor.

(B) *Sewage disposal.*

(1) A sanitary sewer system, including all appurtenances, shall be required in all subdivisions which shall connect and outlet into the city sanitary sewer system. When a proposed subdivision is located within, adjacent to or within a distance defined in the then existing city code or the service area of an available public sanitary sewer system, then, sanitary sewers and other appurtenances thereto, as approved by the City Engineer and built to standards identified and defined by the city, shall be installed by the developer in such a manner as to serve all subdivision units in the initial phase of construction and designed to serve all subsequent phases if subsequent phases are contemplated.

(2) The city shall require all public sanitary sewer lines extending to the point of a tap, including the tap, to private use to be installed within the right-of-way or withing the general commons and conveyed and/or dedicated to the public when, in the opinion of the city, conveyance and/or dedication of the same would be in the best interest of the public. Sanitary accepted by the city shall thereafter be regulated by the city code and subject to design standards of the city and have associated assessments assigned to the appropriate property owner(s), if such assessments should be required.

(3) Where a public sewer system is not available, on-site sewage disposal may only be employed if approved by the county in which they are to be installed and/or the state.

(C) *Water supply.*

(1) A water supply system including appurtenances shall be required in all subdivisions which shall be connected to the city water supply system. When a proposed subdivision is located within, adjacent to or within a distance defined by the then existing city code of the service area of an available public water system then water mains, fire hydrants and required water system appurtenances thereto, as approved by the City Engineer and built to standards defined and identified by the city, shall be installed by the developer in such a manner as to adequately serve all subdivision units in the initial phase of construction and designed to serve subsequent phases if subsequent phases are contemplated as shown on the final subdivision plan, both for domestic use or business use and fire protection.

(2) The city shall require all public water lines and appurtenances extending to the point of a tap, and further to include the shut off box, to a private use be built to city standards and installed within the right-of-way or within the general commons and conveyed dedicated to the public when, in the opinion of the city, conveyance and/or dedication of the same would be in the best interest of the public. City water services which have been dedicated to the public and accepted by the city shall thereafter be regulated by the city code and subject to design standards of the city and associated assessments assigned to the appropriate property owner(s), if such assessments should be required. In the event of the nonavailability of

a public water supply system, a private water supply system shall be provided by the developer as regulated by the city and county in which the private water supply is to be installed and the state, if applicable.

(D) *Storm drainage system.*

(1) An adequate storm drainage system including necessary storm sewers, catch basins, manholes, culverts, bridges and other appurtenances shall be required in all subdivisions. Adequate provision shall be made for proper drainage of storm water run-off from residential rear yards. Each yard shall be self-contained and shall be drained from rear to front except where topography or other natural features require otherwise.

(2) The city may require that all storm sewers be installed within the right-of-way or within the general commons and conveyed and/or dedicated to the public when, in the opinion of the city, conveyance and/or dedication of the same would be in the best interest of the public. Storm drains which have been dedicated to the public and accepted by the city shall thereafter be regulated by the city code and subject to design standards of the city and have associated assessments assigned to the appropriate property owner(s), if such assessments should be required.

(3) A detention basin is required for all subdivisions, unless the property is located adjacent to an existing body of water and the petitioner submits a hydraulic study prepared by a registered engineer which shows the run-off from the development will not adversely affect any downstream properties. Any run-off from a subdivision project which enters a body of water under the jurisdiction of the MDEQ must be approved by the MDEQ. A sedimentation basin shall be provided for all subdivisions that do not require detention.

(4) No detention or retention pond shall be placed within a residential lot or yard. Detention and retention ponds in residential developments shall be placed in outlots (an area within a development which is restricted from use for building), so dedicated with appropriate easements for drainage purposes.

(E) *Easements for utilities.* The subdivision plan shall include all necessary easements granted to the city for the purpose of constructing, operating, inspecting, maintaining, repairing, altering, replacing and/or moving pipelines, mains, conduits and other installations of a similar nature (hereafter called, “public structures”) for the purpose of providing public utilities, including conveyances of sewage, water and storm run-off across, through and under the property subject to such easement, and excavating and refilling ditches and trenches necessary for the location of such public structures.

(1979 Code, § 5.312) (Ord. 45, passed 6-6-1972; Ord. 156, passed 3-18-2003)

## § 151.57 OTHER IMPROVEMENTS.

(A) *Sidewalks.*

(1) *Major thoroughfares.* A five-foot wide concrete sidewalk located one foot from the property line on the side or sides of the roadway abutting the subdivision shall be provided. In those instances where no good purpose would be served by the provision of sidewalks, the City Council may waive this requirement.

(2) *Collector streets.* A five-foot concrete sidewalk located one foot from the property line on each side of the roadway shall be provided. In those instances where no good purpose would be served by the provision of sidewalks, the City Council may waive this requirement.

(3) *Minor streets.* A five-foot concrete sidewalk located one foot from the property line on each side of the roadway shall be provided. In those instances where no good purpose would be served by the provision of sidewalks, the City Council may waive this requirement.

(4) *Marginal access streets.* A five-foot concrete sidewalk located one foot from the property line on the private property side of the roadway shall be provided. In those instances where no good purpose would be served by the provision of sidewalks, the City Council may waive this requirement.

(5) *Public walkways.* The surface of the walkways shall be developed in concrete. Planting pockets shall be provided in public walkways for tree and shrub planting. The planting plan and surface treatment shall meet the approval of the Commission. Fences and/or other improvements may also be required if the Commission and/or City Council determines they are necessary to protect the adjacent property owners.

(B) *Trees and landscaping.*

(1) Existing trees near street rights-of-way shall be preserved by the proprietor. Street trees shall be provided at least one per lot, and shall be placed in the separation strip at such location as required by the Planning Commission.

(2) It shall be the intent of the Planning Commission to recommend site plans which promote the presence of a natural environment along the streetscape by including suitable and appropriate plantings such as trees and the like which develop in a way consistent with the safety aspects of vehicles and pedestrians.

(3) This requirement may be waived by the Planning Commission in cases where the site contains substantial woodlands which are to be preserved, and where, in the opinion of the Planning Commission, no useful public purpose would be served. Unless, otherwise approved by the city, street trees, when required, shall be planted within the strip between the sidewalk and the pavement.

(4) Tree species should be selected for tolerance of the harsh roadside conditions, for compliance with sight distance requirements, to ensure maintenance of accessibility to fire hydrants, to provide minimum overhead clearance of 15 feet

over any street and eight feet over a sidewalk or bike path and to avoid interference with overhead or underground utility lines.

(5) Plantings within 15 feet of a fire hydrant shall be no taller than six inches.

(6) The development and planting of required street trees and landscaping shall be the responsibility of the developer/proprietor; not the individual resident.

(7) Street trees shall be at least 50 feet from the intersection of two street right-of-way lines or access easements. Street trees shall be placed to avoid future driveway locations.

(8) Street trees shall be at lease five feet from the edge of any paved surface.

(9) All unimproved surface area of the commons or parcel shall be planted with grass, ground cover, shrubbery or other suitable landscape material, except where patios, decks, driveways and similar site features are allowed.

(C) *Street names and signs.*

(1) For the purpose of ensuring proper response by emergency vehicles, road name signs and traffic control signs shall be installed within the subdivision in accordance with the standards of the city.

(2) Street names shall be designated in a manner so as not to duplicate or be confused with existing streets within the postal code of the city. For private streets, in addition to the above requirements, a sign meeting the city standards, with the words, “not a public street”, shall be installed and maintained at all points where private streets meet public streets.

(D) *Street lighting.* For the purpose of protecting public safety, street lights meeting the standards of the city and the public utility providing the lighting shall be installed by the developer and maintained within the subdivision at all street intersections. The association of co-owners shall be responsible for the full cost of operation and maintenance of the street lights on private streets.

(1979 Code, § 5.313) (Ord. 45, passed 6-6-1972; Ord. 156, passed 3-18-2003)

### § 151.58 COMPLIANCE REQUIRED.

(A) The approvals required under the provisions of this subchapter shall be obtained prior to the installation of any subdivision or project improvements within the city in public streets, public alleys, public rights-of-way and public easements and/or under the ultimate jurisdiction of the city.

(B) All subdivision or project improvements within the city installed in public streets, public alleys, public rights-of-way or public easements and/or under the ultimate jurisdiction of the city shall comply with all of the provisions and requirements of this code.

(C) Prior to issuance of a building permit for residential, commercial or industrial structures, the developer shall demonstrate to the Building Inspector approval by the county(s) and state entities having jurisdiction with regard to any aspect of the development.

(D) Prior to issuance of a building permit for structures within the project, the City Engineer shall verify that all improvements such as, but not limited to, streets, water supply, sewage disposal, storm drainage and other utilities have been completed or are in a timely schedule in accordance with the approved plan.

(E) Prior to issuance of a building occupancy certificate, the developer shall provide to the Building Inspector an “as built survey” for the building, including its location, which verify that the subject building in compliance with all provisions of the approved zoning and planning ordinances.

(F) The Building Official may allow occupancy of the development before all improvements required by this subchapter are installed, provided that a cash performance guaranty, a certified check or an irrevocable bank letter of credit is submitted sufficient in amount and type to provide for the installation of such improvements without expense to the city. The return of the funds may be phased as certain improvements are completed.

(G) All improvements shall be completed within a time period specified by the Building Inspector, but in no instance shall the time be greater than six months from the date of issuance of the temporary occupancy certificate. If the improvements are not made withing the specified time limits, the entire performance guaranty shall be forfeited in full to the city.

(1979 Code, § 5.314) (Ord. 45, passed 6-6-1972; Ord. 156, passed 3-18-2003)

# CHAPTER 152: SOIL REMOVAL

Section

***General Provisions***

***Removal of Earth Materials***



***Ponds***



## GENERAL PROVISIONS

### § 152.01 TITLE.

This chapter shall be known and cited as the “City of Memphis Soil Removal Ordinance” and will be referred to herein as “this chapter”.

(1979 Code, § 5.401) (Ord. 96, passed 5-5-1987)

### § 152.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***BERM.*** A landscaped earthen embankment of at least four feet in height, designed to act as a visual and sound barrier, with a slope no steeper than one on two.

***EARTH MATERIALS.*** Any soil, topsoil, subsoil, sand, gravel, rock, clay, peat or other similar material.

***FENCE.*** A woven wire fence of at least four feet in height but in no instance shall a***FENCE*** be of lesser quality than No. 11 farm fence.

***GREENBELT*** or ***PLANTING.*** A dense evergreen, or similar plant material, designed to provide an obscuring buffer.

***NUISANCE.*** Anything that annoys, injures or endangers the safety, health, comfort or repose of the public, interferes with or destroys or renders dangerous any public thoroughfare, allows accumulation of noxious matter on private or public property or in any way renders the public insecure.

***PIT OPERATIONS.*** Any excavation where ponded water results or that lowers the surface to a point below the definition of a stripping operation.

***PREMISES.*** A contiguous parcel of land in the same ownership.

***RECLAMATION.*** The restoration of property in a fashion that makes its development by a use permitted in the zoning district possible.

***STRIPPING OPERATIONS.*** Any one of the following types of excavations where no ponded water results.

(1) Any operation which results in the removal of all or part of a visible surface landform;

(2) Any operation which is limited to the removal of topsoil only and does not disturb the underlying subsoil, whether the subsoil is composed of sand, gravel, clay or other material; and

(3) Where there is no nearby street or road, an operation which removes the surface soils no lower than a point at least six inches above the mean elevation of the surrounding land within one-quarter mile, as shown on United States Geological

Survey data.

(1979 Code, § 5.402) (Ord. 96, passed 5-5-1987)

## REMOVAL OF EARTH MATERIALS

### § 152.15 REMOVAL PERMITS.

After the effective date of this chapter, it shall be unlawful for any person to remove any earth material from any premises without a permit from the City Council. However, no permit will be required where the removal of earth materials is carried on for the installation of the foundation and/or basement of any use permitted in the applicable zoning district as regulated by Ch. 150.

(1979 Code, § 5.403) (Ord. 96, passed 5-5-1987) Penalty, see § 152.99

### § 152.16 APPLICATION FOR PERMIT.

(A) Before granting a permit, the City Planning Commission shall conduct a public hearing concerning such application and file its recommendation with the City Council.

(B) This requirement of a public hearing shall not apply for nine months after the effective date of this chapter for any pit operation or stripping operation that is in existence, and was in existence, for six months prior to the effective date of this chapter.

(C) A separate permit shall be required for each separate site. Each application for a permit (five copies to be submitted) shall be made to the City Clerk and shall, except as otherwise provided herein, contain a topographical survey, engineering plan and a reuse plan (all at the same scale) and the following information as a condition precedent to the obligation to consider such request:

(1) Full names and addresses of all parties of interest in said premises, setting forth their legal interest. Proof of said legal interest shall be provided;

(2) A boundary survey, sealed by a registered land surveyor, of the premises wherein the operations are proposed shall be provided. The requirements of this section shall not be required of any pit operation or stripping operation in existence at the effective date of this chapter;

(3) Topographical survey map at a scale of at least one inch equals 200 feet, showing existing and proposed grades on a two foot contour interval or greater, consistent with sound engineering practice. Said grades shall be prepared and sealed by a civil engineer or land surveyor, registered as such by the state. The topographical survey must be updated each year, prior to issuance of an annual operating permit. For operations existing at the effective date of this chapter, a sealed document shall not be required in the first five years of operation under this chapter. However, a sketch on grid paper showing approximate elevations and proposed elevations at the end of the permit;

(4) A statement, cross-sections showing all proposed slopes and calculations by a registered civil engineer or land surveyor showing the cubic yards of the earth material to be removed and a detailed statement and engineering plan as to how the removal is to be accomplished;

(5) Detailed site engineering plan drawn at a scale of at least one inch equals 200 feet, which identifies all types of materials to be removed and/or redistributed, an indication of specific places on the property where the fill (redistributed material) is to be placed, storm drainage design including off-site ditch and drain elevations, final grading plan, final drainage pattern, a detailed statement as to the methods of operation, such as wet or dry method, the type of machinery or equipment to be used and the estimated period of time that such operations will cover, where restoration is not complete, as-built drawings showing the present contours of the excavation shall be submitted with each subsequent year's request for permit renewal. The requirements of this section shall not be required of any pit operation or stripping operation in existence at the effective date of this chapter;

(6) Statement of similar operations carried on by the applicant, including location by municipality. The requirements of this section shall not be required of any pit operation or stripping operation in existence at the effective date of this chapter;

(7) The type and daily number of vehicles to be used in the proposed operations;

(8) Detailed statement as to exactly what type of deposit is proposed to be extracted;

(9) Identification of access roads, on-site roads, a drainage plan that identifies grades for proper drainage and any special draining devices, fencing, any existing or proposed structures on the site existing and proposed utilities;

(10) A detailed reuse plan, drawn at a scale of one inch equals 200 feet, showing that the entire property will be left in a form that is suitable for development with uses that are permitted in the district, relating such reuse to uses existing or probable for surrounding properties. Among items to be included in such plan are feasible circulation patterns in and around the site, the treatment of the exposed soil or subsoil (including measures to be taken to replace topsoil in excavated areas) in order to make the property suitable for the proposed reuse, treatment of slopes to prevent erosion and delineation of drainageways and floodplains which shall be left undisturbed; and

(11) Presentation of an impact assessment which includes an evaluation of the social and ecological environment in and around the site.

(D) The following items must be addressed as well and any other characteristics unique to the site or area:

(1) *Impact on the natural environment.*

(a) Inventory and describe the existing vegetation and wildlife found on the site. To what extent will they be permanently impaired or eliminated as a result of the proposed operations?

(b) Will the proposed operations alter the existing drainage patterns of the area surrounding the site?

(c) What effect will the operations have on the quantity and quality of ground water in the area? What steps will be taken to protect wells on adjacent or surrounding property?

(d) How will the proposed operations affect air quality in the surrounding area, particularly regarding dust, blowing sand, vehicle emissions and the like?

(e) What noise levels will result from the proposed operations, and what steps will be taken to limit noise to an acceptable level?

(f) What natural features, such as unique topography, mature trees, natural streams, marshlands, swamps and the like will be destroyed or altered by the proposed operations?

(g) How will the proposed operations affect soil stability in the area?

(h) Are there potential historic or archaeologic characteristics which may be destroyed?

(i) Identify floodplains and the 100-year flood elevation.

(2) *Impact on the social environment.*

(a) How will the proposed operation affect the physical and cultural attractiveness of the surrounding area?

(b) What impact will the proposal have on landmarks and aesthetic views in the area?

(c) Will the proposed operations create a nuisance for residents in the area?

(d) What impact will the proposal have on neighborhood character and privacy in the area?

(e) How will the operation affect property values and the quality of housing in the adjoining areas?

(3) *Economic impact.*

(a) Will the proposal increase employment in the city or the county?

(b) How does the petitioner’s past performance indicate financial stability and ensure completion of the proposed project?

(c) Will the proposed operations impair the economic growth of any existing land uses?

(d) Will the proposed operations impair the usefulness or marketability of adjoining properties?

(4) *Public service impact.*

(a) What additional public services, such as police and fire protection, will be required as a result of the proposal?

(b) What impact will the proposal have on local tax revenues?

(c) Will the proposal significantly increase traffic congestion in the area?

(d) What effect will the truck traffic have on road conditions over the proposed haul route?

(e) Will the proposed haul route impact any other municipalities other than the city?

(E) The above required information is to be provided in sufficient detail to allow the city to systematically and thoroughly evaluate the potential impact of the proposed operations on the surrounding area and the community as a whole. The requirements of this section shall not be required of any pit operation or stripping operation in existence at the effective date of this chapter.

(1979 Code, § 5.404) (Ord. 96, passed 5-5-1987)

### § 152.17 PERMIT FEES.

To defray the cost of engineering services, investigation, publication charges and other administrative expenses incurred by processing such application, there is hereby established an application fee. Permits issued by the City Council shall be for a period of one year, expiring on March 31 of each year, and such permits may be renewed by the payment of an annual permit fee. The amount of the application fee and the annual permit fee shall be set each year by resolution of the City Council. Such permits shall be renewed as herein provided for so long as the permittee complies with all the provisions of this chapter, other ordinances, state law or other conditions of this permit.

(1979 Code, § 5.405) (Ord. 96, passed 5-5-1987)

## § 152.18 ISSUANCE OF PERMITS.

(A) After reviewing all of the information submitted by the applicant, other pertinent information and the recommendations of the Planning Commission, the City Council shall, at a regular or special meeting, determine whether or not a permit will be issued. The permit shall be issued in the event the City Council shall determine that the issuance of the permit would not detrimentally affect the public health, safety and welfare and that granting the permit, as proposed, would not:

(1) Permanently impair the intended land use potential of the property in question;

(2) Detrimentally affect the adjoining and adjacent properties;

(3) Be inconsistent with the planning, land use and zoning of the area where the proposed operation is to be located; and

(4) Violate or defeat any of the requirements and standards as set forth in this chapter.

(B) The commencement of operations during the time frame covered by the permit shall constitute acceptance of all limitations and conditions which the city may impose as a part of the permit under §§ 152.20 and 152.21 of this chapter.

(1979 Code, § 5.406) (Ord. 96, passed 5-5-1987)

## § 152.19 OPERATIONS INSPECTIONS.

As a condition for issuance of a permit under this chapter, the operator shall agree to two annual inspections by the City Engineer. Such inspections are for the purpose of determining compliance with all requirements of this chapter and any specific conditions applied to the individual permits. The two annual inspections shall be funded by the permit fees established in § 152.17. If additional inspections are required because of noncompliance, the cost of same shall be born by the applicant and paid prior to permit renewal.

(1979 Code, § 5.407) (Ord. 96, passed 5-5-1987)

## § 152.20 SPECIFIC REQUIREMENTS FOR PIT OPERATIONS.

(A) Where an excavation in excess of five feet will result from such operations, the applicant shall erect a fence with appropriate “KEEP OUT - DANGER” signs completely surrounding the portion of the site where the excavation extends, said fence to be not less than four feet in height, complete with gates, which gates shall be kept locked when operations are not being carried on. Where an operator can demonstrate that no attractive nuisance exists, the City Council may waive the requirement for fencing.

(B) Any roads used for the purpose of ingress and egress to said excavation site which are located within 300 feet of occupied residences, shall be kept dust free by surfacing with concrete, bituminous aggregate or approved chemical treatment. The City Council may waive the requirements hereof.

(C) Side slopes around the perimeter of the site and the banks adjacent to ponded water shall not have a slope exceeding one vertical foot for each two horizontal feet. The slope extending into the water shall also not exceed this ratio from the edge of the water out to a depth of five feet.

(D) Where quarrying operations result in a body of water, the owner or operator shall place appropriate “KEEP OUT - DANGER” signs on the perimeter fence not more than 200 feet apart. If the water supply of the city is adversely affected by any pumping or draining of water from such a quarrying operation, the city shall issue a cease and desist order and the operator shall comply therewith. A method of quarrying approved by the City Council shall be followed.

(E) No cut or excavation shall be made closer than 100 feet from the nearest street or highway right-of-way line nor nearer than 50 feet to the nearest property line; provided, however, that the City Council may prescribe more strict requirements in order to give sublateral support to surrounding property where soil or geographic conditions warrant it. In any reuse plan, the excavation may cut within 25 feet of any property line so long as the required slope commences at that point. Under no circumstances may such a cut be made for mining or stripping purposes.

(F) Sufficient topsoil shall be stockpiled on said site so that the entire site may be recovered with a minimum of four inches of topsoil. Revegetation of the pit shall be started as soon as the first ten acres are completely excavated and shall progress in stages as the excavation progresses. The slopes of the pit shall be graded and seeded in accordance with the approved reuse plan and in a manner that prevents erosion. Topsoil shall not be removed from the site until it is demonstrated that this requirement has been met.

(G) The City Council shall require more stringent requirements where the impact assessment and/or statement demonstrates the need for such in the interest of the public health, safety and general welfare.

(1979 Code, § 5.408) (Ord. 96, passed 5-5-1987) Penalty, see § 152.99

## § 152.21 SPECIFIC REQUIREMENTS FOR STRIPPING OPERATIONS.

(A) No earth materials, as defined herein, or similar materials shall be removed in such manner as to cause water to collect or to result in a place of danger or a menace to the public health. The premises shall at all times be graded so that surface water drainage off-site is maintained and is not interfered with.

(B) Sufficient topsoil shall be stockpiled on said site so that the entire site, when stripping operations are completed, may be recovered with a minimum of four inches of topsoil and the replacement of such topsoil shall be made immediately following the termination of the stripping operations each year. In the event, however, that such stripping operations continue over a period of time greater than 30 days, the operator shall replace the stored topsoil over the stripped areas, in two-acre increments, as he or she progresses.

(C) Any roads used for the purpose of ingress and egress to said stripping site which are located within 150 feet of occupied residences shall be kept dust free by surfacing with concrete, bituminous aggregate or approved chemical treatment.

(D) No stripping shall take place within 200 feet from any street right-of-way line or an adjoining residence, nor within 50 feet of any other property line; provided, however, that the City Council may prescribe more strict requirements in order to protect nearby residences from any potential adverse impacts of the stripping operation.

(E) In order to prevent all unnecessary dust and blowing of sand or other soil materials, there shall be no stockpiling of sand in excess of 5,000 cubic yards and all stockpiles shall be restricted to a maximum height of 25 feet.

(F) The City Council shall prescribe more stringent requirements if deemed necessary in the interest of the public health, safety and welfare, as demonstrated by the impact assessment and/or statement.

(1979 Code, § 5.409) (Ord. 96, passed 5-5-1987)

### § 152.22 PLANS FOR REUSE.

(A) The property shall be fully reclaimed in accordance with the approved reuse plan, no later than one year after extractive operations are complete. Noncompliance with this requirement shall be grounds for forfeiture of the operator's performance bond.

(B) Plans for reclamation designed to make reuse possible shall be carried out and the property fully reclaimed in accordance with the plan no later than one year after cessation of extractive operations at the site.

(1979 Code, § 5.410) (Ord. 96, passed 5-5-1987) Penalty, see § 152.99

### § 152.23 PRIOR EXISTING REMOVAL OPERATIONS.

Earth material removal operations which existed prior to the effective date of this chapter shall obtain a permit as required herein. In order to obtain a permit as required under this chapter, except as otherwise provided, previously existing operations shall comply with all provisions of this chapter, except in cases where excavations already exist which are closer to property lines or road rights-of-way than permitted in this chapter, such noncompliance will be permitted, but the excavation may not be extended in any manner which would increase the noncompliance and, to the extent topsoil is unavailable for storage, to such extent topsoil storage is waived.

(1979 Code, § 5.411) (Ord. 96, passed 5-5-1987)

### § 152.24 SURETY.

(A) The City Council shall, to ensure strict compliance with any regulations contained herein or required as a condition for the issuance of a permit for the removal of earth material, require the permittee to furnish surety in the form of cash, a bank letter of credit or a bond executed by a reputable surety company authorized to do business in the state.

(B) The amount of such surety shall be at least $1,000 for each acre of land owned or leased by the operator and may be greater if deemed necessary by the City Council to ensure compliance with this chapter. In fixing the amount of such surety, the probable cost of rehabilitating the premises upon default of the operator, estimated expenses to compel the operator to comply with court orders and any other relevant factors shall be considered.

(C) Excess funds, if any, shall be returned with interest to the depositor, upon completion of the rehabilitation of the premises. Upon presentation to the City Council of hardship circumstances, in conjunction with a plan giving a method whereby security is offered sufficient to assure the city that the reuse plan can be completed, the City Council may accept said alternative means of security.

(1979 Code, § 5.412) (Ord. 96, passed 5-5-1987)

### § 152.25 DUMPING RESTRICTIONS.

No earth materials or other material of any sort in amounts exceeding five cubic yards shall be dumped or otherwise deposited on any property within the city without reporting the intent to do same in writing to the City Clerk 24 hours in advance of such dumping or depositing.

(1979 Code, § 5.413) (Ord. 96, passed 5-5-1987) Penalty, see § 152.99

## PONDS

### § 152.40 CONSTRUCTION REQUIREMENTS.

All ponds shall be designed, constructed and approved in accordance with the following requirements.

(A) A building permit shall be obtained prior to the construction of all ponds, enlargement of an existing pond or cleaning of a pond that results in the removal of over 30 yards of material. A site plan shall be submitted to the City Clerk which shows all features of the proposed pond. If the plans show that all requirements of this division (A) and division (B) below have been complied with, a permit will be issued. If all requirements are not met, permit shall not be issued.

(B) Only excavated ponds are permitted. No embarkment ponds shall be constructed. Ponds created by damming of rivers or streams must have the State Department of Natural Resources and/or the St. Clair County or Macomb County (whichever jurisdiction shall apply) Drain Commissioner's approval.

(C) All ponds shall be constructed to the standards of the*USDA Soil Conservation Service Technical Guide 378, Design Criteria for Excavated Ponds*, which is hereby made a part of this chapter and shall also comply with the following additional requirements.

(1) Where a pond will be used for swimming, there shall be no slope in excess of five feet horizontal to one foot vertical until the water reaches a depth of five feet.

(2) Excavated materials, in excess of 1,000 cubic yards, shall not be hauled off the site unless a permit is obtained pursuant to the requirements of this chapter for soil removal operations.

(3) Where a pond will be used for swimming, there shall be a minimum of two life stations on opposite sides, complete with life ring, 50 feet of suitable rope, a pole of at least ten feet and a ten foot wooden ladder.

(4) There shall be a minimum setback of 50 feet from the edge of the excavation to all adjacent property lines and 100 feet from any street right-of-way or adjacent residential dwelling.

(5) There shall be a minimum setback from a septic tank and/or tile disposal field of at least 100 feet.

(6) Plans submitted shall show the location and approximate depth of any domestic water supply well.

(7) There shall be a minimum setback of 25 feet from the excavation to the nearest point of any side of the applicant's house or accessory buildings.

(1979 Code, § 5.414) (Ord. 96, passed 5-5-1987)

### § 152.41 EXCAVATIONS OR HOLES.

(A) The existence within the limits of the city of any unprotected, unbarricaded, open or dangerous excavations, holes, pits or wells which constitute a hazard to the public health, safety or welfare, is hereby prohibited and such excavations, holes, pits or wells are hereby declared a public nuisance. However, the provisions of this section shall not prevent excavations for which a permit has been issued pursuant to the provisions of this chapter or Ch. 154 where such excavations are properly protected and, provided further, that this section shall not apply to drains created or existing by authority of the state, St. Clair County, Macomb County, the city or other governmental agencies.

(B) When the Chief of Police shall determine a nuisance to exist as herein defined, he or she shall notify the owner or lessee as shown on the latest tax rolls in writing of such finding and require the owner or lessee to abate such nuisance within a reasonable time, in no event less than 30 days. In the event the property owner or lessee fails to abate such nuisance without just cause, then the City Council, after hearing, may abate such nuisance and the cost or reasonable value of such work shall be placed as an assessment against said property on the next assessment roll.

(1979 Code, § 5.415) (Ord. 96, passed 5-5-1987) Penalty, see § 152.99

### § 152.42 DRAINAGE AND EROSION CONTROL.

Existing drainage patterns shall not be altered so as to result in flooding of any adjacent or surrounding properties. Also, all operations involving the moving or removal of earth materials shall comply fully with Public Act 451 of 1994, being M.C.L.A. §§ 324.9101 through 324.9123a.

(1979 Code, § 5.416) (Ord. 96, passed 5-5-1987)

### § 152.99 PENALTY.

(A) Any person, firm, corporation or other organization which violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any provision of this chapter, shall be fined upon conviction, not more than $500, together with the costs of prosecution, or shall be punished by imprisonment in the county jail for not more than 30 days for each offense, or may be both fined and imprisoned, as provided herein in the discretion of the court. Each and every day during which such violation continues shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the provisions of this chapter.

(B) If a violation occurs, the city shall notify the operator and/or the applicant in writing that his or her permit will be terminated if said violation has not been corrected within ten days of receipt of the notice.

(C) The City Council may institute injunctive proceedings to prevent or enjoin any violation of the provisions of this chapter. The rights and remedies provided herein are cumulative and in addition to other remedies provided by law.

(1979 Code, § 5.417) (Ord. 96, passed 5-5-1987)

# CHAPTER 153: BLIGHT PREVENTION

Section



## GENERAL PROVISIONS

### § 153.01 PURPOSE.

Consistent with the letter and spirit of Public Act 355 of 1945, as amended, it is the purpose of this subchapter to prevent, reduce or eliminate blight or potential blight in the city by the prevention or elimination of certain environmental causes of blight or blighting factors which exist or which may in the future exist.

(1979 Code, § 6.81) (Ord. 50, passed 11-5-1974)

### § 153.02 CAUSES OF BLIGHT; BLIGHTING FACTORS.

(A) It is hereby determined that the following uses, structures and activities are causes of blight or blighting factors which if allowed to exist will tend to result in blighted and undesirable neighborhoods.

(B) No person, firm or corporation of any kind shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the city owned, leased, rented or occupied by such person, firm or corporation:

(1) In any area zoned for residential or agricultural purposes, or in areas zoned commercial but being used for residential purposes, the storage upon any property of junk automobiles, except in a completely enclosed building. For the purpose of this section, the term ***JUNK AUTOMOBILES*** shall include any motor vehicle which is not licensed for use upon the highways of the state for a period in excess of 30 days, and shall also include, whether so licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of 45 days;

(2) In any area zoned for residential or agricultural purposes or in areas zoned commercial but being used for residential purposes, the storage upon any property of building materials, unless there is in force a valid building permit issued by the city for construction upon said property and said materials are intended for use in connection with such construction. Building materials shall include, but shall not be limited to, lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws or any other materials used in constructing any structures;

(3) In any area zoned for residential or agricultural purposes or in areas zoned commercial but being used for residential purposes, the storage or accumulation of junk, trash, rubbish or refuse of any kind, except domestic refuse of any kind, except domestic refuse stored in such a manner as not to create a nuisance for a period not to exceed 60 days. The term ***JUNK*** shall include inoperative machinery, watercraft, recreational vehicles or motor vehicles, unused stoves or other appliances stored in the open, remnants of woods, metal or any other materials or other castoff material of any kind whether or not the same could be put to any reasonable use;

(4) In any area of the city, the existence of any structure or part of any structure which, because of fire, wind or other

natural disaster or physical deterioration, is no longer habitable, if a dwelling, nor useful for any other purpose for which it may have been intended;

(5) In any area zoned for residential or agricultural purposes, or in areas zoned commercial but being used for residential purposes, the existence of any vacant dwelling, garage or other outbuilding unless such buildings are kept securely locked, windows kept glassed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals; and

(6) In any area of the city, the existence of any partially completed structure unless such structure is in the course of construction in accordance with a valid and subsisting building permit issued by the city and unless such construction is completed within a reasonable time.

(Ord. 111, passed 7-2-1991; Ord. 131, passed 6-16-1998; Ord. 170, passed - -)

### § 153.03 ENFORCEMENT.

This subchapter shall be enforced by such city officers as are designated by the City Council.

(1979 Code, § 6.83) (Ord. 50, passed 11-5-1974)

### § 153.04 NOTICE.

(A) This owner, if possible, and the occupant of any property upon which the causes of blight or blighting factors set forth in § 153.02 are found to exist, shall be notified in writing to remove or eliminate such causes of blight or blighting factors from such property within 14 days after service of the notice upon him or her. Such notice shall be served as prescribed in § 10.12 of this code. Additional time, not to exceed 60 days, may be granted by the enforcement officer where bona fide efforts to remove or eliminate such causes of blight or blighting factors are in progress.

(B) Failure to comply with such notice within the time allowed, by the owner and/or occupant shall constitute a violation of this code.

(1979 Code, § 6.84) (Ord. 50, passed 11-5-1974; Ord. 131, passed 6-16-1998) Penalty, see § 153.99

## COMMERCIAL AREAS

### § 153.15 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***COMMERCIAL BUILDING.*** Any building or structure, regardless of its zoning classification, used for business purposes including, but not limited to, office, retail, service and/or industrial buildings or structures.

***PARKING LOT.*** All areas set aside or designed for the parking of motor vehicles or the loading and unloading of motor vehicles on the premises or in conjunction with a shopping center or commercial building and includes all driveways, aisle ways or other areas supplementary thereto.

***PROPRIETOR.*** Every owner, lessee, tenant or other person having the right to possession of all or a portion of a shopping center or commercial building, where there is more than one such person. All shall be jointly and severally obligated by the terms of this subchapter.

***SHOPPING CENTER.*** One or more commercial buildings, whether or not under common ownership, which are operated as an entity or in cooperation with one another and which have common parking facilities.

(Ord. 137, passed 5-4-1999)

### § 153.16 BUILDINGS.

The exteriors of all commercial buildings shall be maintained so as to present a neat and orderly appearance. Windows shall be glazed, painted surfaces kept properly painted and all other appropriate measures shall be taken to properly maintain the buildings. Where buildings within a shopping center are owned by separate entities, the obligations of this section shall fall only upon those persons responsible for the maintenance of particular buildings which are not being maintained in accordance with this section.

(Ord. 137, passed 5-4-1999) Penalty, see § 153.99

### § 153.17 PARKING LOTS.

All parking lots shall be provided with pavement having a permanent durable and dustless surface and shall be graded and drained so as to dispose of all surface water accumulated within the area. All cracks, pot holes or other breaks in the parking lot surface shall be promptly filled and repaired by the proprietor. The proprietor shall provide for snow removal services so the parking lot will be reasonably available for use by the public.

(Ord. 137, passed 5-4-1999) Penalty, see § 153.99

### § 153.18 TRASH REMOVAL.

The proprietor shall provide for the removal of all waste, trash, rubbish or refuse of all kinds from the shopping center at regular intervals. Such intervals shall not exceed one week and trash collections shall be made more often if necessary to prevent the accumulation of refuse so as to create a nuisance. Between collections, the refuse shall be stored in covered containers constructed in such a way as to prevent escape of the refuse. Dumpsters and/or covered containers shall be kept enclosed on three sides or screened on three sides.

(Ord. 137, passed 5-4-1999) Penalty, see § 153.99

### § 153.19 LOOSE TRASH, RUBBISH OR DEBRIS.

The proprietor shall be responsible for seeing to it that the premises of the shopping center or commercial building, including the parking lot and specifically including the part of any highway right-of-way adjoining the premises and not actually used for the travel of motor vehicles, are kept free of junk, trash, rubbish, debris or refuse of any kind. The proprietor shall see to it that the premises are cleaned of such debris or refuse which has blown on adjoining property at least each day and shall take all reasonable steps to provide containers for discards and to order his or her employees and encourage the public to use them.

(Ord. 137, passed 5-4-1999) Penalty, see § 153.99

### § 153.20 LANDSCAPING.

The proprietor shall install and maintain landscaping on all areas of the shopping center, commercial building or commercial building premises not occupied by buildings, sidewalks, parking lots, driveways and similar surfacing. The requirement of landscaping also is specifically applicable to those parts of highway rights-of-way adjoining the shopping center or commercial building premises and not actually used for travel purposes. Landscaping shall consist, at the minimum, of the establishment of a sod or other material to hold the earth and prevent dust and the establishment of noxious weeds. The proprietor shall maintain the landscaping and shall see that all lawns are mowed regularly, shrubs are appropriately trimmed and noxious weeds are eliminated.

(Ord. 137, passed 5-4-1999) Penalty, see § 153.99

### § 153.21 JUNK.

The storage or accumulation of junk, trash, rubbish or refuse of any kind stored in such a manner which creates a nuisance for ten days or more is prohibited. The term ***JUNK*** shall include inoperative machinery or motor vehicles, watercraft, recreational vehicles, unused stoves or other appliances stored in the open, remnants of wood, metal or any other materials or other castoff material of any kind whether or not the same could be put to any reasonable use. This section does not cover repairable vehicles at an auto repair shop or junk yards which are covered in Ch. 113.

(Ord. 137, passed 5-4-1999) Penalty, see § 153.99

### § 153.22 ENFORCEMENT.

(A) The Chief of Police, or his or her designee, shall enforce this subchapter and shall periodically inspect the city for causes of blight or blighting factors within the city.

(B) (1) The owner, and if possible, the occupant of any property upon which any of the causes of blight or blighting factors as set forth in this subchapter is found to exist, may be notified in writing (“removal notice”) to remove or eliminate such causes of blight or blighting factors from such property within 14 days after service of the removal notice upon him or her. Such removal notice may be served personally or by registered mail, return receipt requested.

(2) If efforts to serve the occupant and owner personally or by registered mail, return receipt requested, are unsuccessful, it shall be deemed sufficient notice if the written removal notice is mailed by regular mail to the occupant and the owner, if possible, and is posted in a conspicuous location on the property in question. In addition, once the removal notice described in this section has been given, it shall be deemed sufficient notice for a s long as the causes of blight or blighting factors described in the removal notice remain uncorrected.

(3) Additional time to remove the causes of blight or blighting factors may be granted by the enforcement officer where bona fide efforts to remove or eliminate such causes of blight or blighting factors are in progress.

(C) Failure to comply with such notice by the owner and/or occupant by the removal of the causes of blight or blighting factors within the time allowed shall constitute a misdemeanor.

(D) If the Enforcement Officer determines that blight or blighting factors exist or the blight or blighting factors have not been removed after service of the 14 days notice as set forth in division (B) above, the cause of the blight or blighting factors may be removed by the city upon direction of the City Council or its designee. All of the attendant costs of removal of such blight shall be billed to the property owner and all invoices which remain unpaid for more than 30 days shall become a lien on the property from which the blight is removed and assessed as a single lot assessment against such property.

(Ord. 137, passed 5-4-1999)

### § 153.23 EFFECTIVE DATE.

The ordinance from which the provisions of this subchapter derive shall take effect ten days after adoption and after

publication accordance with law.

(Ord. 137, passed 5-4-1999)

### § 153.99 PENALTY.

(A) Any violation of any of the provisions of this chapter is hereby declared a nuisance and proceedings may be instituted in any court of competent jurisdiction for injunctive or other relief to abate such nuisance.

(B) Any person who shall violate any provision of §§153.01 through 153.04 shall be responsible for a municipal infraction. Each day of violation shall be deemed a separate infraction.

(1979 Code, § 6.85)

(C) Any violation of any of the provisions of §§153.15 through 153.23 is hereby declared a nuisance and proceedings may be instituted in any court of competent jurisdiction for injunctive or other relief to abate such nuisance. Any and all costs incurred by the city in abating such nuisance or otherwise enforcing this §§ 153.15 through 153.23 shall be billed to the property owner and, upon failure of the property owner to pay such bill within 30 days, such bill may be added to the property tax roll as a single lot special assessment pursuant to § 33.18.

(Ord. 131, passed 6-16-1998; Ord. 191, passed - -)

# CHAPTER 154: BUILDING REGULATIONS

Section



## GENERAL PROVISIONS

### § 154.01 AGENCY DESIGNATED.

(A) Pursuant to the provisions of the State Construction Code, in accordance with §§ 8.1 through 8.4 of Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 through 125.1531, as amended, the Building Official of the city is hereby designated as the enforcing agency to discharge the responsibility of the city under Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 through 125.1531, as amended.

(B) The city assumes responsibility for the administration and enforcement of said Act through out the corporate limits of the community adopting the this chapter.

(Ord. 183, passed 4-20-1020)

### § 154.02 CODE APPENDIX ENFORCED.

Pursuant to the provisions of the State Construction Code, in accordance with § 8b(6) of Public Act 230 of1972, being M.C.L.A. §§ 125.1501 through 125.1531, as amended, Appendix G of the State Building Code shall be enforced by the enforcing agency within the city.

(Ord. 183, passed 4-20-2010)

## § 154.03 DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS.

(A) The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled “St. Clair County, Michigan (All Jurisdictions) Flood Insurance Study” and dated May 3, 2010 and the Flood Insurance Rate Map (FIRM) panel number 26147C:0294D and dated May 3, 2010 shall be used to regulate development in the city jurisdictional areas within St. Clair County.

(B) The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled “Macomb County, Michigan (All Jurisdictions) Flood Insurance Study” dated September 29, 2006 and the Flood Insurance Rate Map (FIRM) panel number 26099C 0069G dated September 29, 2006 shall be used to regulate development in the city jurisdictional areas within Macomb County.

(C) Both FIRM panels are adopted by reference and declared to be a part of § 1612.3 of the State Building Code and part of § R323.1 and Table R301.2(I) of State Residential Code.

(Ord. 183, passed 4-20-2010)

## § 154.04 DISH-TYPE TELEVISION ANTENNA.

(A) *Dish-type television antenna.*

(1) *Definition.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***TELEVISION DISH.*** Any parabolic, dish-type, whether circular or oval, receiving antenna used for receiving communications or television signals from a satellite whether such signals are received directly or indirectly.

(1979 Code, § 8.5)

(B) *Prohibition; except as allowed by ordinance.* Except as provided herein, no television dish shall be erected, constructed, altered or maintained on any premises within the city.

(1979 Code, § 8.6)

(C) *Installation requirements.*

(1) Before any person shall erect, install, construct or alter any television dish on any premises in the city, said person shall apply for a building permit.

(2) The Building Official shall be responsible for the issuance of permits allowing erection, installation, construction or alteration of any television dish in the city and shall conduct such inspections as may be required to assure the provisions of this section are met.

(3) No television dish shall be erected, installed, constructed or attached in any way to a building or other structure or to any television or radio receiving tower.

(4) The base of any television dish shall be placed at and anchored at ground level.

(5) No television dish may be placed nearer than five feet from any property line.

(6) No television dish may be placed in any street setback area.

(7) Any television dish shall be anchored to a footing or secured in a manner such that it can withstand winds in excess of 75 mph.

(8) All wiring used in conjunction with the television dish shall be placed underground or otherwise obscured from view.

(9) Any television dish shall be obscured from view on all sides, except the side facing the structure it is appurtenant to, by means of a fence of material compatible with the structure it is appurtenant to or a greenbelt of evergreen (coniferous) trees, either of which shall, at the time of installation, be at the same height as the television dish and either of which shall be of maximum opacity.

(10) No person shall construct, erect or install more than one television dish per lot as defined in Ch. 150.

(11) The maximum height of any television dish from ground level shall be 13 feet; the maximum diameter of any television dish shall be ten feet.

(12) No person shall use or maintain a television dish that is not permanently affixed to the premises in accordance with this section

(1979 Code, § 8.7)

(D) *Approval of television dish antenna by Building Inspector.* No television dish shall be made operational until written approval of the finished installation is approved by the Building Inspector.

(1979 Code, § 8.8)

(E) *Variance for television dish antenna.* If any person, because of lack of sufficient property upon which to construct a television dish, cannot comply with the terms of this subchapter such person may apply to the City Council for variance from strict application of its terms. Variance may be granted only when plans have been submitted exhibiting the need for a variance and assuring that the television dish desired can be constructed in such a manner that will not be a hazard to the public health, safety or welfare and will not be placed in such a manner as to create a vision obstruction for neighboring land owners or be aesthetically incompatible with the improvements on properties within a distance of 500 feet in any direction.

(1979 Code, § 8.9)

Penalty, see § 154.99

### § 154.05 BUILDING ADDRESS NUMBERS.

(A) All houses and buildings fronting on public streets in the city shall be numbered with the correct number, as is on record with the City Clerk, easily readable from the street. Assigned numbers shall be displayed with block or Arabic style numerals in a color that clearly contrasts with the background. Address displays in script style numbers are prohibited.

(B) Address numbers shall be a minimum of three inches high and shall be located either near the front or main entrance or on a surface that is easily readable from the street but not less than 24 inches from the ground. Additional displays of assigned numbers may be used. Houses or buildings that are set back more than 100 feet from the roads edge, shall be required to display address numbers within 25 feet of the same roads edge and within 20 feet of the driveway on a surface that is easily visible from, the street. Mailboxes and the poles that support them are only acceptable if it is the only one in front of the house or building.

(C) Any property owner erecting any house or building in the city shall report to the City Clerk the location thereof and procure the correct address number to be placed on said house or building or the City Clerk may deliver said number to the owner and notify the owner of the provisions in this subchapter.

(D) The responsibility for the displaying of the correct assigned number for each existing house and building in the city as of the effective date of this section shall rest with the property owner, trustee or agent of each house or building.

(E) Any person who shall fail to comply with any of the provisions of this section or who shall number, or attempt to number, any house or building other than in conformity with this section or who shall fail to exchange his or her number, if wrong, within 60 days of the effective date of this section and thereafter within 30 days after being notified in writing to do so by the Chief of Police, shall be responsible for a municipal civil infraction.

(Ord. 168, passed 6-5-2007; Ord. 191, passed - -) Penalty, see 154.99

### § 154.06 STILLE-DEROSSETT HALE SINGLE STATE CONSTRUCTION CODE ACT.

Pursuant to § 8b(6) Stille-DeRossett Hale Single State Construction Code Act, Public Act 230 of 1972, being M.C.L.A § 125.1508b(6), the city hereby elects to administer and enforce the Public Act 230 of 1972 and the State Mechanical Code. The city shall also administer and enforce the respective provisions of the State Residential Rehabilitation and Uniform Energy Codes and all applicable laws and ordinances. A government official registered in accordance with Public Act 54 of 1986 shall be appointed to receive all fees, issue permits, plan reviews, notices, orders, and certificates of use and occupancy. All personnel performing plan reviews and inspections shall be registered in accordance with Public Act 54 of 1986.

(Ord. 192, passed 8-1-2012)

## PLUMBING REGULATIONS

### § 154.20 BOCA CODE ADOPTED BY REFERENCE.

Pursuant to the provisions of §8 of the State Construction Code Act (Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 et seq., the State Plumbing Code is hereby adopted by reference. Said code consists of the BOCA Basic Plumbing Code, 1993 edition.

(1979 Code, § 8.21) (Ord. 121, passed 3-21-1995)

### § 154.21 REFERENCES IN THE CODE.

References in the State Plumbing Code to ***STATE*** shall mean the State of Michigan; references to ***MUNICIPALITY*** shall mean the City of Memphis; references to the ***MUNICIPAL CHARTER*** shall mean the Memphis City Charter and references to ***LOCAL ORDINANCES*** shall mean the Memphis City Code.

(1979 Code, § 8.22) (Ord. 121, passed 3-21-1995)

### § 154.22 FEE SCHEDULE.

Section P-113.2 of the 1993 BOCA Basic Plumbing Code is amended to read as follows: The permit fees for all plumbing work shall be as adopted by Resolution of the Memphis City Council.

(1979 Code, § 8.23) (Ord. 121, passed 3-21-1995)

### § 154.23 CONNECTION TO PUBLIC WATER AND SEWER SYSTEMS.

Section P-303.0 of the 1993 BOCA Basic Plumbing Code is amended to include §303.2 to read as follows: A public water supply system or public sewer system shall be deemed available to premises used for human occupancy if said public water or sewer is within 100 feet of the nearest property line of said premises.

(1979 Code, § 8.24) (Ord. 121, passed 3-21-1995)

### § 154.24 ENFORCEMENT.

The plumbing official of the city is hereby designated as the enforcing agency to discharge the responsibilities of the city under of the Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 through 125.1531, as amended. The city hereby assumes responsibility of the administration and enforcement of said Act throughout its corporate limits.

(1979 Code, § 8.25) (Ord. 82, passed 9-21-1982)

### § 154.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person who shall fail to comply with any of the provisions of §154.05 or who shall number, or attempt to number, any house or building other than in conformity with this section or who shall fail to change his/her number, if wrong, within 60 days of the effective date of this section and thereafter, within 30 days after being notified in writing to do so by the Chief of Police, shall be deemed guilty of a civil infraction and subjected to a fine of not less than $10 and not more than $100.

(B) Any person erecting, using, moving, demolishing, occupying or maintaining any building or structure in violation of §§ 154.20 through 154.24 or causing, permitting or suffering any such violation to be committed, shall be punished by a fine of not more than $500 or be imprisoned for not more than 90 days or by both such fine and imprisonment. Any building or structure erected, used, moved, demolished, occupied or maintained in violation of §§ 154.20 through 154.24 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.

(1979 Code, § 8.26) (Ord. 82, passed 9-21-1982)

## CHAPTER 155: ELECTRIC CODE

Section



### § 155.01 CODE ADOPTED.

(A) Pursuant to the provisions of § 3(k) of Public Act of 279 1909, being M.C.L.A. §§ 117.1 et seq., and § 8 of Public Act 230 of 1972 being M.C.L.A. §§ 125.1501 through 125.1531, as amended, the National Electrical Code, most current edition and Michigan Residential Code, an American National Standard, as promulgated and published by the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts, with Supplementary Technical Amendments to the 1996 Edition of the National Electrical Code and Manual of Operation, as recommended by the Reciprocal Electrical Council, 25180 Lahser, P. O. Box 385, Southfield, Michigan 48037, is hereby adopted, as published by the city as modified in this chapter, for the purpose of regulating the installation, alteration, repair, conversion, use and maintenance of all new electrical wiring for light, heat and power service equipment, for radio and television receiving systems and all alterations or extensions to existing systems in buildings and structures.

(B) Complete printed copies of the National Electrical Code and Supplementary Technical Amendments as recommended by the Reciprocal Electrical Council, herein adopted, are available for public use and inspection at the office of the City Clerk.

(Ord. 128, passed 9-16-1997)

### § 155.02 LICENSING.

Notwithstanding anything in this chapter to the contrary, effective May 31, 2001, responsibility for all licensing and examinations referenced in this chapter shall be transferred to and administered by the state.

(Ord. 148, passed 3-6-2001)

### § 155.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***APPRENTICE ELECTRICIAN.*** An individual, other than an electrical contractor, master electrician or electrical journeyman, who is engaged in learning about and assisting in the installation or alteration of electrical wiring and equipment under the direct personal supervision of an electrical journeyman or master electrician.

***BOARD.*** The City of Memphis Electrical Examining and Appeals Board.

***DEPARTMENT.*** The City of Memphis Building Department.

***ELECTRIC SIGN.*** A fixed, stationary or portable self-contained, electrically illuminated equipment that has words or symbols designed to convey information or attract attention. The term includes outline lighting. ***ELECTRIC SIGN*** does not include those signs that are indoor or outdoor portable applications or recognized holiday residential signs listed with a recognized electrical testing laboratory and that use a cord cap-110 volt plug as the electrical energizing attachment method.

***ELECTRICAL CONTRACTOR.*** A person, firm or corporation engaged in the business of erecting, installing, altering, repairing, servicing or maintaining electrical wiring, devices, appliances or equipment.

***ELECTRICAL EQUIPMENT.*** All electrical devices in connection with the generation, distribution, communication and utilization of electrical energy, within or on a building, residence, structure or properties, including fire alarm and sign devices.

***ELECTRICAL INSPECTOR.*** Any person who has the necessary qualifications, training, experience and technical knowledge to inspect all electrical apparatus for compliance with the codes and who shall be the agent or employee of the Department designated by the Building Official as an electrical inspector. ***INSPECTORS*** shall be registered pursuant to Public Act 54 of 1986, being M.C.L.A. §§ 338.2301 et seq. and known as the Building Officials and Inspectors Registration Act.

***ELECTRICAL JOURNEYMAN.*** A person, other than an electrical contractor, who, as his or her principal occupation, is engaged in the practical installation or alteration of electrical wiring. An electrical contractor or master electrician may also be an ***ELECTRICAL JOURNEYMAN***.

***ELECTRICAL WIRING.*** All wiring, generating equipment, fixtures, appliances and appurtenances in connection with the generation, distribution, communication and utilization of electrical energy, within or on a building, residence, structure or properties and including service entrance wiring as defined by the code.

***FIRE ALARM CONTRACTOR.*** A person, firm or corporation engaged in the business of erecting, installing, altering, repairing, servicing or maintaining wiring, devices, appliances or equipment of a fire alarm system.

***FIRE ALARM SPECIALTY APPRENTICE TECHNICIAN.*** An individual, other than a fire alarm contractor or a fire alarm specialty technician, who is engaged in learning about and assisting in the installation or alteration of fire alarm system wiring and equipment under the direct personal supervision of a fire alarm specialty technician.

***FIRE ALARM SPECIALTY LICENSURE.*** Licensure as a fire alarm contractor or a fire alarm specialty or apprentice technician.

***FIRE ALARM SPECIALTY TECHNICIAN.*** A person, other than a fire alarm contractor, who, as his or her principal occupation, is engaged in the practical installation or alteration of fire alarm system wiring.

***FIRE ALARM SYSTEM.*** A system designed to detect and annunciate the presence of fire or by-products of fire, installed within a building or structure. ***FIRE ALARM SYSTEM*** does not include a single station smoke detector.

***JOBSITE.*** The immediate work area within the property lines of a single construction project, alteration project or maintenance project where electrical construction or alteration of electrical wiring is in progress.

***MASTER ELECTRICIAN.*** A person having the necessary qualifications, training, experience and technical knowledge to supervise the installation of electrical wiring and equipment in accordance with the standard rules and regulations governing that work.

***MINOR REPAIR WORK.*** Electrical work such as repairing or replacing flush and snap switches, fuses, lamp sockets or receptacles; replacement of fixtures and repairing or taping bare connections; replacing lamps or the connection of portable electrical equipment to suitable permanently installed receptacles; provided the total value does not exceed $100.

***MUNICIPALITY.*** A city, village or township.

***OUTLINE LIGHTING.*** An arrangement of incandescent lamps or electric discharge tubing which is an integral part of an electrical sign that outlines certain features, such as the shape of a building or the decoration of a window.

***OWNER.*** Any natural person, firm, partnership, association or corporation and their legal successors. In all proceedings, actions or prosecution hereunder, in which a corporation is the owner of any building, structure or part thereof, or of premises, any of its officers, directors or persons in control or management thereof, as well as the corporation, shall be subject to the provisions of this chapter.

***RELATED SIGN WIRING.***

(1) Except as otherwise provided in divisions (2), (3) and (4) below, that portion of the electric sign wiring that originates at the load-side terminals of a disconnecting means located in the vicinity of the electric sign involved but does not include the installation of the disconnecting means, complete with line-side connections.

(2) In the case of electric sign installations having sign transformers installed physically apart from the electric sign, that portion of the electric sign wiring that originates at the load-side terminals of a disconnecting means located in the vicinity of the electric sign involved but does not include the installation of the disconnecting means, complete with line-side connections.

(3) In the case of the free standing electric sign installations supplied through underground circuit conductors, that portion of the electric sign wiring that originates at a wiring termination point adjacent to, within or immediately above the permanent base for the electric sign but does not include, if the base of the sign structure is suitable for use as a raceway, the installation of bushing, complete with free-length circuit conductors extending through to accommodate the connection of the related wiring within the sign structure raceway.

(4) In the case of electric signs specifically designed to be connected directly to the building wiring raceway or cable supply, that portion of the electric sign wiring that originates at the point where the free-length circuit conductors extend through the building wiring raceway or cable at the specifically designed supply location for the electric sign involved but does not include the installation of the building wiring raceway or cable system to the specifically designated point of supply for the electric sign involved, complete with free-length circuit conductors extending through the building wiring raceway or cable to accommodate the connection of the related wiring.

***SIGN SPECIALTY CONTRACTOR.*** A person, firm or corporation engaged in the business of manufacturing, installing, maintaining, connecting or repairing electric sign wiring or devices, including wiring that is directly related to electric signs and is electrically dedicated as a sign circuit beginning at the load side of the sign circuit disconnect.

***SIGN SPECIALTY LICENSURE.*** Licensure as a sign specialist or sign specialty contractor.

***SIGN SPECIALIST.*** A person who, as his or her principal occupation, is engaged in the installation, alteration or repair of electric signs.

(Ord. 122, passed 3-21-1995)

## § 155.04 ELECTRICAL EXAMINING AND APPEALS BOARD.

(A) The Electrical Examining and Appeals Board, also referred to in this chapter as the Board, shall have, and hereby is given, jurisdiction, subject to review as hereinafter provided, over the inspection of all electrical installations including changes, repairs and additions thereto within the corporate limits of the city.

(B) The Board is hereby empowered and it shall be its duty to promulgate and recommend such rules and regulations concerning electrical work in the city as may be required to properly provide for the situations therein. The rules and regulations so made by the Board shall be effective upon approval by the City Council and the State Construction Code Commission and shall take precedence over plans, specifications and national electrical code rules.

(C) (1) The City Council shall appoint an Electrical Inspector(s), who shall be licensed as an electrical journeyman or master electrician, who shall inspect all electrical installations and report to the inspection authority.

(2) This jurisdiction shall apply to the installation of electrical wiring, electrical devices, apparatus and equipment for connection to electrical supply systems except as provided in § 156.008.

(Ord. 122, passed 3-21-1995)

### § 155.05 FEES.

(A) When an application is made for a permit, license, registration or examination required under the terms of this chapter, a fee shall be paid in an amount as prescribed in this section or, for fees not identified herein, a fee as prescribed by resolution of the City Council.

(B) The following fees identified below shall be as follows.

(1) Exam fees:

(a) Journeyman electrician: $15;

(b) Master electrician: $20;

(c) Electrical contractor: $20;

(d) Fire alarm specialist: $20;

(e) Sign specialist: $20;

(f) Fire alarm contractor: $20; and

(g) Sign contractor: $20.

(2) License fees:

(a) Electrical contractor: $75;

(b) Sign contractor: $75;

(c) Fire alarm contractor: $75;

(d) Master electrician: $20;

(e) Fire alarm specialty technician: $20;

(f) Sign specialty license: $20;

(g) Journeyman electrician: $15;

(h) Apprentice electrician: $10; and

(i) Fire alarm specialty apprentice technician: $10.

(3) Registration fee: any electrical license: $20.

(Ord. 122, passed 3-21-1995)

### § 155.06 RIGHT OF ACCESS TO BUILDING.

Subject to the Constitution and the laws of the state, the Electrical Inspector, and/or his or her deputy, shall have the right, during reasonable hours, to enter any building in the discharge of his or her official duties for the purpose of making any inspection or test of the installation of electrical wiring, electrical devices and/or electrical materials contained therein and shall have the authority to cause the turning off of all electrical supply and to disconnect, in cases of emergency, any wire where such electrical currents are dangerous to life or property or may interfere with the work of the Fire Department.

(Ord. 122, passed 3-21-1995)

### § 155.07 PERMITS.

(A) It shall be unlawful for any person, firm or corporation to install, alter, maintain, service or repair electrical equipment in or on any building, structure or part thereof or on premises or cause or permit therein or thereon the installation, altering, maintaining, servicing or repairing of any electrical equipment without a permit having been obtained therefore as provided herein. Nothing in this section shall be considered as applying to any person engaged in repairing and maintaining electrical appliances.

(B) Permits shall be issued only to those listed in divisions (B)(1) through (B)(4) below:

(1) Licensed electrical contractors;

(2) Licensed fire alarm contractors;

(3) Licensed sign specialty contractors;

(4) A bona fide owner of a single-family residence which is, or will be on completion, his or her own place of residence, and no part of which is used for rental or commercial purposes nor is now contemplated for such purpose, provided that the owner applies for and secures a permit, pays the fee, does the work himself or herself in accordance with the provisions hereof, applies for inspections and receives approval thereof.

(C) Failure to comply with these requirements will subject the owner's permit to cancellation.

(Ord. 122, passed 3-21-1995) Penalty, see § 155.99

### § 155.08 CONTRACTORS REQUIREMENTS; EXCEPTIONS.

No person, firm or corporation shall engage in the business of electrical contracting, fire alarm contracting or sign contracting unless such person, firm or corporation shall have received from the state or the appropriate municipality the appropriate contractors license nor shall any person, other than a master electrician, except a person duly licensed and employed by and working under the direction of a holder of an electrical contractor's license, fire alarm contractor's license or sign contractor's license, in any manner undertake to execute any electrical wiring; except, no license shall be required by the Board to perform the work indicated in divisions (G), (I), (J), (K), (L), (M) and (N) below; nor shall a license or permit be required to execute the work covered by divisions(A), (B), (C), (D), (E), (F) and (H) below:

(A) Minor repair work, as defined;

(B) The installation, alteration, repairing, rebuilding or remodeling of elevators, dumbwaiters, escalators or man-lifts performed under a permit issued by an elevator inspection agency of the state or political subdivision of the state;

(C) The installation, alteration or repair of electrical equipment and its associated wiring, installed on the premises of consumers or subscribers by or for electrical energy supply or communication agencies for use by such agencies in the generation, transmission, distribution or metering of electrical energy or for the operation of signals or transmission of intelligence not including fire alarm systems;

(D) The installation, alteration or repair of electric wiring for the generation and primary distribution of electric current or the secondary distribution system up to and including the meters where such work is an integral part of the system owned and operated by an electric light and power utility in rendering its duly authorized service;

(E) Any work involved in the manufacture of electric equipment, including the testing and repairing of such manufactured equipment;

(F) The installation, alteration or repair of equipment and its associated wiring for the generation or distribution of electric energy for the operation of signals or transmission of intelligence where such work is in connection with a communication system owned or operated by a telephone or telegraph company in rendering its duly authorized service as a telephone or telegraph company;

(G) Any installation, alteration or repair of electrical equipment by a homeowner in a single-family home and accompanying outbuildings owned and occupied or to be occupied by the person performing the installation, alteration or repair of electrical equipment;

(H) Any work involved in the use, maintenance, operation, dismantling or reassembling of motion picture and theatrical equipment used in any building with approved facilities for entertainment or educational use and which has the necessary permanent wiring, floor and wall receptacle outlets designed for the proper and safe use of such theatrical equipment, but not including any permanent wiring;

(I) Work performed by mechanical contractors licensed in classifications listed in M.C.L.A. § 338.976(3)(a), (b), (d), (e) and (f) of the Forbes Mechanical Contractor Act, Public Act 192 of 1984, plumbing contractors licensed under M.C.L.A. §§ 338.901 through 338.917 and employees of persons licensed under Public Act 192 of 1984 while performing maintenance, service, repair, replacement, alteration, modification, reconstruction or upgrading of control wiring circuits and electrical component parts within existing mechanical systems defined in the mechanical and plumbing codes provided for in the State Construction Code Act of 1972, including, but not limited to, energy management systems, relays and controls on boilers, water heaters, furnaces, air conditioning compressors and condensers, fan controls, thermostats and sensors and all manufacturer pie-wired system wiring associated with the mechanical systems in buildings which are on the load side of the unit disconnect, which is located on, or immediately adjacent to, the equipment, except for life safety systems wiring;

(J) Electrical wiring associated with the installation, removal, alteration or repair of a water well pump on a single-family dwelling to the first point of attachment in the house from the well, by a registered pump installer under part 127 of the Public Health Code, Public Act 368 of 1978, being M.C.L.A. §§ 333.12701 through 333.12771;

(K) The installation, maintenance or servicing of burglar alarm systems within a building or structure;

(L) The installation, maintenance or servicing of residential lawn sprinkling equipment;

(M) The installation, alteration, maintenance or repair of electric signs and related wiring by an unlicensed individual under the direct supervision of a licensed sign specialist; except that the ratio of unlicensed individuals engaged in this activity shall not exceed two unlicensed individuals to one licensed sign specialist. An enforcing agency shall enforce this ratio on a jobsite basis; and

(N) The construction, installation, maintenance, repair and renovation of telecommunications equipment and related systems by a person, firm or corporation primarily engaged in the telecommunications and related information systems industry. This exemption does not include the construction, installation, maintenance, repair and renovation of a fire alarm system.

(Ord. 122, passed 3-21-1995) Penalty, see § 155.99

### § 155.09 INSPECTION.

(A) Upon the completion of the wiring of any building, it shall be the duty of the person, firm or corporation installing the same to notify the Building Department, who shall notify the Electrical Inspector(s) to inspect the installation within 72 hours/three working days and if it is found to be fully in compliance with this chapter and does not constitute a hazard to life and property, he or she shall issue, upon request, to such person, firm or corporation for delivery to the owner a certificate of inspection.

(B) All wires which are to be hidden from view shall be inspected before concealment and any person, firm or corporation installing such wires shall notify the City Building Department, giving sufficient time in which to make the required inspection before such wires are concealed. At least 72 hours/three working days will be considered as sufficient notice.

(Ord. 122, passed 3-21-1995) Penalty, see § 155.99

### § 155.10 REINSPECTION.

(A) The Electrical Inspector(s) may, when specifically authorized by state law or separate municipal ordinance, make periodically a thorough re-inspection of the installation in buildings of all electrical wiring, electrical devices and electrical material now installed or that may hereafter be installed, within the corporate limits of the city.

(B) When the installation of any such wiring, devices, and/or material is found to be in a dangerous or unsafe condition, the person, firm or corporation owning, using or operating the same shall be notified and shall make the necessary repairs or changes required to place such wiring, devices and material in a safe condition and have such work completed within 15 days or any longer period specified by the Electrical Inspector in said notice. The Electrical Inspector(s) is/are hereby empowered to disconnect, or order in writing the discontinuance of, electrical service to such wiring, devices and/or material found to be defectively installed until the installation of such wiring, devices and material has been made safe as directed by the Electrical Inspector(s).

(Ord. 122, passed 3-21-1995)

### § 155.11 CONSTRUCTION REQUIREMENTS.

No certificate of inspection shall be issued unless the electrical installation is in strict conformity with the provisions of this chapter, the statutes of the state, the rules and regulations issued by the State Public Service Commission under the authority of the state statutes and unless they are in conformity with approved methods of construction for safety to persons and property. The regulations as laid down in the current National Electrical Code and Michigan Residential Code, for fire alarm systems, as approved by the American National Standards Institute (ANSI) and in the amendments, rules and regulations established as hereinafter provided shall be prima facie evidence of such approved methods.

(Ord. 122, passed 3-21-1995)

### § 155.12 APPROVED MATERIALS.

(A) It shall be unlawful to install or use any electrical device, apparatus or equipment designed for attachment to, or installation on, any electrical circuit or system for heat, light, power or fire alarm system that is not of good design and construction and safe and adequate for its intended use. The Electrical Inspector(s) shall have power to disapprove the use or installation of devices not fulfilling these requirements.

(B) Devices, apparatus and equipment listed by such generally recognized authorities as United States Bureau of Standards or by qualified electrical testing laboratories such as: Electrical Testing Laboratories (ETL), Underwriters Laboratories (UL) or Factory Mutual (FM) may be given the approval by the Electrical Inspectors unless explicitly disapproved by said authority for reasons of faulty design or poor construction involving danger to persons and/or property.

(Ord. 122, passed 3-21-1995) Penalty, see § 155.99

### § 155.13 RECORD AND REVIEW.

(A) The Building Official or his or her designee shall keep complete records of all permits issued and inspections made and other official work performed under the provisions of this chapter.

(B) When the Electrical Inspector condemns all or part of any electrical installation, the owner or his or her agent may within five days after receiving written notice from the electrical inspector, file a petition in writing for review of said action of the Electrical Inspector with the Electrical Examining and Appeals Board. Upon receipt of the petition, the Board shall at once proceed to determine whether said electrical installation complies with this chapter, and within five working days shall make a decision in accordance with its findings.

(Ord. 122, passed 3-21-1995)

### § 155.14 LICENSE AND REGISTRATION FOR ELECTRIC WORK.

(A) The Electrical Examining and Appeals Board is hereby constituted consisting of the Building Official, the Electrical Inspector of the city, a representative of the electrical utility company, a licensed electrical contractor who is also a licensed master electrician, a licensed master electrician, a licensed journeyman electrician with ten years experience and an electrical engineer. The licensed journeyman shall not participate in the masters examinations.

(B) The members of said Board shall be appointed by the City Council for such terms as shall be designated at the time of appointment. This Board shall examine all applicants for electrical, fire, and sign contractor's license, journeyman and master electrician license, fire alarm specialty technician license and sign specialist license and the registration of apprentice electricians and fire alarm specialty apprentice technicians.

(C) Applicants for journeyman and master electrician license, fire alarm specialty technician license and sign specialist license shall designate their residence as the location of their legal address. All applicants for contractor licenses shall designate their principal place of business as their legal address.

(D) All electrical contractors, fire alarm contractors, sign specialty contractors, master electricians, journeyman electricians, fire alarm specialty technicians, sign specialists, apprentice electricians and fire alarm specialty apprentice technicians having their legal address within the corporate limits of the city shall secure their license or registration from the city.

(E) (1) The Board shall prepare the application forms, prescribe the examination and meet as requested by the Electrical Inspector to hold examinations. In the months of June, July, August and December, there will be no scheduled meeting.

(2) Due notice shall be given applicants of the date of examination. All applications for examination shall be in writing. The examination shall consist of a written examination as the Board shall determine, and other practical tests at the discretion of the Board.

(F) The examination for journeyman and master electricians, fire alarm specialty technician license, and sign specialist license shall include, but not be limited to, questions designed to test an individual's knowledge of this chapter, the State Construction Code Act of 1972, being M.C.L.A. §§ 125.1051 et seq., and any code adopted by the city, as well as the theory relative to those codes.

(G) The examination for electrical contractor's license, fire alarm contractor's license and sign specialty contractors license shall include, but not be limited to, questions designed to test an individual's knowledge of this chapter and any rules promulgated under this chapter, the State Construction Code Act of 1972 and the administration and enforcement procedures of any code adopted by this municipality.

(H) All application forms and examinations shall be in English and all applicants shall be able to read and write in the English language.

(I) A person holding a valid electrical contractor's license, master electrician's license, electrical journeyman's license or apprentice electrician's registration shall not be required to hold any specialty licenses in order to perform specialty installations.

(J) It shall be unlawful for any person, firm or corporation to engage in the business of electrical contractor, fire alarm contractor, sign specialty contractor and install, alter or repair electrical wiring, equipment, apparatus or fixtures for light, heat, power or fire alarm system in or about buildings and/or structures located within the corporate limits of the city without first having procured the appropriate contractor's license.

(1) *Contractor's license; requirements.*

(a) *Electrical contractor.* The Building Department shall issue an electrical contractor's license to a person who does all of the following:

1. Holds a Master electrician's license or has not less than one master electrician residing in this state who is in his or her full time employ. That master electrician shall be actively in charge of and responsible for code compliance of all installations of electrical wiring and equipment, and represents no other person, firm or corporation as the master electrician;

2. Files a completed application on a form provided by the Building Department;

3. Pays the examination fee and passes an examination provided for by the Board and the Building Department; and

4. Pays the license fee prescribed by this chapter.

(b) *Fire alarm contractor.* The Building Department shall issue a fire alarm contractor's license to a person who does all of the following:

1. Holds a fire alarm specialty technician's license or has not less than one fire alarm specialty technician residing in this state who is in his or her full time employ. The fire alarm specialty technician shall be actively in charge of and responsible for code compliance of all installations of fire alarm system wiring and equipment;

2. Files a completed application on a form provided by the Department;

3. Pays the examination fee and passes the examination provided by the Board and the Department; and

4. Pays the license fee prescribed by this chapter.

(2) *Special circumstances.*

(a) Beginning the effective date of the ordinance that added this division (J) and for a period of three years from that

date, the department shall issue a license to a person qualified for fire alarm specialty licensure except for the requirement of certification by the National Institute for Certification in Engineering Technology or the equivalent as determined by the Board. Under these circumstances, the applicant shall furnish a notarized statement from current and past employers documenting past work experience.

(b) Work experience of not less than 4,000 hours obtained over a period of not less than two years shall qualify the person for fire alarm specialty licensure under this division (J)(2).

(3) *Sign specialty contractor.*

(a) The Building Department shall issue a sign specialty contractor's license to a person who does all of the following:

1. Holds a sign specialist's license or has not less than one sign specialist residing in this state who is in his or her full-time employ. The sign specialist shall be actively in charge of and responsible for code compliance of all installations, maintenance, connection and repair of electric signs and related wiring;

2. Files a completed application of a form provided by the Department;

3. Pays the examination fee and passes an examination provided for by the Board and the Department;

4. Pays the license fee prescribed by this chapter; and

5. Provides evidence of public liability insurance coverage.

(b) Beginning the effective date of the ordinance that added this division (J) and for a period of 360 days from that date, the Department shall issue a license to a person applying for licensure as a sign specialty contractor who has not less than two years experience, presented by affidavit, as a sign contractor and who is qualified under this chapter except for the examination requirement. Beginning the effective date of the ordinance that added this division (J) and until the expiration of 180 days after the Department and Board administer and make available the examination described in this chapter. A person not eligible for a license under this chapter may engage in the installation, alteration or repair of electric signs and related wiring.

(Ord. 122, passed 3-21-1995) Penalty, see § 155.99

## § 155.15 MASTER JOURNEYMAN AND APPRENTICE ELECTRICIAN.

(A) *License; requirement.*

(1) It shall be unlawful for any person to engage in the occupation or trade of master, journeyman or apprentice electrician in the installation, alteration, maintenance or repair of electrical wiring equipment, apparatus or fixtures for light, heat, power or medical purposes in or about buildings and/or structures within the corporate limits of the city without having first obtained a license or apprentice registration as herein provided.

(2) All electrical work done by apprentice electricians shall be performed under the direct personal supervision of a journeyman or master electrician who shall be on the premises at all times when such apprentice electricians are performing such work.

(B) *Master electrician's license; requirements; failure to pass examination; condition of renewal; license limitation.*

(1) The Department shall issue a master electrician's license to a person not less than 22 years of age who does all of the following:

(a) Files a completed application form provided by the Department;

(b) Pays the examination fee prescribed and passes an examination provided for by the Board;

(c) Pays the license fee prescribed by this chapter;

(d) A written statement from present or former employers to the effect that the applicant has not less than 12,000 hours of practical experience obtained over a period of not less than six-years related to electrical construction or maintenance of buildings or electrical wiring or equipment under the supervision of a master electrician; and

(e) Has held an electrical journeyman's license for not less than two years. Verification of license shall be furnished.

(2) Upon failure to pass the master electrician examination two times within a period of two years, an applicant shall be ineligible to sit for another examination until a period of not less than one year from the date of failure of the second examination, at which time he or she shall present to the Board proof of the successful completion of a course on code, electrical fundamentals or electrical theory approved by the Board; in order to become eligible to again sit for an examination.

(3) As a condition of renewal of a master electrician's license, the master electrician shall demonstrate the successful completion of a course, approved by the Board, concerning any update or change in the code, prior to or within 12-months after, the adoption of the update or change in that code. This requirement applies only during or after those years that the code is updated or changed by adoption into chapter.

(4) A holder of a master electrician's license shall not qualify for more than one electrical contractor's license.

(C) *Electrical journeyman's license; requirements; failure to pass examination; condition of renewal.*

(1) The Department shall issue an electrical journeyman's license to a person not less than 20 years of age who does all of the following:

(a) Files a completed application form provided by the Department;

(b) Pays the examination fee prescribed and passes an examination provided for by the Board;

(c) Pays the license fee prescribed by this chapter; and

(d) Files a written statement from present or former employers to the effect that the applicant has not less than 8,000 hours of experience obtained over a period of not less than four years related to electrical construction or maintenance of buildings or electrical wiring or equipment under the direct

(2) If restitution is required to be made by a licensee or registrant under this section, the Board may suspend the license or registration of the person required to make the restitution until restitution is made.

(Ord. 122, passed 3-21-1995) Penalty, see § 155.99

### § 155.16 EXEMPTIONS.

The provisions of this chapter shall not apply to apparatus and equipment installed by or for any utility operating under jurisdiction of the State Public Service Commission in the exercise of its function as a utility and when such apparatus or equipment is used primarily for the purpose of communication or metering; or for the generation, control, transformation, transmission and distribution of electrical energy.

(Ord. 122, passed 3-21-1995)

### § 155.99 PENALTY.

(A) Any person, firm or corporation who shall fail to comply with any of the provisions hereof shall, upon conviction thereof, be subject to a fine of not more than $500 or imprisonment in the jail of St. Clair County or any other place of confinement provided by the court having jurisdiction for such purpose in the discretion of the court for a period not to exceed 90 days, or both such fine and imprisonment at the discretion of the court unless otherwise provided in the chapter.

(B) Except as provided for in division (A) above, a person licensed or registered under this chapter who commits a violation of this chapter which is not a minor violation as described in the general rules or a person not licensed or registered under this chapter who is performing any activity regulated by this chapter, is guilty of a civil violation, punishable by a fine of not less than $1,000 per day for each day the violation except that a fine shall not exceed $5,000 in total per violation. A second or subsequent violation is punishable by a fine of not less than $2,000 per day for each day the violation occurs except that a fine shall not exceed $10,000 in total per violation.

(Ord. 122, passed 3-21-1995)

## CHAPTER 156: HEATING; OIL AND GAS

Section

## GENERAL PROVISIONS

### § 156.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ALTER.*** The addition to, or renewal of, any part of an oil burner or gas burner or its equipment which may change the designed or approved method of functioning.

***APPROVED.*** That which the Mechanical Inspector designates acceptable as a device, apparatus or method which demonstration and/or test has proven workable or safe for its intended use.

***APPROVED FUEL OIL BURNER, OIL-BURNING SPACE HEATER*** or ***OIL-BURNING HOT WATER HEATER.*** An oil-burning unit complete with required safety controls, either electrical or mechanical, which has been tested by the enforcing officer or by a testing laboratory and has been found to be in compliance with this code and acceptable for the installation in the city.

***AUXILIARY TANK.*** A tank between the storage tank and the burner delivering oil by gravity or pressure to the fuel oil burner.

***BOARD.*** The Board of Examiners.

***BOARD OF APPEALS.*** The Board of Appeals.

***CITY.*** The City of Memphis, Michigan.

***COMMISSIONER.*** The enforcing officer of the city.

***DEPARTMENT.*** The enforcing agency of the city.

***EFFECTIVE CHIMNEY HEIGHT.*** The vertical distance from the point of entry of the horizontal vent connection to the top of the chimney.

***FUEL GAS.*** Manufactured gas, natural gas or mixtures thereof, as distributed by the local public utility. For gases other than mentioned, see applicable provisions of state regulations governing liquid petroleum gas.

***FUEL OIL.*** Any liquid used as fuel and having a flash point not less than 110°F, as determined by the Pensky-Martin Closed Cup Tester.

***FUEL OIL BURNER.*** Any device including burners, meters, valves and other equipment designed and arranged for the purpose of burning fuel oil for space heating, generating steam or hot water supply purposes.

***FUEL OIL DRUM.*** Any container for the storing of fuel oil, having a capacity of not more than 55 gallons which is not directly or indirectly connected with the fuel oil burner or oil-burning space heater.

***GAS BURNER.*** A device for the final conveyance of the gas or a mixture of gas and air to the combustion zone of a boiler, furnace or other device used in connection with a space heating unit or system.

***GAS-FIRED SPACE HEATING EQUIPMENT AND APPURTENANCES.*** Gas burners, as previously defined, and all piping from the meter to the burner, blowers, control devices and accessories connected to or used in conjunction with the burner.

***OIL-BURNING SPACE HEATER.*** A self-contained space heating device, complete with required safety controls either electrical or mechanical and have a fuel oil storage tank of not over ten gallons capacity attached to the unit by the manufacturer said device shall not be attached to any furnace, boiler or other central heating device having duct work, and shall not be connected to auxiliary fuel oil storage tanks unless all provisions of this chapter pertaining to fuel oil burners are complied with.

***OIL-FIRED HOT WATER HEATERS.*** Oil-fired hot water supply unit.

***PORTABLE.*** Equipment that is not permanently positioned in place by fastening to floors, walls or ceilings with nails, screws, bolts, grout or other recognized means.

***STORAGE TANK.*** Any tank for the storage of fuel oil connected through some approved means of suction or gravity feed directly or indirectly to the fuel oil burner or oil burning space heater.

(Ord. 19, passed 1-7-1955)

### § 156.002 GAS; INSTALLATIONS.

(A) Gas fitting, gas burner installations and repair work shall be done with the gas turned off.

(B) At least two persons shall work in any situation where the nature of the work is such as to otherwise expose any person or property to danger.

(Ord. 19, passed 1-7-1955)

### § 156.003 SOURCE OF IGNITION.

(A) No matches, candles or other sources of ignition shall be used when working on piping or equipment filled with gas or in searching for leaks.

(B) Workers or helpers shall not smoke while connecting or disconnecting gas filled piping or equipment nor shall others be permitted to smoke while in the room with or near such work.

(Ord. 19, passed 1-7-1955)

### § 156.004 ARTIFICIAL LIGHTING.

Artificial lighting for use in connection with searching for leaks or work in gaseous atmospheres shall be restricted to approved electric hand flash lights or other electric lights controlled by switches located outside the gassy area. Every worker shall be equipped with an approved electric hand flash light.

(Ord. 19, passed 1-7-1955)

### § 156.005 FLAMMABLE LIQUIDS.

(A) Alcohol, gasoline and other flammable liquids, including the liquid which is removed from meters or from drips in gas piping shall be handled with the proper precautions and shall not be left by the worker on the premises of the customer.

(B) Fitter's torches or furnaces (including blowtorches) shall not be left within the customer's premises from the end of one working day to the beginning of the next.

(Ord. 19, passed 1-7-1955)

### § 156.006 REPAIRS.

(A) No worker, unless in the employ of the gas company shall repair, alter or open the service pipe or service extension or set or remove the service meter or do any other work on the parts of the gas supply system up to and including this meter.

(B) Only emp1oyees of the gas company shall be permitted to turn the gas on at a service cock or curb cock or at any other cock which controls the supply of gas to more than one customer.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.007 OPENINGS.

Before turning gas under pressure into any piping, the installer shall assure himself or herself that there are no openings from which gas can escape.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.008 COMPLETED INSTALLATION.

(A) After installation is completed, and before leaving the premises, all air must be blown from piping and appliances and all pilot burners must be lighted and properly adjusted.

(B) When purging pipes supply equipment which has burners enclosed in spaces wherein gas may collect the air shall be blown from an opening outside the enclosure, such as the end of the manifold.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.009 TURNING OFF GAS.

(A) When necessary to turn gas off, a worker shall use the meter cock or a line cock which affects only part of the piping of a single customer.

(B) Before gas is shut off from any line or piping, all users or their responsible representatives whose service is affected shall (except in emergencies) be advised that the gas is to be shut off and instructed to shut off all appliance cocks and not to open any of them again until notified that service has been restored, in accordance with §§ 156.007 and 156.008.

(C) If a meter cock is found shut off, unless the worker himself or herself has shut it off or know that it was shut off by the customer to prevent leakage and the cause of the leakage has been repaired by the worker, he or she shall not turn the gas on.

(D) It shall be the duty of any worker to turn the gas off from any equipment, pipe or piping system and regardless of the wishes of the user thereof, to leave the gas turned off until the cause for interrupting the supply has been removed in any of the following cases:

(1) If ordered to do so by the Department;

(2) If any leakage of gas is noted;

(3) If there is any condition which threatens interruption of gas supply which may cause burner flame to be extinguished or otherwise prove dangerous; and

(4) If an installation is found of some gas-fired equipment such as to cause a serious personal or property hazard.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.010 TURNING ON GAS.

(A) A worker shall not turn gas on at a meter or a line cock if piping, equipment or meters are known to leak or to be defective.

(B) No worker or any other person shall turn gas on at a meter cock or a line cock after the same has been ordered turned off by the Department or the gas company without specific permission from the agency who turned the gas off.

(C) Gas shall not be turned on at either a line cock or a meter cock unless gas burning equipment is connected to the piping system supplied.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

## ADMINISTRATIVE

### § 156.025 PURPOSE.

(A) Except as hereinafter provided, this chapter shall apply to the installation of all fuel burners and gasfired heating equipment, provided, that existing installations may be continued in use without change where such existing installations basically conform to standards of this chapter and present no apparent danger to life or property through the methods of installation or operation and provided further that an installation permit has been previously obtained as required by any ordinance which this chapter supercedes.

(B) The city shall permit contractors engaged in the installation of gas-fired, oil-fired or coal-fired heating equipment legally licensed by other municipalities of the state to engage in the business of installing or contracting to install, alter or service gas-fired, oil-fired or coal-fired heating equipment, parts or accessories thereof, or appurtenances thereto, within the corporate limits of the city upon registration with the Department and the payment of a registration fee, provided, that the municipalities in which such contractors are licensed reciprocate in recognizing gas-fired, oil-fired and coal-fired burner installation contractors duly licensed under the provisions of this chapter by granting them the same privilege and charging the same license and registration fees.

(C) To be eligible for a reciprocal license, a hearing contractor shall obtain his or her license in the municipality wherein the said contractor maintains his or her principal place of business; provided further, that the licensing chapter, examinations and examination procedures of such municipalities are substantially equal to the requirements set forth in this chapter.

(D) No gas-fired, oil-fired or coal-fired burner installation contractors license shall be recognized for the purpose of registration by the city, which has been issued by a municipality which has failed to approve, by affirmative action of its legislative body, the reciprocal licensing provisions contained in this chapter. The right of any municipality to participate in the reciprocating section of this chapter shall be determined by the Board of Examiners of the reciprocating municipalities and based upon qualifications outlined in this chapter.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.026 INSTALLATIONS.

It shall be unlawful in the city for any person, firm, partnership, association or corporation to engage in the business of installing or contracting to install, alter or service any oil-fired or gas-fired heating equipment covered by this chapter, parts or accessories thereof or appurtenances thereto, without first having filed an application with the Department and obtained a license therefore as hereinafter provided.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.027 LICENSES.

(A) Application for a license shall be made on forms furnished for such purpose by the Department.

(B) The application shall contain, in addition to other required information, the following:

(1) Name, age and address (legal and place of business) of applicant;

(2) Qualifications of applicant;

(3) If applicant is a corporation:

(a) Full and accurate corporation name;

(b) When and where incorporated;

(c) Full name and addresses of officers of corporation; and

(d) Name of officer or regular employee who is to take the examination and his or her qualifications.

(4) If the applicant is a partnership: names and addresses (legal and place of business) of members thereof and the name of the partner or regular employee who is to take the examination and his or her qualifications; and

(5) If the applicant conducts business under a trade or assumed name:

(a) Complete and full trade name;

(b) The name of the person or persons doing business under such trade or assumed name; and

(c) The name of the individual or regular employee who is to take the examination and his or her qualifications.

(C) Licenses shall be classified and limited as follows:

(1) Gas-fired equipment limited to input ratings not exceeding 500,000 B.T.U. per hour, per unit;

(2) Gas-fired equipment with all input ratings (unlimited);

(3) Oil-fired equipment limited to units or burners designed for the use of Nos. 1, 2 and 3 distillates as defined in the U.S. Department of Commerce Commercial Standard CS 12-40, having a maximum fire rate of 30 gallons per hour;

(4) Oil-fired equipment unlimited as to size or capacity of an oil burner and designed for any grade of fuel oil;

(5) Coal-fired equipment limited to input ratings not exceeding 500,000 B.T.U. per hour, per unit;

(6) Coal-fired equipment with all input ratings (unlimited);

(7) Combination of any two limited licenses;

(8) Combination of any two unlimited licenses;

(9) Combination of all limited licenses;

(10) Combination of all unlimited licenses; and

(11) Combination of any limited and unlimited licenses.

(D) Annual license fee for the issuance of gas-fired, oil-fired and coal-fired heating equipment shall be as follows.

(1) The fee shall be $25 for any one, or for any combination of, license classifications. Contractors may secure licenses for additional classifications without any additional license fee, provided they pay the required examination fee and their license is approved by the Board of Examiners;

(2) License registration fee shall be $10 for any one or for any combination of license classifications. Registration of additional license classifications may be made without additional charge.

All licenses and registrations shall expire June 1, following date of issuance.

(E) No license shall be revoked except for cause upon proof of charges filed by the Inspector, specifying with reasonable detail the facts showing carelessness or negligence in the performance of the licensee's duties in connection with his or her work or showing that such licensee has violated or permitted a violation of this code or that this code has been violated in connection with work for which the licensee was responsible and of which the licensee was aware or, in the exercise of reasonable diligence, should have been aware that such violation has occurred.

(F) Upon the filing of such charges, the governing body may forthwith suspend the license involved, and shall give to such licensee notice of a hearing upon such charges, which hearing shall be held by the governing body not less than 14 days after the date of such notice unless an earlier date is agreed upon in writing by the licensee affected. Such notice shall be by personal service or registered mail forwarded to the last known address and shall state the time and place of such hearing and shall contain a copy of the charges. If such charges are sustained by the governing body, the licensee shall be notified in writing of such revocation.

(G) No person having procured a masters contractor's license shall permit or allow the use of his or her name by any other five persons, directly or indirectly, for the purpose of obtaining a permit to do any installation, alteration, replacement or repair of gas burner or oil burner equipment in the city.

(H) The Board is hereby authorized to adopt rules and regulations necessary to make effective the provisions of this chapter.

(I) Licenses may be revoked or suspended in accordance with the charter and ordinances of the city relative thereto.

(Ord. 19, passed 1-7-1955)

### § 156.028 BOARD OF EXAMINERS.

(A) (1) A Board of Examiners, consisting of at least five members, or the number provided for by charter provision, shall be appointed by the governing body to advise the person in charge of the Department on examinations required by this chapter. The members shall be citizens of the United States and residents of the city and shall be qualified in the knowledge of the mechanics of the business.

(2) The five members shall consist of two representing the governing body, two representing the heating business and one citizen at large, who shall be an engineer. Their terms of office to be set by the Commission of the city and any vacancies shall be filled by them. The city may elect to have said examinations conducted by the Board of Examiners for the City of Detroit.

(B) The duties of the Board of Examiners shall be to determine, by examination of such a kind as it may require, the qualifications and ability of applicants for licenses. Such examinations shall consist of oral or written and may include practical tests and shall cover the theory and practice of heating construction and engineering and the interpretation of charts, blueprints and plans for heating installations. The Board shall file with the Department a written report of its findings and recommendations in each case.

(Ord. 19, passed 1-7-1955)

### § 156.029 BOARD OF APPEALS.

(A) There is hereby created a Board of Appeals, herein after referred to as the Board, which shall consist of the Board of

Examiners, hereinbefore referred to; provided, however, that the Inspector shall be disqualified from sitting as a member of the Board or from voting on any and all matters involving the suspension or revocation of any license issued under this code or on any and all matters that are in the nature of an appeal from any ruling or decision made by said Inspector.

(B) The Board is hereby authorized and empowered to do the following:

(1) When it is impossible for a licensee under this code or an owner to obtain the material specified for use in the code because of any national emergency or when it is undesirable to use the materials specified because of improvements, or new discoveries made or when it is impractical or undesirable for a licensee to follow the method or procedure prescribed by this code, the Board, in its discretion, may approve any material proposed as a substitute for those mentioned in the code, or may, in its discretion, approve any method of procedure as a substitute for that herein prescribed and when such approval is given it shall have the force and effect of law;

(2) Hear and conduct appeals from rulings or decisions of the Inspector as specified in this code;

(3) Conduct investigations on any matters pertaining to the effective operation and application of the code to the various matters covered thereby;

(4) Make findings that shall be conclusive on all questions of fact, whether arising from such investigations, appeals or otherwise; and

(5) To make rules and regulations for carrying out the provisions of this chapter.

(C) In the event that any person desires to appeal to the Board from any decision or ruling of the Inspector or any matter under the code, such appeal shall be made in writing and filed with the Secretary of the Board and at the same time such person shall pay a filing fee of $10 to the City Treasurer. If the ruling or decision of the Inspector is not affirmed by the Board, the fee of $10 shall be returned to the person appealing; if such ruling or decision is affirmed, the fee shall be retained by the city. In the event proceedings are instituted before the Board of Appeals for any purpose other than to appeal from the ruling or decision of the Inspector, the filing fee as hereinbefore provided shall not be required. Where giving notice of hearing on an appeal is not otherwise provided for herein, the Secretary of the Board shall give such notice to all the interested parties at least ten days before the date of such hearing, either by personal service or registered mail, and the hearing shall be held at such time and place in the city as shall be therein stated. Proof of service of giving such notice shall be made and filed with the Board of Appeals prior to the hearing.

(Ord. 19, passed 1-7-1955)

### § 156.030 EXAMINATION OF APPLICANT; FEE.

(A) No license shall be issued to an applicant until he or she has submitted to an examination, or such applicant has a person in his or her regular employ who is actively in charge, who has submitted to the examination; provided, that when a license has been issued to an applicant based on the qualifications of such regular employee and the active services of such employee with the applicant have been terminated, it shall be unlawful for the said licensee to engage in any of the operations covered by this chapter until the said licensee is again qualified in accordance with the provisions thereof.

(B) Examination may be written or oral and may include practical demonstrations and it shall cover the construction, engineering and the interpretation of charts, blueprints and plans of heating installations. The examinations shall be uniform for all reciprocating municipalities.

(C) Every applicant shall, upon making application for a license, pay an examination fee of $10. Any applicant failing to appear for examination or failing to secure a passing grade shall again pay the examination fee before being permitted to again take the examination.

(D) Examinations for a license under this chapter shall be held on the twentieth day of each month except when such is a holiday, in which case it shall be held on the following day. No sessions of the Board of Examiners need be held unless there is at least one applicant for examination. Special sessions of the Board of Examiners may be called by the Chairperson when, in his or her discretion, necessity may require it.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.031 PERMITS.

(A) It shall be unlawful for any person, firm, partnership, association or corporation to install or alter any oil-fired or gas-fired heating equipment covered by this chapter in the city, except as herein provided, without a permit from the Department. Application for such permit shall be on forms furnished for such purpose by the Department and shall contain sufficient information for a proper description of the burner, equipment and accessories to be installed or altered.

(B) The Department shall issue numbered tags, of a type which will be destroyed upon removal, to licensed oil burner and gas-fired space heating installation contractors and shall keep a record of tags so issued. These tags shall be attached to the fuel oil fill or vent pipe by the contractor upon completion of an oil burner installation or to the fuel line of the gas space heating apparatus at the manually operated shutoff valve by the contractor upon the completion of the gas space heating installation.

(C) Upon issuance of an oil burner or gas burner installation permit, the Department shall inspect the installation and if found to conform with the provisions of this chapter, a permanent metal tag, property numbers shall be affixed by the

Inspector.

(D) It shall be unlawful for any owner, occupant, firm, partnership, association or corporation having control or management of any building or structure to use or permit to be used therein any fuel oil burner, oil-burning heater which has been installed or altered subsequent to the effective date of the chapter without a permit as herein provided. It shall be unlawful for any person, firm, partnership, association or corporation, except authorized personnel of the gas company, to turn on the gas for use in any gas-fired space heating equipment which has been installed or altered in any building or structure subsequent to the effective date of this chapter without the said permit.

(E) No person oa1 persons, firm or corporation shall supply with fuel oil any tanks or containers for fuel oil unless such fuel oil burners and equipment shall have, as herein provided, a tag attached to the fill or vent pipe of such tank or container.

(F) Fees for the issuance of installation or alteration permits for inspections required under the provisions of this chapter shall cover the cost of inspection and supervision resulting from the enforcement of this chapter. The fee shall be $5.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.032 INSPECTIONS.

(A) The Inspector, and his or her authorized assistants, shall have the right, during reasonable hours, to enter any building or premises in the city for the purpose of making any inspections or tests of any fuel oil burner or gas burner, or parts thereof, contained therein.

(B) It shall be the duty of the Inspector or his or her authorized assistants to inspect all fuel oil and gas burning equipment covered by this chapter at the time of its installation and all oil-fired and gas-fired heating equipment installed previously to the enactment of this chapter, which, due to its construction, installation or condition, may be dangerous to life or property.

(C) The Inspector, and his or her authorized assistants, may make such other inspections and tests as are deemed necessary for the purpose of safety and the enforcement of this chapter.

(D) Whenever any fuel oil burner or gas space heating burner, or part thereof, or any accessory thereto, is found to be unsafe or in a condition so as to be dangerous to life or property, the Inspector or his or her authorized assistants are hereby empowered to condemn the unit or the part thereof and no such unit or part thereof, shall thereafter be used until put in a safe condition and approved by the Department.

(E) (1) Whenever any fuel oil burner oil-burning or gas-burning space heater, or part thereof, has been condemned, the Inspector shall place thereon a warning tag listing the causes for the condemnation. It shall be unlawful for any owner, occupant, firm, partnership, association or corporation having control or management of any such unit or part thereof, to use, or permit to be used, such unit or part thereof, until such causes for the condemnation shall have been remedied and the unit, or part thereof, has been put in safe condition and approved as such by the Department.

(2) Licensed contractors will be permitted to place such equipment in operation in accordance with the following procedure:

(a) Correct the cause of condemnation;

(b) Notify this Department by telephone that the hazardous condition has been corrected;

(c) Upon receiving the permission of the Department, place the equipment in operation; and

(d) Sign the warning tag with the name of the company holding the contractor’s license, countersigned by the worker responsible for making the corrections and leave the signed warning tag attached.

(F) Nothing in this chapter shall be construed as limiting the authority of the Fire Department and the Board of Health in making supplementary inspections under these respective safety regulations.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.033 PLUMBING.

The installation, alteration, maintenance, extension or replacement of any plumbing, including domestic water heating equipment, as defined by the plumbing laws of the state, and §§ 154.20 through 154.24 is not permitted to be done by any licensee under this chapter, unless such licensee is also licensed as a master plumber under the plumbing laws of the state and is registered in accordance with the provisions of the said §§ 154.20 through 154.24.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.034 ELECTRIC WIRING.

(A) The electric wiring installed in connection with an oil-fired or gas-fired space heating equipment shall be installed in accordance with the provisions of Ch.155.

(B) Each oil or gas-fired installation shall be provided with a remote control switch capable of disconnecting the electrical supply from the fuel burning equipment located in a place easily accessible, in case of fire, near the equipment. This switch shall be permanently and clearly labeled “BURNER SHUTOFF SWITCH”.

(Ord. 19, passed 1-7-1955)

## OIL

### § 156.045 CONSTRUCTION.

The construction, arrangement and manner of installation of all oil burners and oil burner equipment hereafter installed or use in connection with heating systems, and the alteration, replacement or repair hereafter of all oil burners and oil burner equipment used or to be used in connection with heating systems, shall conform to the provisions of this subchapter.

(Ord. 19, passed 1-7-1955)

### § 156.046 APPROVED BURNERS.

(A) The Department may approve any oil burner listed by the Underwriters Laboratory, or any other nationally recognized inspection board or laboratory. Oil burners not listed by the Underwriters Laboratory, or any other nationally recognized board or laboratory, shall not be approved until they have been inspected and tested by some recognized laboratory capable of making such a test and inspection and the certificate showing such inspection and test shall be forwarded to the Department. This inspection and test shall cover arrangement of parts, suitability of material, strength of parts, electrical control, thermostatic arrangement, reliability of automatic features, positiveness of ignition and safeguards against flooding.

(B) Any person licensed to install, alter, repair or replace oil burners in the city shall install a used burner for use in connection with a heating system only after he or she shall have furnished the Inspector with a statement that said oil burner has been put in first-class operating condition.

(Ord. 19, passed 1-7-1955)

### § 156.047 BURNER SPECIFICATIONS.

(A) The grade of fuel oil used with any burner shall be one which tests and experience show to be suitable for use with that burner. The oil shall have a flash point not less than 110°F when tested by the Pensky-Martins Closed Cup Testing Method and shall be free from acid, grit and fibrous or other foreign matter likely to clog or injure the burners or valves.

(B) The burner shall be designed to prevent excessive carbonization and shall be securely attached and supported.

(C) Gravity feed shall be used only with burners equipped with approved automatic devices to prevent abnormal discharge of oil in the burner.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.048 CARE AND OPERATION.

(A) Complete instructions in regard to care and operation of the oil-burning equipment shall be posted near the apparatus installed. The instruction sheet so posted shall include the specifications for the gravity and limiting flash point of oil suitable for use in the burner. All cards of instruction must be posted at the time of installation.

(B) In single residences, every oil burner installation shall have near the entrance to the furnace room, and readily accessible for convenient use in emergency, a hand fire extinguisher of at least a quart capacity approved by the National Board of Fire Underwriters for extinguishing combustible oil fires provided, however, that installations of oil-burning equipment in multiple dwellings, commercial establishments of any kind or description where the public congregates or persons are permitted to be present on invitation or otherwise, such installation shall have accessible in the furnace room for immediate and convenient use in emergency, a fire extinguisher of at least two and one-half gallons capacity, approved by the National Board of Fire Underwriters, and which shall be of foam type or its equivalent; provided further, that in case of great hazard or danger to the public, the Chief of the Fire Department, may, in writing, require further or additional fire extinguishing apparatus in order to safeguard public property and life.

(C) The use of acetylene or any other gas possessing a wider range of explosiveness in admixture with air than coal gas or water gas is prohibited for use in the gas pilot of any fuel oil burner.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.049 VENTILATION.

(A) Ventilation shall be provided to prevent the accumulation of any trapped vapors below the combustion chamber. Rooms in which oil-burning equipment is located shall be provided with adequate ventilation to assure continuous complete combustion of the oil.

(B) Name-plate designating the trade-name of the burner, the model or size number and the name and address of the burner manufacturer shall be securely attached to each fuel oil-burner and oil-burning space heater.

(C) No damper shall be permitted in the smoke pipe or chimney from the device heated that may restrict the passage of fumes or gasses by more than 40%. Each oil-fired heating unit covered by this subchapter shall be connected to a chimney flue.

(D) (1) Chimney flues and flue pipes shall freely conduct the flue gases to the outer air. The chimney or flue shall be

properly constructed in accordance with the requirements of Ch. 154.

(2) The flue pipe shall not enter the chimney or flue beyond its inner wall and shall be so cemented to the chimney as to prevent infiltration of air. In entering the chimney or flue, the connection shall be made at least six inches above the extreme bottom.

(E) (1) The vent connection shall not be smaller than the size indicated by the vent collar of the appliance when same is oil designed.

(2) The horizontal vent connection shall not be longer than one-half the effective height of the chimney. The vent pipe shall maintain a pitch or rise of one-quarter inch per foot of the horizontal run from the equipment to the flue or chimney.

(3) The vent pipe shall be so installed as to avoid sharp turns or other constructive features which would create excessive resistance to flow of the gaseous products of combustion.

(4) Vent pipes from one or more oil-fired space heating appliances may be interconnected provided that the cross-sectional area of the manifold shall be equal to the sum of the cross-sectional area of the manifold shall be equal to the sum of the cross sectional areas of the vent collar connections of the appliances.

(5) No vent from an oil-fired space heating appliance shall be interconnected with a vent pipe from an appliance burning other fuels or designed for other uses except with the specific approval of the Department.

(6) A vent pipe from an oil-fired heating appliance and vent pipes from other appliances, burning the same or other fuels, may be connected into the same chimney through separate openings located at different levels, provided that the operation of any of the equipment is not adversely affected.

(7) The material used for vent pipes shall be such as to resist the corrosive action of flue gases and condensate.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.050 CONVERSION BURNERS.

In the case of conversion burners, the fuel door of the converted appliance shall be so arranged as to relieve pressure due to puffs or backfire caused by delayed ignition, and shall be provided with an approved self-closing device.

(Ord. 19, passed 1-7-1955)

### § 156.051 ELECTRIC WIRING.

Electric wiring in connection with oil-burning equipment shall be installed in accordance with the regulations of the National Electric Code and local electrical rules as enforced by the Electrical Department.

(Ord. 19, passed 1-7-1955)

### § 156.052 MINIMUM CLEARANCE.

(A) The minimum clearance of oil-fired heating units from combustible partitions and materials shall be as set forth in the Michigan Mechanical Code and Building Code, except in the case of equipment especially designed for burning fuel oil and tested and listed for lesser clearances by a nationally recognized testing laboratory.

(B) The clearance to combustible construction may be reduced as specified in the Michigan Mechanical Code and Building Code where the combustible construction is protected.

(Ord. 19, passed 1-7-1955)

### § 156.053 SMOKE PIPES.

(A) Where metal smoke pipes of 12 inches or less in diameter pass through a wood or plastered stud partition, they shall be surrounded either by a body of brick, hollow tile or other incombustible fireproof material of a thickness of at least four inches around such smoke pipes; or they shall be surrounded by a sheet metal thimble of two concentric rings at least two inches apart and the entire thimble so constructed that there will be a free circulation of air between the two rings forming the same. Smoke pipes of a diameter of six inches or less may have thimbles with one-inch air space.

(B) Where a new smoke pipe is installed, it shall be lock-seamed or riveted, with all joints lapped not less than one and one-half inches and rigidly secured and shall have proper thimble for making tight connection to chimney flue.

(Ord. 19, passed 1-7-1955)

### § 156.054 OIL-FIRED FLOOR FURNACES.

(A) Oil-fired floor furnaces shall be specifically approved by the Department for services in direct contact with combustible floors in which they may be installed.

(B) Fixed ventilation by means of a duct or grille arranged to supply air from a permanently ventilated attic or underfloor space, shall be provided to any confined space which encloses the floor furnace. The duct or grille shall be screened and have a free area at least twice the free area of the vent collar of the floor furnace or one square inch per 1,000 inch per

1,000 B.T.U. per hour of oil input, whichever is the greater, and shall be installed in such a manner as to ensure proper combustion.

(C) The following are requirements that will serve in properly placing the furnace or furnaces to serve one story.

(1) No floor furnace shall be installed in the floor of any aisle or passageway of any auditorium, public hall or place of assembly or in an exit-way from any such room or space.

(2) With the exception of wall-register models, a floor furnace shall not be placed closer than six inches to the nearest wall and wall-register models shall be placed closer than six inches to a corner.

(3) The furnace shall be so placed that a door, drapery or similar object cannot be nearer than 12 inches to any portion of the register of the furnace.

(4) Generally speaking, the more central the location, the better, favoring slightly the sides exposed to the prevailing winter winds.

(5) The floor around the furnace shall be braced and headed with a framework of material not lighter than the joists.

(6) Means shall be provided to support the furnace when the floor grille is removed.

(7) The lowest portion of the floor furnace shall have at least six-inch clearance from the general ground level, except that where the lower six-inch portion of the floor furnace is sealed by the manufacturer to prevent entrance of water, the clearance may be reduced to not less than two inches. When these clearances are not present, the ground below and to the side shall be excavated to form a “basin-like” under the furnace so that the required clearance is provided beneath the portion of the furnace. A 12-inch clearance shall be provided on all sides except the control side which should have an 18 inch clearance.

(8) Provisions shall be made for an access door to the floor furnace by means of an opening in the foundation wall of at least 18 by 24 inches and a trap door of at least 24 inches by 24 inches, located at some convenient point, and a clear and unobstructed passageway to the floor furnace of at least 18 inches high by 24 inches wide.

(9) Whenever the excavation exceeds 12 inches or water seepage is likely, a pit made of concrete, water-proof, not less than three and three-quarters inches thick and extending four inches above grade level shall be used. The pit shall be not less than six feet by six feet inside dimension, with at least two and one-half foot clearance on the control side and clearance on all other sides not less than six inches.

(10) Floor furnaces shall be protected, where necessary, against severe wind conditions.

(11) Listed oil floor furnaces may be installed in an upper floor provided the furnace assembly projects below into a utility room, closet, garage or similar nonhabitable space. In such installations, the floor furnace shall be enclosed completely (entirely separated from the nonhabitable space) with means for air intake to meet the provisions of this section, with access facilities for servicing on the control side, with minimum furnace clearance of six inches to all sides and bottom, and with the enclosure constructed of Portland Cement plaster on metal lath or material of equal fire resistance.

(12) Registers shall not be covered with combustible materials and the floor immediately surrounding the furnace shall be reasonably level.

(13) All floor furnaces, including those having single or dual wall register outlets, shall be installed as approved without alterations, extensions or changes of any kind in the furnace.

(Ord. 19, passed 1-7-1955)

### § 156.055 PIPES AND JOINTS.

(A) Standard full weight wrought iron, galvanized iron, steel or brass pipe or approved brass or copper tubing shall be used throughout. Underground piping shall be galvanized or equivalent.

(B) Pipe used in the installation of the domestic type burners shall not be smaller than three-eighth inch iron pipe size; pipe used in the installation of industrial type burners shall not be smaller than one-half inch iron pipe size. Suction lines for equipment burning grades No. 5 and 6 oil shall not be less than one and one-half iron pipe size to within 30 inches of the pump or burner. Copper or brass tubing used in the installation of domestic type burners where the oil flows by gravity from the tank to the burners shall not be smaller in size than three-eights inch outside diameter, forty-nine-thousandths inch wall thickness tubing. For industrial type burners, such copper or brass tubing shall not be smaller in size than the equivalent of the iron pipe size mentioned above with wall thickness not less than forty-nine-thousandths inch.

(C) Piping shall be rigidly secured in place and protected from injury in a workerlike manner and where necessary, shall be protected against corrosion. Where practicable, oil piping shall be buried underground or in a concrete floor or placed in a metal-covered pipe trench.

(D) Unions shall be ground type conical seating with faces of metal. Flanged or packed joints shall not be used. Compression fittings shall not be permitted for joints made on copper tubing.

(E) Valves shall be constructed so that the stem cannot be withdrawn by continual operation of hand wheel. The packing gland shall be provided with a separate shouldered unheaded follower having a beveled contact space for the compression of the packing.

(F) All threaded joints shall be made with lethargy and glycerine shellac, or other approved compound, free from leaks and made up so as to form an adequate joint.

(G) Proper allowance shall be made for expansion, contraction, jarring and vibration. Pipe lines, other than tubing, connected to underground tanks, except fill lines and test wells, shall be provided with double swing joints arranged to permit the tank to settle without impairing the efficiency of the pipe connections.

(H) Oil supply lines to burners shall be provided with approved strainers.

(I) Gas pilot supply piping shall be provided with an approved shutoff valve and with an approved properly vented gas pressure regulator.

(J) Fused valves of approved type shall be installed in oil supply lines at each tank and within six inches of each burner. In the case of underground tanks, the fused valve shall be located at the highest point visible in the suction line.

(Ord. 19, passed 1-7-1955)

### § 156.056 OIL STORAGE TANKS.

(A) Oil storage tanks on the inside of any building, shall be located in the lowest story, cellar or basement. Total above-ground storage either inside or outside of any building, on any premises shall be limited to 550 gallons but not more than 275 gallons shall be permitted in any one storage tank. On multiple tank installations, approved type check valves shall be provided to prevent cross flow between tanks. Design of check valves that are acceptable will include ball check valves, vertical life check valves and swing check valves that when in a closed position the angle shall be no less than for 45 degrees from the vertical. The fill-pipe on multiple installations shall be so arranged that both tanks will fill equally and the vent pipe shall extend well above cross connections between tanks to prevent air binding when filling, and shall meet the requirements of this section.

(B) Tanks shall be constructed of galvanized iron or basis open hearth steel or wrought iron, not less than 14 gauge or other material of equal strength and durability. All joints shall be welded or riveted. The tanks shall be reinforced with a welded or riveted pad or flange where connections are made. All tanks shall be made tight and tested at five pounds air pressure and with soapy water without showing leaks.

(C) Tanks shall have rigid and incombustible support and shall not be located less than five feet, measured horizontally, from any fire or flame and shall be placed on an incombustible floor.

(D) Each tank shall be provided with an approved type gauging device so that the fuel oil content of the tank may be determined at all times. Glass gauging devices or any others, the breaking or derangements of which would permit the escape of oil, shall not be used.

(E) Fuel oil should not be forced from storage tanks by positive air pressure.

(F) Underground tanks and storage tanks inside buildings shall be filled only through fill pipes terminating outside of buildings at a point at least two feet from any building opening at the same or lower level. Fill terminal shall be closed tight, when not in use, by a metal cover designed to prevent tampering. The fill pipe for such tank or tanks shall be iron or steel not less than one and one-half inches in diameter.

(G) All storage tanks for fuel oil shall be provided with a vent pipe not less than one-half the diameter of the fill pipe opening and in no case less than one and one-quarter inch iron pipe size in diameter.

(H) (1) The vent pipe shall be directly connected into the top of the tank and shall not be interconnected with lines used for other purposes. It shall not extend more than one inch inside the top of the tank.

(2) Vent pipes shall terminate outside of building, at least eight feet above grade, securely supported, at least 18 inches above the tank fill connection and at least two feet measured horizontally or vertically building from any building opening. The vent opening shall be protected by a return bend, hood or other fitting protected with an eight by eight corrosion-resisting screen to minimize the entry of foreign matter.

(3) Vent pipes shall maintain a pitch downward toward the tank of at least one-quarter inch per horizontal foot to prevent pocketing of liquid.

(4) The vent pipe from 275-gallon tanks may be connected to one upright, provided that they be connected to a point at least three inches above the lowest horizontal run of fill pipes.

(5) Vent pipes shall not be cross-connected with fill pipes or return lines from burners.

(6) Fill and vent pipes shall not be run through windows or coal chutes unless such openings are totally enclosed with non-combustible materials.

(I) (1) Except as otherwise permitted in this chapter, the storage of fuel oil in excess of 550 gallons shall be outside of any building in underground tanks.

(2) Tanks located underground shall be placed in a position so that the top of the tank is at least two feet below the surface of the ground and below the level of the lowest pipe leading into the building, provided, that tanks under driveways shall be protected by suitable reinforced concrete slabs. Tanks may be buried 16 inches below grade, with a cover of one foot of earth and a reinforced concrete slab of not less than four inches of thickness. The slab shall be set on a firm, well

tamped earth foundation and shall extend at least one foot beyond the tank in all directions.

(3) Tanks may be permitted underneath a building if buried at least two feet below the lowest floor or may be placed l6 inches below the lowest floor and covered with 12 inches of earth and four inches of enforced concrete.

(4) Where it is impracticable to bury tanks, the Department may allow them to be installed inside a building when completely encased in six inches of reinforced concrete and six inches of sand. Access openings in the top of such enclosures may be permitted upon specific approval of the Department. Storage in such installations shall not exceed 5,000 gallons for any one premise.

(J) Underground tanks shall not be located within two feet of a private property line or a basement or pit lower than the top of such tanks, unless such tanks are completely encased in six inches of concrete of a one, three and five mixture.

(K) Underground tanks shall be set on a firm foundation supported so that bearing stresses are uniformly distributed and surrounded with clean sand, well tamped into place. Where necessary to prevent floating, they shall be securely anchored or weighted.

(L) Measuring devices on tanks beneath buildings and previously described encased tanks shall be of an approved wall gauge type. Gauge stick openings located inside any building are expressly prohibited.

(M) Tanks underground and vaulted tanks shall be provided with a clean-out connection, which shall be not less than three-quarter inch pipe, extending within one and one-half inches from the bottom of the tank to outside the building. This connection shall be properly capped.

(N) (1) Gravity feed shall be used only with burners arranged to prevent abnormal discharge of oil at the burner by automatic means specifically approved for the burner with which it is used.

(2) Gravity flow of fuel oil from tank to burner is permitted when each tank does not exceed 275-gallon capacity. Tanks of larger capacity, where permitted, shall discharge oil by suction through top of tank.

(O) Storage and auxiliary tanks shall be securely supported by substantial incombustible supports to prevent settling or sliding.

(P) Where a pump is installed between the storage tank and an auxiliary tank, means shall be provided so as to return any surplus oil to the storage tank or other approved means shall be provided to prevent overflow of the auxiliary tank.

(Q) Fuel oil drums as hereinbefore defined shall be of metal of not less than 18 gauge and shall be equipped with a suitable hand pump or approved self-closing faucet. Said fuel oil drums may be stored in any garage or building on the ground floor only. Fuel oil storage for use with oil-burning space heaters shall be limited to two 55-gallon drums inside of any buildings or not more than one 275-gallon tank outside of any building, where properly vented and provided with a hand pump. The use of faucets on drums or tanks stored inside of buildings is prohibited.

(R) (1) The metal used in all tanks shall be of a minimum gauge U.S. Standard, depending upon the capacity or size as given in the following table:

| ***Capacity*** | ***Thickness of Material*** |
|---|---|
| ***Capacity*** | ***Thickness of Material*** |
| 1 to 285 gallons | 12 gauge |
| 286 to 560 gallons | 12 gauge |
| 561 to 1,100 gallons | 10 gauge |
| 1,101 to 4,000 gallons | 7 gauge |
| 4,001 to 12,000 gallons | 1/4 in. |
| 12,001 to 20,000 gallons | 5/16 in. |
| 20,001 to 30,000 gallons | 3/8 in. |

(2) All such tanks shall be welded or riveted and shall be heavily coated outside with asphaltum or other rust-resisting material. All tanks and underground piping attached thereto shall be tested for leakage and shall be tight at five pounds air pressure. All tanks having a capacity in excess of 275 gallons and all tanks for underground installation shall bear the Underwriters label.

(T) For fuel oil heavier than 35 degrees A.P. I. tanks may be made of concrete, in accordance with the standards of the National Board of Fire Underwriters for the construction of concrete fuel oil storage tanks as recommended by the National Fire Protection Association, with special permission of the Department.

(U) Fuel oil return lines shall be provided with a check return line extending below the top of the tank.

(Ord. 19, passed 1-7-1955)

**§ 156.057 PREHEATING OF OIL.**

Preheating of oil, where necessary, shall be done by steam, hot water or approved electric heaters. Heaters shall be substantially constructed with all joints made oil tight. Thermometer shall be installed at suitable locations to indicate the temperature of the heated oil. Heaters shall be by-passed or provided with suitable means to prevent abnormal pressure. Positive means must be provided to prevent introduction of oil or other liquid harmful to boiler operations into the boiler.

(Ord. 19, passed 1-7-1955)

### § 156.058 OIL BURNERS.

(A) (1) Oil burners shall be securely installed in a worker-like manner, in accordance with the instructions of the manufacturer, by qualified mechanics experienced in making such installations.

(2) Where oil burners are installed in furnaces originally designed for solid fuel, the ash door of the furnace shall be removed or bottom ventilation otherwise provided to prevent the accumulation of vapors in the ash pit, unless the burner is of a type which mechanically purges the ash pit.

(B) Boilers and furnaces in which oil burners are installed shall be connected to flues having sufficient draft at all times to assure safe operation of the burner. Smoke pipe dampers, if any, shall be removed or locked in the desired position. All check drafts must be closed at all times.

(C) Contractors installing industrial oil burner systems shall furnish diagrams showing the main oil lines and controlling valves, one of which shall be posted near the oil burner equipment and another at some point which will be accessible in the case of fire at the burners.

(D) Immediately upon the installation of the tanks and concealed piping of an oil burner installation, the installer thereof shall notify the Inspector that said tanks and piping are ready for inspection by registering the number of the permit and the location of the work in the inspection register book kept for that purpose in the office of the Inspector, and it shall be unlawful for any person to cover up any such tanks or piping until the same shall have been inspected and approved by said Inspector.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.059 ABANDONED FUEL TANKS.

Abandoned fuel oil tanks shall be removed; except that such tanks may be allowed to remain, provided that all fuel oil is removed from the tank, the gravity draw-off is securely capped or plugged at the tank, the fill pipe is plugged or capped inside the building, with the section extending outside the building removed, and the vent pipe is not altered. Abandoned outside fuel oil tanks shall be completely filled with water.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.060 FUEL OIL BURNERS AND SPACE HEATER CONTROLS.

(A) (1) All fuel oil burners subject to automatic ignition shall be provided with a permanent approved automatic device so designed that oil, upon entering the combustion chamber shall be immediately ignited or the oil supply shall be immediately shut off.

(2) All fuel oil burners used with warm air, hot water or steam heating systems shall be provided with an approved warm-air limit control, hot water limit control or pressure limit control and low water cut off, respectively to automatically shut off the burner when safe limits of temperature and/or pressure are exceeded; except that this requirement shall not be required for warm air space heaters.

(B) Gravity fed space heaters and hot water heaters shall be provided with a constant level safety float valve or other approved device to prevent flooding of burner due to ignition failure or any other cause.

(C) Thermostats, when required, shall be of an approved type.

(D) Electrically operated controls shall be so designed that failure of electric current will cause burners to be shut off and, in case of pot type burners, will place burners on low-flame operation.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

## GAS

### § 156.075 GAS BURNER INSTALLATIONS.

(A) The construction, arrangement and manner of installation of all gas burners and gas burner equipment hereafter installed for use in connection with heating systems, and the alternation and repair hereafter of all gas burners and gas burner equipment used or to be used in connection with heating systems, shall conform to the provisions of this subchapter.

(B) With the enactment of this subchapter, a list of gas-fired burners and equipment shall be maintained by this Department which, through the arrangement of parts, suitability of materials, strength of parts, electric or other controls, thermostatic arrangement, reliability of automatic features, positiveness of ignition and possibility of explosion, have been found by test or acceptable proof from the American Gas Association or other nationally recognized laboratory, to be acceptable under the provisions of this subchapter.

(C) It shall be unlawful for any person, licensed to install, alter, repair or replace gas burners within the city, to install any used gas burner or for the Inspector to issue any permit authorizing him or her to do so, until said licensee shall have first submitted with his or her application for such permit a copy of the purchase order describing the used burner that is to be installed and a statement by the purchaser acknowledging that to be the case, together with a statement by said licensee that said burner has been properly reconditioned and will comply in every way with code requirements for new equipment as to operation, safety standards and adjustments.

(D) No gas burner shall be installed in a room in which the facilities for ventilation do not permit the proper combustion of gas.

(E) The gas cock or shutoff for a gas burner shall be easily accessible.

(F) On conversion burner installations, the gas supply cock shall be located approximately five feet above the floor and approximately two feet to the rear of the face of the furnace where practicable.

(G) (1) When air or oxygen under pressure is used in connection with any gas supply, effective means shall be provided to prevent the air or oxygen from going back into the gas piping.

(2) Power burners (gas-air mixture furnished by a power blower) shall be equipped with an interlock control that will shut off the gas supply to the burner in the event of failure of the air supply to the burner (controls actuated by failure of power supply to the blower motor do not meet this requirement).

(3) All gas burners shall be located so that they will be readily accessible for operation, repair and adjustment and for maximum safety.

(4) Gas burners shall be installed so that their continued operation will not raise the temperature of surrounding combustible materials or construction more than 90°F above normal room temperature.

(H) Equipment with closed bases, in which no provision is made for the circulation of air below the burner boxes or combustion chambers shall be properly insulated from combustible floors.

(I) The minimum clearance of gas-fired heating units from combustible partitions and materials shall be as set forth in the Michigan Mechanical Code and Building Code except, in the case of equipment especially designed for burning gas and tested and listed for lesser clearance by a nationally recognized testing laboratory.

(J) The clearance to combustible construction may be reduced as specified in the Michigan Mechanical Code and Building Code where the combustible construction is protected.

(Ord. 19, passed 1-7-1955) Penalty, see 156.999

### § 156.076 GAS PIPING, VALVES AND FITTINGS.

(A) (1) Standard full weight wrought iron or steel pipe, free from defects, shall be used in conveying gas inside of buildings.

(2) Approved seamless drawn well annealed copper, brass or other approved non-ferrous tubing with approved fittings may be used for permanent connections to stationary gas burners, but no soldered joints shall be used. All fittings for wrought iron or steel j pipe (except stop-cocks or valves) shall be of best quality malleable iron or steel. Threads shall be in accordance with the American Pipe Thread Standard.

(3) Where necessary, due to corrosive conditions, piping shall be suitably coated.

(4) Defects in pipe or fittings having been located, the defective pipe or fittings shall be removed and replaced with perfect material.

(5) No second hand pipe or fittings shall be used.

(B) (1) Piping shall be installed so that it is subject to no unnecessary strain and shall be securely and rigidly fastened.

(2) When in running pipe, it is necessary to cross wood joists of beams, the joists or beams shall not be notched, except by special permission of the Department.

(3) All horizontal piping shall be graded not less than one-quarter inch to 15 feet to prevent traps and shall drain to the risers and from the risers to the meter unless the framing of the structure prevents such. However, this does not permit violation of division (B)(2) above.

(C) (1) A drip, in which liquid condensate may collect and be removed shall be provided at any point in the line of pipe where condensate would collect.

(2) Drips shall not be located where the condensate will be subjected to temperatures below 32°F.

(3) Drips shall be installed only in such locations that the outlet of the drip will be readily accessible for emptying and cleaning.

(4) The size of any drip used shall be determined by the capacity and exposure of the piping which drains to it.

(D) The lower end of a vertical supply line, if accessible, shall be equipped with a tee (or cross) having a full-sized,

plugged opening looking down to permit access for removing stoppages.

(E) All branches shall be taken from the top or side of horizontal piping.

(F) The installation of piping in relation to electric j wiring shall be in accordance with Ch. 154.

(G) Each outlet shall be securely closed gastight with a threaded iron plug or cap immediately after installation and shall be left so closed until an appliance is installed thereupon. In no case shall the outlet be closed with lead caps or lead plugs.

(H) When a gas burner is removed from an outlet, the outlet shall be securely closed gastight with a threaded iron plug or cap.

(J) Gas for space heating units shall be supplied by an independent gas line of sufficient size, direct from the meter, to furnish adequate supply to the burners without excessive pressure drop.

(K) (1) Gas piping may be concealed in walls, ceiling or floors only after inspection and approval by the Department (before gas is turned on).

(2) All gas piping which is to be concealed for more than one foot of its length shall be tested in the presence of an Inspector with a five pound air pressure and joints and seams shall be checked with soap and water. Piping shall hold this five pound pressure without dropping pressure for 15 minutes.

(3) No gas piping shall be installed in chimneys, flues, ventilating shafts or ducts and elevator shafts.

(4) Unions, running threads, right and left couplings, bushings and swing joints made of a combination of fittings shall not be concealed.

(5) Piping in solid floors such as concrete shall be laid in channels in the floor, suitable covered to permit access to the piping with a minimum of damage to the building. Piping in contact with earth or other material which may corrode shall be protected against corrosion in an approved manner.

(6) Piping shall not be laid in cinders.

(7) Only ground joint unions, or other approved fittings, shall be used in gas piping.

(L) (1) Valves and cocks used in connection with gas piping shall be of types approved for such use.

(2) Valves and cocks shall be of such design as to clearly indicate the “on” and “off” positions or directions of rotation to “open” and “close”.

(3) Valves shall be constructed so that the stems cannot be withdrawn by continuous operation of the hand wheel.

(Ord. 19, passed 1-7-1955)

### § 156.077 GAS BURNERS; DEVICES.

(A) (1) Gas burners and devices, attachments or accessories to gas burners, which can in any way affect combustion or safety, shall not be installed until they have been inspected, tested and approved by the Department.

(2) This inspection and test shall cover arrangement of parts, suitability of material, strength of parts, electrical control, thermostatic arrangement, reliability of automatic features and positiveness of ignition.

(3) Any combination of gas burners, attachments or devices used together in any manner shall meet the requirements which apply to individual pieces of equipment.

(4) All gas burners, devices, attachments and accessories covered by this section shall bear the manufacturer’s identification marking.

(5) No devices or attachment shall be installed on any gas burner which may in any way impair the combustion of the gas.

(6) No devices employing or depending upon an electrical current shall be used if of such character that failure of the electrical current could result in the escape of unburned gas or in failure to reduce the supply of gas under conditions which would normally result in its reduction unless other means are provided to prevent the development of dangerous temperatures, pressures or the escape of gas. Only approved devices and controls may be used.

(B) (1) Electrically operated safety devices shall not depend upon the closing of a circuit to shut off the main gas supply. This requirement shall not be construed as prohibiting the use of electrical regulated devices provided the required safety devices are also installed.

(2) All electrical work and equipment of the system shall be in accordance with the requirements of Ch. 154.

(Ord. 19, passed 1-7-1955) Penalty, see § 156.999

### § 156.078 GAS BOILERS AND FURNACES.

(A) (1) Gas-fired floor furnaces shall be specifically approved by the Department for services in direct contact with combustible floors in which they may be installed.

(2) A separate manual shutoff valve shall be provided ahead of all controls and a union connection shall be provided downstream from this valve to permit removal of the controls of the floor furnace.

(3) Fixed ventilation by means of a duct or grille arranged to supply air from a permanently ventilated attic or underfloor space shall be provided to any confined space which encloses the floor furnace. The duct or grille shall be screened and have a free area at least twice the free area of the vent collar of the floor furnace or one square inch per 1,000 B.T.U. per hour of gas input, whichever is the greater, and shall be installed in such a manner as to ensure proper combustion.

(4) The following are requirements that will serve in properly placing the furnace or furnaces to serve one story.

(a) No floor furnace shall be installed in the floor or any aisle or passageway of any auditorium, public hall or place of assembly or in an exitway from any such room or space.

(b) With the exception of wall register models, a floor furnace shall not be placed closer than six inches to the nearest wall and wall-register models shall not be placed closer than six inches to a corner.

(c) The furnace shall be so placed that a door drapery or similar object cannot be nearer than 12 inches to any portion of the register of the furnace.

(5) Generally speaking, the more central the location, the better, favoring slightly the sides exposed to the prevailing winter winds. The floor around the furnace shall be braced and headed with a framework of material not lighter than the joists.

(B) Means shall be provided to support the furnace when the floor grille is removed.

(C) (1) The lowest portion of the floor furnace shall have at least a six-inch clearance from the general ground level except that where the lower six-inch portion of the floor furnace is sealed by the manufacturer to prevent entrance of water, the clearance may be reduced to not less than two inches.

(2) When these clearances are not present, the ground below and to the sides shall be excavated to form a “basin-like” pit under the lowest portion of the furnace. A 12-inch clearance shall be provided on all sides except the control side, which shall have an 18-inch clearance.

(D) Provision shall be made for an access door to the floor furnace by means of an opening in the foundation wall of at least 18 by 24 inches and a trap door of at least 24 inches by 24 inches, located at some convenient point and a clear and unobstructed passageway to the floor furnace of at least 18 inches high by 24 inches wide.

(E) Whenever the excavation exceeds 12 inches or water seepage is likely, a pit made of concrete, waterproof, not less than three and three fourths inches thick and extending four inches above grade level shall be used. The pit shall be not less than six feet by six feet inside dimension, with at least five and one-half foot clearance on the control side and clearance on all other sides not less than six inches.

(F) Floor furnaces shall be protected, where necessary against severe wind conditions.

(G) Listed gas floor furnaces may be installed in an upper floor provided the furnace assembly projects below into a utility room, closet, garage or similar nonhabitable space. In such installations, the floor furnace shall be enclosed completely (entirely separated from the nonhabitable space) with means for air intake to meet the provisions of this section, with access facilities for servicing on the control side, with minimum furnace clearance of six inches to all sides and bottom and with the enclosure constructed of Portland cement plaster on metal lath or material of equal fire resistance.

(H) (1) No gas-fired boilers, furnaces or other devices for space heating a building or buildings shall be installed and no boiler or furnace designed for other fuels shall be converted to the use of gas unless the following regulations are complied with.

(2) Either an automatic safety pilot, so constructed and adjusted that no gas can flow through the main burner unless the pilot is burning, or some other approved type of safety device serving this same end, shall be employed.

(3) Pilot burners shall be supported in such manner that their position relative to the main burner or shall be fixed.

(4) Pilot burner shall be so positioned as to be safely lighted and readily accessible for inspection, cleaning or replacement.

(5) Automatic safety pilots of gas burners having an hourly input of less than 400,000 B.T.U. shall be so adjusted that the main gas supply will be shut off within three minutes after the pilot flame has been extinguished.

(6) Gas burners having an hourly input of 400,000 B.T.U. or more shall be provided with a flame rod or other approved instantaneous type safety pilot which will shut off the main gas supply within ten seconds of pilot flame failure; except that safety pilot, which shuts off the main gas supply gas designed sectional cast iron boilers, will be accepted when provided with approved flame failure.

(7) Pilot flames shall be so adjusted as to effectively ignite the gas in the main burner or burners shall be adequately protected from drafts and shall not become extinguished when the main burner or burners are turned on or off in normal manner.

(8) All pilots shall be go adjusted as to prevent carbon deposits.

(9) All warm air furnaces shall be equipped with an approved high temperature limit device and set not to exceed 200°F for mechanical air distribution. All hot water boilers shall be equipped with an approved high water temperature limiting device and the boilers shall be equipped with approved pressure limiting devices and approved low-water and steam boilers shall be set so as not to exceed the limitations as specified by the regulations of the American Society of Engineers. These limiting devices shall be in addition to operating controls.

(I) (1) An approved gas pressure regulator of sufficient size shall be installed in the gas line leading to the gas burner. An additional approved adjustable gas pressure regulator shall be installed in the gas pilot supply line.

(2) All gas pressure regulators or diaphram control valves, used with the space heating equipment shall be vented to a constant burning pilot so that any gas leaking to the atmospheric side of the regulator or control valves will be carried to and ignited by the pilot or an approved venting device shall be used.

(3) On burners where no constant burning pilot is provided, the gas pressure regulator or diaphragm control valve shall be vented to the smoke pipe on the chimney side of the draft diverter or directly to the outside atmosphere.

(J) (1) An approved manual main shutoff valve shall be provided ahead of all control and a union connection shall be provided downstream from this valve to permit, removal of the controls or equipment.

(2) A pilot supply line shall be installed on the supply side of an approved main burner shutoff device through an approved fitting and shall be equipped with a shutoff valve and an adjustable pilot gas pressure regulator.

(3) Drilling and tapping the fuel line for the purpose of connecting a pilot gas supply line is prohibited.

(K) (1) All gas burners shall consist of factory assembled and tested units.

(2) Gas burner units shall be so installed or attached as to prevent twisting, sliding or dropping out of the intended correct position.

(3) Burners shall be so installed as to be readily accessible for inspection and cleaning and no part of the flames shall impinge so as to cause incomplete combustion. No baffles shall be applied which will interfere with proper combustion.

(4) Air shutters shall be adjusted to produce a good flame at the prevailing gas pressure.

(5) Secondary air openings shall provide sufficient area to supply an adequate amount of air for complete combustion and, if automatically controlled, the construction shall be such that, in case the control fails in any way, either the gas will be shut off or the secondary air door will remain open.

(6) The flames from constant burning pilots and burners shall freely ignite the gas from adjacent burners when operating at prevailing gas pressure and when the main control valve is regulated to deliver about one-third the full gas rate.

(7) Burners shall not expel gas through air openings in mixer faces when operating at prevailing pressures.

(L) The combustion chamber, and all of its passages, shall be gastight.

(M) The fuel door of a converted appliance shall be arranged to relieve pressure due to puffs or backfire caused by delayed ignition or other causes and shall be provided with an approved self-closing device.

(N) Every gas-fired boiler, furnace or other space heating device shall be effectively vented to the outside atmosphere.

(O) Where dampers are an integral part of the equipment, they shall be removed or permanently secured in the wide-open position, except such dampers as may be used to alter the passage of flue passes through the equipment, which will be located in such a position as not to interfere with the safe operation of the burner.

(P) (1) Every gas-fired boiler, furnace or other non-portable space heating device shall be connected to a flue.

(2) In case of conversion burners, the section of the vent pipe between the outlet of the equipment and the chimney shall be full size as the flue collar of the appliance and in no case less than one square inch per 6,500 B.T.U. hourly input. Where the outlet from the equipment is larger than the above indicated size, an orifice plate or other approved restricted section may be inserted.

(3) No adjustable dampers in the flue pipe shall be permitted.

(4) A draft hood or diverter of approved design or its approved equivalent shall be placed in and made a part of the flue pipe from the equipment or in the equipment itself. Such device shall be designed to ensure the ready escape of the products of combustion in the event of no draft, back draft or stoppage beyond the equipment, prevent a back draft from entering the equipment and neutralize the effect of stack action of the flue on the operation of the burner and shall otherwise comply with the requirements hereinafter specified for such devices and their installation.

(5) The draft hood or diverter shall be located at a point not lower than the top of the highest flue passage.

(Q) The draft hood or diverter shall be located at least one foot higher than the top of the highest flue passage for equipment of the revertible(down draft furnace) flue type and all boilers or furnaces of this type not specifically designed for the use of gas fuel shall be so altered or equipped as to prevent accumulation of gas in any part thereof.

(Ord. 19, passed 1-7-1955)

**§ 156.999 PENALTY.**

Any person, persons, partnership, association or corporation or any one acting in behalf of said person, persons, firm, partnership, association or corporation violating any of the provisions of this chapter shall upon conviction thereof be subject to a fine of not more than $100 or to imprisonment in the county jail for a period of not more than 90 days or to both such fine and imprisonment in the discretion of the court. Each day that a violation of this chapter is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed, in this section.

(Ord. 19, passed 1-7-1955)

# TABLE OF SPECIAL ORDINANCES

Table



## TABLE I: CUSTOMER SERVICE

| *Ord. No.* | *Date Passed* | *Description* |
|---|---|---|
| 117 | 2-1-1994 | Adopting customer service standards for cablecasting as established by the Federal Communications Commission and setting forth provisions for the enforcement of those standards. |
| | | |

(1979 Code, Ch. 26)

## TABLE II: ZONING MAP CHANGES

| *Ord. No.* | *Date Passed* | *Description* |
|---|---|---|
| *Ord. No.* | *Date Passed* | *Description* |
| 115 | - - | Amending the zoning map of the city and changing the zoning of land described to C-1 Commercial. |
| 116 | - - | Rezoning certain parcels of realty from R-1A Residential to RM Residential Multiple and changing the official zoning map. |
| 83 | 10-19-1982 | Adopting the latest edition of the zoning map for the city as prepared by Boldt, McLeod and Johnson, Inc., Consulting Engineers and Land Surveyors. |
| 87 | 2-21-1984 | Amending Title V, Ch. 51 of the 1979 Code to amend the zoning map of the city, changing the zoning of land described from R1-A Residential to RM Residential Mutltiple. |
| 92 | 1-7-1986 | Amending Title V, Ch. 51 of the 1979 Code to amend the zoning map of the city, changing the zoning of land described from R1-A Residential to RM Residential Multiple. |

| | | |
|---|---|---|
| 103 | 1-3-1989 | Amending Title V, Ch. 51 of the 1979 Code to amend the zoning map of the city, changing the zoning of land described from MH to R1-A Residential. |
| 105 | 3-20-1990 | Amending the zoning status of a described parcel of land from R1-A Residential to RM Residential Multiple and amending the zoning map to reflect that change. |
| 109 | 3-19-1991 | Amending the zoning status of a described parcel of land from R1-B Residential to RM Residential Multiple and amending the zoning map to reflect that change. |
| 197 | 12-15-2015 | Amending the zoning status of various parcels of land as described in the Rezoning to the Master Plan adopted on February 3, 2013. |
| | | |

## TABLE III: AGREEMENTS

| ***Ord. No.*** | ***Date Passed*** | ***Description*** |
|---|---|---|
| ***Ord. No.*** | ***Date Passed*** | ***Description*** |
| 2 | 8-18-1944 | Granting permission to the Detroit Edison Company to install gas service in the city. |
| 3 | 8-18-1944 | Granting permission to the St. Clair Central Telephone Company to operate a telephone system in the city. |
| 22 | 4-1-1958 | Granting a franchise to Southeastern Michigan Gas Company to operate a gas distribution company in the city. |
| 42 | 8-5-1969 | Granting permission to the Detroit Edison Company to operate and maintain an electric company in the city. |
| 78 | 9-15-1981 | Granting a franchise to Rural Michigan Cablevision, Inc to operate a cable television system in the city. |
| 79 | 12-15-1981 | Amending Ord. 79, substituting Heron Communications Corp, a New York Corporation, for Rural Michigan Cablevision, Inc. |
| 101 | 3-15-1988 | Granting a franchise to Southeastern Michigan Gas Company to operate a gas distribution company in the city. |
| 199 | 2-21-2017 | Granting a franchise to SEMCO Energy Gas Company to operate a gas distribution company in the city. |
| | | |

# PARALLEL REFERENCES

References to Michigan Compiled Laws Annotated

References to 1979 Code

References to Resolutions

References to Ordinances

| *M.C.L.A. Section* | *Code Section* |
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| *M.C.L.A. Section* | *Code Section* |
| 15.231 through 15.246 | 114.27, 114.39 |
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| 23.451 | 94.02 |
| 28.601 through 28.616 | 32.20 |
| 35.1212 | 32.20 |
| 117.1 et seq. | 155.01 |
| 125.1051 et seq. | 155.14 |
| 125.1501 et seq. | 154.20 |
| 125.1501 through 125.1531 | 154.01, 154.02, 154.24, 155.01 |
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| 125.3101 et seq. | 150.028 |
| 141.101 through 141.138 | 53.07 |
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| 333.7106 | 132.04 |
| 333.12701 through 333.12771 | 155.08 |
| 333.26424 et seq. | 117.02 |
| 333.27102 et seq. | 117.02 |
| 333.27951 et seq. | 117.02 |
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| 484.2102 | 114.26 |
| 484.2251 | 114.27 |
| 484.3101 et seq. | 114.25 |
| 484.3103 et seq. | 114.26 |
| 524.61501 et seq. | 118.08 |
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| 559.101 through 559.276 | 150.105, 150.107, 150.110, 150.126 |
| 560.101 through 560.293 | 150.105, 150.107, 150.113, 151.03, 151.22, 151.23, 151.40 |
| 560.102 | 150.142 |
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| 600.8701 through 600.8735 | 10.02 |
| 764.9a through 764.9e | 10.10 |
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| - | 151.35 |
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| 2.9 | 50.09 |
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| 2.22 | 51.02 |
| 2.23 | 51.03 |
| 2.24 | 51.04 |
| 2.25 | 51.05 |
| 2.26 | 51.06 |
| 2.27 | 51.07 |
| 2.28 | 51.08 |
| 2.29 | 51.09 |
| 2.30 | 51.10 |
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| 2.33 | 51.13 |
| 2.34 | 51.14 |
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| 2.43 | 52.03 |
| 2.44 | 52.04 |
| 2.45 | 52.05 |
| 2.46 | 52.06 |
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| 2.48 | 52.08 |
| 2.49 | 52.09 |
| 2.50 | 52.10 |
| 2.51 | 52.10 |
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| 2.53 | 52.12 |
| 2.54 | 52.13 |
| 2.55 | 52.14 |
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| 2.65 | 52.17 |
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| 2.80 | 52.99 |
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| 4.3 | 91.003 |
| 4.4 | 91.004 |
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| 4.42 | 91.061 |
| 4.43 | 91.062 |
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| 4.46 | 91.065 |
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| 5.81 | 150.059 |
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| 5.246 | 31.065 |
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| 9.3 | 92.02 |
| 9.4 | 92.02 |
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| 38 | 4-1-1969 | 33.01 - 33.18, 34.05 |
| 40 | 6-3-1969 | 51.01, 51.06 - 51.08, 51.10 - 51.12 |
| 41 | 7-1-1969 | 52.01 - 52.14, 52.16, 52.17, 52.20 - 52.28, 52.99 |
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| 48 | 12-5-1972 | 130.01, 130.02 |
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| 62 | 5-16-1978 | 150.001 - 150.011, 150.025 - 150.031, 150.033, 150.034, 150.050 - 150.054, 150.093, 150.999 |
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| 82 | 9-21-1982 | 154.24, 154.99 |
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| 87 | 2-21-1984 | TSO Table II |
| 90 | 7-2-1985 | 132.01 - 132.03, 132.99 |
| 91 | 12-3-1985 | 96.01 - 96.05 |
| 92 | 1-7-1986 | TSO Table II |
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| 105 | 3-20-1990 | TSO Table II |
| 106 | 11-6-1990 | 150.058 |
| 107 | 12-4-1990 | 110.01 - 110.03, 110.08, 110.09 |
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